Changes to Ontario's Construction Act effective January 1, 2026

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The most recent amendments to Ontario's *Construction Act* are now effective (as of January 1, 2026).

The most significant implication of these amendments are to the administration of the statutory holdback and the requirement for the annual release of holdback going forward for construction projects in Ontario.

The amendments were introduced through *Building Ontario for You Act (Budget Measures)* (Bill 216). An overview of key amendments under Bill 216 is set out in BLG's article: **Are you prepared for the new changes to Ontario's *Construction Act*?**

More recently, the Ontario government announced the following:

- The Ontario government proclaimed that the amendments would come into force on January 1, 2026; but changed the original proposed process for the annual release of holdback (section 26). Most importantly, the requirement for annual lien expiry has been removed. Owners will still be required to release holdback on an annual basis; however, lien rights will not expire on an annual basis, rather the majority of the original provisions for the expiry of liens (section 31) will remain the same. We will need to review and consider the impact of this change as projects proceed and annual holdback is released.
- The notice of annual release of holdback will be *Construction Act* Form 6, replacing the existing Form 6, Notice of Non-Payment of Holdback, to align with the amended *Construction Act*.
- Amendments to O. Reg. 302/18 will allow lien and trust claims to be combined in a single proceeding when they arise from the same or related facts.
- Daily Commercial News, Link2Build, and Ontario Construction News have been designated as "construction trade news websites", official platforms for publishing statutory notices, including notices of non-payment of holdback (O. Reg. 304/18).

Importantly, the amended *Construction Act* includes "transition" provisions. The amendments shall apply to all construction "improvements" in Ontario as of January 1, 2026, except as otherwise provided in the transition provisions (Section 87.4).

The most important transition provision is the application of the annual release of holdback. Essentially, if the contract for the improvement is entered into after January 1, 2026, the annual release of holdback will apply right away. Otherwise, the transition provisions indicate when the annual release of holdback will be effective. An overview of the transition provisions for annual release of holdback requirements under the amended *Construction Act* is provided in BLG's article: **Annual release of holdback under Ontario's *Construction Act*: When does it apply?**

Participants in Ontario's construction industry should consider obtaining advice from a construction law advisor for any questions regarding how the amendments to the *Construction Act* may affect their contracts, including the annual release of holdback process, any impact on lien or other rights, and steps to implement the new amendments to the *Construction Act*.

BLG's Construction Group is continuing to monitor the progress of the *Construction Act* amendments and the implications of the most recent modifications. We are available to answer questions about the amendments and the proactive steps that should be taken with them coming into force.

This article provides an overview and is not intended to be exhaustive of the subject matter contained therein. Although care has been taken to ensure accuracy, this article should not be relied upon as legal advice.

By

David Major, Laura Delemere, Daniel A Boan, Dhara Pathak, Camilo Silvera

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BLG Offices

Calgary
Centennial Place, East Tower
520 3rd Avenue S.W.
Calgary, AB, Canada
T2P 0R3

T 403.232.9500
F 403.266.1395

Ottawa
World Exchange Plaza
100 Queen Street
Ottawa, ON, Canada
K1P 1J9

T 613.237.5160
F 613.230.8842

Vancouver
1200 Waterfront Centre
200 Burrard Street
Vancouver, BC, Canada
V7X 1T2

T 604.687.5744
F 604.687.1415

Montréal

1000 De La Gauchetière Street West
Suite 900
Montréal, QC, Canada
H3B 5H4

T 514.954.2555
F 514.879.9015

Toronto

Bay Adelaide Centre, East Tower
22 Adelaide Street West
Toronto, ON, Canada
M5H 4E3

T 416.367.6000
F 416.367.6749

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