



RE: Environmental Registry of Ontario Posting 019-9198 – Review of proposed policies enabling the use of pay-on-demand surety bonds to secure land-use planning obligations under Section 70.3.1 of the Planning Act.

From: Steve Ganesh, Commissioner – Planning, Building and Growth Management, City of Brampton

To Whom It May Concern,

The City of Brampton (hereinafter referred to as ‘the City’) appreciates the opportunity to provide comments on the proposed changes outlined in the Environmental Registry of Ontario posting 019-9198 – Review of proposed policies enabling the use of pay-on-demand surety bonds to secure land-use planning obligations under Section 70.3.1 of the Planning Act.

The City is supportive of efforts by the Province to address housing supply and development challenges, and remains committed to working with the Province towards their ambitious goal of delivering more housing. The City provides several recommendations below in response to the proposal.

Proposed Elements	City Comments
Licensing Requirements	No concerns. The proposal is to include only insurers licensed in Ontario and overseen by Financial Services Regulatory Authority of Ontario
Credit Ratings Requirements	<p>There are no stipulations for who should monitor the credit ratings of insurance companies and there are no details on how municipalities or home builders should proceed if an insurer’s credit rating falls outside the acceptable limits.</p> <p>To help ease the administrative process of approving insurance companies that meet provincial requirements, the Province should maintain a public list of eligible companies. Keeping a public list for municipalities and homebuilders can access will ensure that pay-on-demand surety bonds are developed with qualified and pre-approved companies. This list should be updated on a regular basis and posted in a bulletin online.</p>

Guaranteed Payment	No concerns. The proposed structure is similar to letters of credit that ensures payments at municipality's sole discretion of the Principal having defaulted.
Timely Payment	No concerns. Similar to existing practice with Letter of Credit.
Partial Drawdowns	No concerns. Similar to existing practice with Letter of Credit.
Cancellation	<p>In the event of an insurer providing notice to cancel a pay-on-demand surety bond, municipalities should be provided with the option to draw on the surety bond to minimize financial risks</p> <p>The proposed regulation states that if an insurer intends to terminate the pay-on-demand surety bond, the homebuilder will need to provide the municipality with a replacement security within 60 days. Failure to do so will result in the existing pay-on-demand surety bond to remain in full force. How will this be enforced? i.e. How will the bond continue to remain in force if there is no insurer involved. There should be an option for municipalities to choose to draw on the bond if the insurer terminates the bond, with the municipality retaining the right to draw on the bond within 15 business days of providing written notice to the principal.</p>

The City of Brampton also shares the following recommendations for the Provinces consideration:

1. The Province should provide guidelines on standard language that should be included into all surety bonds issued under this regulation, but municipalities must maintain the flexibility to add additional requirements
2. To ensure the effectiveness of the proposed regulation, the Province should commit to working with municipalities to evaluate the use of pay-on-demand surety bonds on a five-year basis

This will ensure that adjustments can be made should administrative and legal costs become overly burdensome for municipalities, either during the implementation stage or when they must draw on the bond.

3. The regulation should include a transitional period or delayed in force period, so municipalities can develop or revise existing surety bond policies.

Staff expect to bring forward a report to Council seeking directions for a new pay-on-demand surety bond policy that will comply with the finalized regulatory requirements following enactment of this policy by the Province.

The City of Brampton would like to thank the Province for the opportunity to provide feedback and comments on the proposed changes.

Sincerely,

A handwritten signature in black ink, appearing to read 'Steve Ganesh', with a stylized flourish at the end.

Steve Ganesh, MCIP, RPP
Commissioner
Planning, Building & Growth Management