

Dear CEBC Members:

The provincial government is changing BC's building safety regulatory system. The Modernization Strategy requests feedback from system participants on where BC's building safety regulatory system is today and where it should be in the future to more effectively respond to your changing needs.

Since this project affects many of your practices it is important that CEBC members be informed. Please read on for more information.

What is the Modernization Strategy?

The Modernization Strategy is the provincial government's commitment to fast-track a rationalized and improved building safety regulatory system. Staff from the Office of Housing and Construction Standards are consulting with consumer groups, local government and industry representatives, including the CEBC, to put forward a set of recommendations for an integrated, more efficient system, balancing safety concerns, social impacts and economic interests. Key aspects of the Modernization Strategy include: (i) the ongoing demonstration of competence; and (ii) mandatory liability insurance.

What is the Express Modernization Strategy View?

According to the Modernization Strategy web site:

The system for achieving building safety operates in a high-risk environment. Building deficiency claims against developers, designers, builders, and local governments rose dramatically following the emergence of problems with leaky condos in the mid-1990s, highlighting flaws in the existing liability and risk framework. When a claim is made for loss due to building defects, fault is apportioned by the courts. Under joint and several liability, each defendant is liable for the entire amount of the damage award, even if found only proportionally at fault. If some defendants are uninsured, the liability exposure of insured defendants (often local governments and/or designers) can increase significantly.

The Modernization Strategy's intentions are, among other things, to:

- Adjust the distribution of liability in the system to reduce inequity and support effective risk management;
- Enforce accountability by ensuring that all participants in building projects can cover their share of liability if a claim is made;
- Ensure that a framework is in place within which affordable insurance will be available;
- Define and implement appropriate mandatory liability insurance;
- Examine changes to the Limitation Act to specify a shorter limitation period for construction project litigation.

What will the project not do?

- Examine risk management tools other than professional liability, e.g., bonding;
- Review joint and several liability.

The latter is disconcerting and makes it all the more important that the objectives of the Modernization Strategy are equitably achieved.

What is the timeline?

Recommended changes will be targeted for passage in the Legislature in the spring session of 2008.

Why should consulting engineers care?

The modernization strategy will have wide-ranging and significant effects on design professionals involved in building projects. These include potential changes to civil liability legislation; possible implementation of mandatory professional liability insurance for design professionals; possible implementation of mandatory continuing education requirements for design professionals; possible implementation of or amendments to regulations concerning professional involvement in building construction, and possible changes to the enforcement regime with respect to building code compliance.

What is the CEBC doing about the Modernization Strategy?

The CEBC is taking every opportunity to promote to government and all industry partners and stakeholders our commitment to a framework requiring full accountability among each and every participant in the design and construction industry.

The CEBC continues to express the value of amending civil liability law towards proportionate liability.

The CEBC continues to support the reduction of the Ultimate Limitation period and to have that period triggered by building occupancy.

The CEBC is actively providing the provincial government with sound information and leadership in working groups and direct consultations.

CEBC senior staff and experienced members are working with government representatives to ensure that the interests and concerns of both the public and consulting engineers are clearly heard. Modernization Strategy consultations are ongoing. The CEBC will report to members on a regular basis on developments as they occur, via both Newsbrief and special e-broadcasts.

Where can you get more information about the Modernization Strategy?

More information can be obtained directly from the Government of BC's Modernization Strategy web site:

www.housing.gov.bc.ca/modernization