

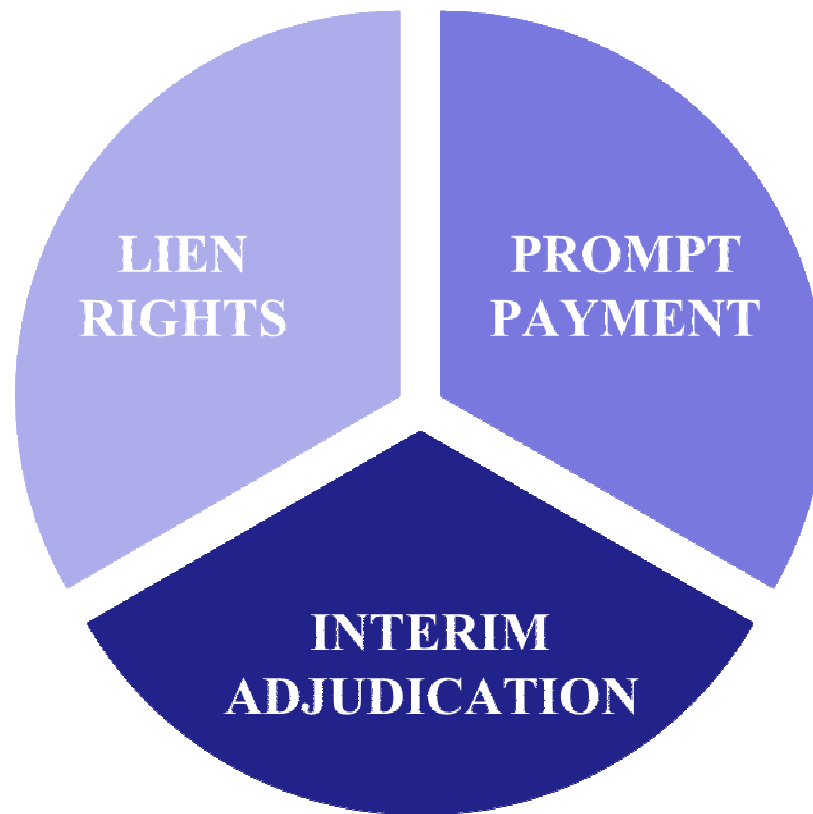
Schedule B – LS0014(a), GIC December 6, 2017

Summary of Bill 142 Changes From a Municipal Perspective



Hamilton

PILLARS OF THE BILL



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MODERIZED LIEN RIGHTS



LIEN RIGHTS

- liens value expanded to include agreed price plus any direct costs
- exemptions for PPP structures
- more flexibility in SP formula
- may substitute holdback security
- permits holdback distribution annually and phased basis
- permits holdback release after the design phase



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MODERIZED LIEN RIGHTS

LIEN RIGHTS

- terminations must be published
- no longer attached to municipal lands, rather served on City Clerk
- leasehold interests may still be encumbered and registered
- preservation now 60 days and extended if adjudication initiated
- perfection now 90 days from last day of possible preservation
- may merge lien and trust claims



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MODERIZED LIEN RIGHTS



LIEN RIGHTS

- more detailed RFIs
- mandatory 50% bonding
- obliged to pay holdback unless a set-off notice issued
- set-off restricted to damages from related improvement
- prescribed written notice of lien, requires service, may be vacated
- updates to posting security
- publication details to be updated



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PROMPT PAYMENT

- 'proper invoice' prescribed in Act and contract - not subject to certification
- delivery of proper invoice the triggering event
- City to pay by 28th day unless notice of non-payment issued, must pay undisputed balance
- contractor must pay subcontractors within 7 days unless it responds to notice of non-payment by initiating adjudication process
- interest mandatory on late payments



PROMPT
PAYMENT



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INTERIM ADJUDICATION

- mandatory interim adjudication of disputes for:
 - valuation of services and materials
 - contractual payment terms
 - set-off amounts
 - non-payment of holdback
 - matters on consent or prescribed by regulations

**INTERIM
ADJUDICATION**



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INTERIM ADJUDICATION

- Process as currently set out in by Act:
 - issue written notice and propose adjudicator
 - agreement on adjudicator or appointed by Authority
 - 5 days after adjudicator established, first party produces documents
 - 30 days thereafter adjudicator to make decision

**INTERIM
ADJUDICATION**



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INTERIM ADJUDICATION

- contract may set procedural terms not conflicting with Act
- not permitted to stipulate adjudicator in contract
- scope limited to a single item unless agreed otherwise
- adjudicator may retain engineer, account, etc.
- parties responsible for their own costs
- costs of adjudicator are split

**INTERIM
ADJUDICATION**



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INTERIM ADJUDICATION

- decision by adjudicator is binding on parties until the end of the project, when issues may be litigated or arbitrated
- payment must be made within 10 days of decision or contractor may stop work

**INTERIM
ADJUDICATION**



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