



To: Committee of the Whole
Meeting Date: October 10, 2024
From: Laura Mirabella
Commissioner of Finance and Regional Treasurer
Re: **Pay-on-Demand Surety Bonds – Proposed Regulatory Framework**

This memorandum provides an update on the proposed regulatory framework in support of pay-on-demand surety bonds to secure infrastructure obligations under section 70.3.1 of the *Planning Act (Act)*. It will serve as the Region's submission to the Environmental Registry of Ontario (ERO) [#019-9198](#), posted on September 16, 2024, with a 30-day commenting period closing on October 16, 2024. Should Council have further comments, staff will follow up with the Ministry of Municipal Affairs and Housing.

As part of the Region's 2026 Development Charges Bylaw process, staff had already begun developing a new pay-on-demand surety bond policy

Typically, municipalities require letters of credit to secure infrastructure requirements necessary to service proposed developments. Letters of credit can be seen to tie up builders' capital, potentially limiting their ability to build more homes across the province.

Bill 109, *More Homes for Everyone Act, 2022* amended the Act, introducing the new section 70.3.1 to allow developers to stipulate whether they wish to use a pay-on-demand surety bond to secure these obligations, thereby freeing up their capital to potentially pursue additional housing projects. A regulatory framework was needed for this section to take effect. This change does not impact development charges (DC) requirements (e.g., DC deferrals), which can continue to require letters of credit or collateral mortgages (as the case may be).

Considering these changes, and as part of the 2026 Development Charges Bylaw (DC Bylaw), process staff, in consultation with development industry stakeholders and local municipalities, have been developing a new pay-on-demand surety bond policy.

Staff expect to bring forward a report to Council in May 2025 seeking policy directions, including this new pay-on-demand surety bond policy. This policy is being developed by seeking guidance in the ERO posting and will align with the finalized regulatory regime. Table 1 depicts a refined 2026 DC Bylaw timeline.

Table 1
Tentative Timeline for 2026 DC Bylaw

Deliverable	Tentative Timeline*
Status update and potential policy changes report to Council	May 2025
2026 DC Background Study and Bylaw made public	February 2026
Notice of public meeting published on York Region’s webpage	
Public meeting at Committee	March 2026
2026 DC Bylaw to Council for passage	April/May 2026
2026 DC Bylaw and rates in effect	May/June 2026**

*Dates are tentative; subject to 2026 Committee and Council schedule and number of public meetings
 **Subject to Council approval and determination of in-effect date

Staff consulted with the Province on potential regulations in support of pay-on-demand surety bonds

On April 10, 2024, the Province tabled Bill 185, an omnibus bill amending various acts, including the *Act, Municipal Act, 2001*, and *Development Charges Act, 1997*. As part of the [backgrounder](#) in support of Bill 185, the Province indicated its intention to consult on a regulatory framework in support of the pay-on-demand surety bonds.

During the summer, the Province established a technical working group, including York Region staff, to help develop this regulatory framework.

Staff support proposed regulatory framework for pay-on-demand surety bonds

On September 16, 2024, the Ministry of Municipal Affairs and Housing posted ERO #019-9198 to support the pay-on-demand surety bonds. A 30-day commenting period has been opened, which will close on October 16, 2024. Staff support the proposed framework as it reflects comments made during the summer consultation. Table 2 summarizes key details, as well as staff comments.

Table 2
Proposed Mandatory Elements of a Pay-on-Demand Surety Bond

Area	Key Details	Staff Comments
Guaranteed payment	Pay-on-demand surety bond issuer (i.e., insurer) guarantees payment to the obligee (i.e., municipality) if the principal (i.e., developer) defaults in performing the obligation guaranteed by the bond	Similar to letters of credit Ensures payments to municipality for amounts demanded by municipality if determined, at municipality's sole discretion, that principal has defaulted*
Licensing requirement	Pay-on-demand surety bond would be required to be issued by an insurer licensed under the Insurance Act and overseen by the Financial Services Regulatory Authority of Ontario	Minimizes risk Only insurers licensed in Ontario, overseen by Financial Services Regulatory Authority of Ontario
Credit Ratings requirement	To minimize credit risk to municipalities, the insurer would be required to meet one of the following credit ratings: <ul style="list-style-type: none"> • Dominion Bond rating as "A" or higher • Fitch rating as "A-" or higher • Moody's rating as "A3" or higher • S&P rating as "A-" or higher • A.M. Best rating as "A" or higher 	Minimizes risk Surety's assurance to pay amount due, in time required, supported by a third party/credit rating assessment
Timely payment	Insurer would be required to make payment to the municipality within 15 business days of being provided with a written notice of default	Similar to letters of credit Ensures timely access to funds to remedy default
Partial Drawdowns	Pay-on-demand bond instrument would provide for partial drawdowns	Similar to letters of credit Municipality can release portions of security (i.e., reduce amount of bond) when satisfied the condition of development has been fulfilled
Cancellation	Insurer required to provide 90 days written notice to municipality and principal (i.e., homebuilder) of its intention to terminate the pay-on-demand surety bond Developer then required to provide municipality with replacement security (e.g., letters of credit, another equivalent pay-on-demand surety bond) within 60 days of notice receipt. If none provided, existing pay-on-demand surety bond would remain in full force	Minimizes risk If replacement security is not received by municipality, reverting to existing bond ensures obligations remain secured

*Note: This wording echoed in the Provincial ERO posting document

For more information on this memo, please contact Bonny Tam, Acting Director, Treasury Office at 1-877-464-9675 ext. 75885. Accessible formats or communication supports are available upon request.



Laura Mirabella
Commissioner of Finance and Regional Treasurer



Erin Mahoney
Chief Administrative Officer

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