Municipal Insurance
Association of British Columbia

200 - 429 West 2nd Ave.
Vancouver, BC V5Y 1E3
Toll-Free: 1-855-683-6266
E-mail: AskUsAnything@miabc.org

miabc.org

MUNICIPAL INSURANCE ASSOCIATION OF BRITISH COLUMBIA

November 27, 2025

The Honourable David Eby
The Honourable Christine Boyle, Minister of Housing and Municipal Affairs
MLA George Anderson
Amna Shah, Chair, Select Standing Committee on Private Bills and Private Members' Bills
Trevor Halford, Deputy Chair, Select Standing Committee on Private Bills and Private Members' Bills

Dear Premier Eby, Minister Boyle, Mr. Anderson, Ms. Shah, and Mr. Halford:

Re: Feedback on Bill M 216 – 2025 Professional Reliance Act

We write on behalf of the Board of Directors and executive leadership of the Municipal Insurance Association of British Columbia (the "MIABC") in response to your invitation to provide feedback on Bill M 216 - 2025 Professional Reliance Act ("Bill M 216"). While the MIABC does not typically engage in lobbying on behalf of local governments, we do hold a unique vantage point from which we provide the following feedback. We insure 90% of the municipalities and regional districts in British Columbia, and we have extensive experience assessing how legislative changes affect local governments' civil liability, risk exposure, and insurance outcomes. It is in that context that we offer the following observations and concerns.

Scope and Intent of the Bill

Bill M 216 appears to pursue a narrow objective of reducing perceived duplication in local government oversight of new construction. Based on MLA Anderson's first reading remarks, the Bill aims to prevent local governments from conducting second reviews of submissions prepared by professionals regulated under the *Professional Governance Act*, SBC 2018, c. 47 ("PGA professionals"). The intended effect is to give precedence to PGA professionals' submissions over local government review.

However, Bill M 216 contains significant ambiguity. The legislation does not clearly define its scope, and the only direction provided relates to the definition of "submission." It is unclear whether Bill M 216 is intended to apply solely to development permits or also to building

permits. MLA Anderson's briefing materials suggest an intent to include building permit approvals, yet the statutory language does not make this explicit.

Local government review of new construction is discretionary. If a local government chooses to undertake a review, Bill M 216 would render that review largely meaningless. Under the Bill, a local government could only reject a certified submission by filing a complaint with the Superintendent of Professional Governance. This shifts local governments into an unsuitable role. They would be expected to act as *de facto* competency assessors of PGA professionals, despite not being mandated or equipped to carry out such a function.

Bylaw Compliance and Practical Consequences

Section 2 of Bill M 216 requires that a local government must accept as meeting permit or bylaw requirements any submission certified by a PGA professional. This requirement assumes that PGA professionals possess detailed knowledge of the local bylaws that apply to land use and construction. Local government bylaws are complex, extensive, and unique to each jurisdiction. Proficiency in municipal bylaw interpretation is not a competency promoted or required under the *Professional Governance Act*.

A PGA professional working in a new jurisdiction will rarely be familiar with the full range of relevant bylaws. Many local governments have dozens of bylaws, each with provisions that affect land use, servicing, parking, subdivision, and building matters. Even experienced municipal staff require time and training to develop adequate bylaw fluency.

Local governments routinely receive submissions that are not fully compliant. Municipal approval is often an iterative process supported by pre-application meetings that reduce delays and improve the quality of submissions. If Bill M 216 prevents local governments from rejecting non-compliant plans at the permit stage, the consequence will be the construction of buildings and infrastructure that do not comply with municipal bylaws.

The implications of the above noted issues are substantial. If a building official identifies non-compliant elements in a certified set of plans, Bill M 216 would prevent the municipality from refusing the permit. Months later, during final inspection, the building official must reject the completed work if it violates bylaw requirements. The builder would then face significant costs to remove and redo the work which costs could have been avoided had the initial review been allowed to proceed as intended.

Peer Reviews and Public Safety

It is also important to address the matter of peer reviews. It is rare for a local government to request a peer review based solely on submissions from an engineer. In our experience, peer reviews are almost always mandated only when a project has gone seriously off-track during construction and significant public safety concerns have emerged. Two of the largest claims ever handled by the MIABC involved construction based on designs of PGA professionals which led to disastrous stability issues. In both cases, the local government required a peer review to restore confidence from a life and safety perspective. One claim resulted in several property owners being required to abandon their one-million-dollar homes. The other resulted in the abandonment and projected demolition of a recently constructed social housing building that had been home to many vulnerable residents.

In our experience, local governments do not order a peer review in the absence of clear and serious safety concerns. A mandated peer review is a significant and unusual step that local governments do not take lightly. It is typically taken only after the local government has obtained legal advice. We also cannot recall a situation where a mandated peer review did not result in significant changes to the project design.

We agree that any order for a peer review should be accompanied by a report to the superintendent appointed under the *Professional Governance Act*. However, neither the public nor the developer is well served by delaying the peer review until after the superintendent has completed a review and made a determination. Local governments need the ability to require a peer review promptly when safety issues surface, to protect residents, mitigate risk, and prevent further harm.

Civil Liability and Insurance Considerations

Section 8 of Bill M 216 appears to limit local government liability, but the protection is narrow and ambiguous. British Columbia courts have consistently expanded local governments' duties and standards of care in matters relating to building safety, inspections, and approvals. It is unclear whether section 8 would apply to duties to warn, to building inspections, or to other operational decisions. This ambiguity leaves room for litigation to proceed in circumstances the legislature may not have intended.

Shifting liability to PGA professionals offers limited protection for additional reasons. Most carry modest limits of liability insurance written on a "claims made" basis. This type of policy provides coverage only if the professional has an active policy when the claim is discovered and reported, which could be many years after the error was made. This structure differs from

"occurrence based" insurance, which responds as long as the policy was in place at the time the work was performed. Claims made coverage is significantly more restrictive for long-tail risks such as construction defects. Many building deficiencies, especially those involving foundations, structural elements, or building envelopes, develop slowly and may not become evident for five, ten, or even fifteen years.

By the time the defect becomes known, several things may have occurred. The professional may have changed insurers, reduced the scope of their insurance, retired or left practice, or allowed their coverage to lapse entirely. They may no longer carry insurance at all. Even if they remain insured, the policy terms might not respond to a claim arising from work completed many years earlier. Once the insurance has lapsed or changed, the original project is no longer protected.

In these situations, injured parties will often seek recovery from local governments, which are viewed by courts as stable, well-resourced defendants with ongoing duties related to building safety. Given the ambiguity in section 8, courts may be inclined to allow claims to proceed against local governments, especially where evidence shows the local government became aware of a deficiency but was prevented from acting by statute.

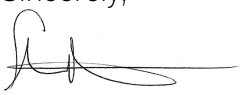
Conclusion

Our overarching concern is that Bill M 216 restricts local governments from addressing bylaw compliance issues at the start of a project while leaving open the possibility of local government liability for deficiencies discovered after construction. Many of the bylaws at issue relate to life and safety matters. Following a serious incident, neither the courts nor the public will be comforted by an explanation that the local government knew of a deficiency but was prevented from acting by the proposed legislation.

We respectfully submit that Bill M 216 as currently drafted, is too broad, too vague, and too likely to create unintended consequences for builders, local governments, and the public they serve. We encourage further consultation with local governments, building officials, and professional regulatory bodies to ensure a legislative approach that reduces duplication while preserving essential safeguards.

Thank you for the opportunity to comment. We would be pleased to discuss these concerns further.

Sincerely,



Stuart Horn
Chair, Board of Directors
Municipal Insurance Association of British Columbia

Megan Chorlton
Chief Executive Officer
Municipal Insurance Association of British Columbia