

CONSULTATION PAPER

PERFORMANCE BASED PRICING

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Executive Summary

In 2011, the Tarion Board of Directors established a task force of industry leaders to develop a methodology for pricing the enrolment of new homes based on risk and performance. The task force members are noted in Appendix 4. This paper is a suggested proposal for Performance Based Pricing. While reading this document we would ask that you reflect on the proposal and consider areas that can be improved upon. We welcome your feedback.

Currently, all homes enrolled with Tarion use the same scale which calculates the amount payable depending upon the end selling price of the home. Hence a builder who provides a high level of customer service with few or no issues, pays the same fees as a builder who breaches warranty obligations, inconveniences homeowners or causes Tarion to incur claims. This is generally not considered fair and is not in accordance with standard insurance and warranty company practices.

The proposed solution is to develop a rating system that will score each builder on a scale of 100 points. A builder's score, computed annually, will place the builder into one of several categories, with each category requiring different levels of enrolment fees. The scoring will be comprised of three equally weighted components:

- 1) tenure;
- 2) claims history; and
- 3) chargeable conciliation history.

A builder's score for both claims history and chargeable conciliation history will be determined relative to the performance of other builders. Specifically, a builder's claims score will be determined by comparing the builder's claims paid per possession to the total claims paid per possession of all builders. A builder's chargeable conciliation ratio score will be determined by comparing the builder's ratio to that of all builders in one of four comparable builder size categories consistent with the disclosures in the builder portal.

Tarion will then provide an enrolment fee discount to better performing builders, and impose a levy on top of the base enrolment fees for builders that score lower. While such discounts and levies will change over time, initial modeling estimates show that the highest discounts for best performing builders are not likely to be higher than about \$100 per enrolment while levies are not expected to exceed about \$600 per enrolment. The discounts and levies would be applied to all price bands equally in the enrolment fee table to maintain simplicity. Builder ratings would be computed annually and so any discount or levy on the enrolment fees would be applied for the following year.

The following sections provide a more detailed discussion of the proposal.

We look forward to your thoughts and suggestions.

Section 1: Introduction

(a) *What is Performance Based Pricing (“PBP”)?*

In virtually all insurance and warranty companies, premiums are based on the risk and performance of what is being insured. Risk and performance are typically measured by referring to the claims history of the insured and of the incurrence of claims of similarly insured parties. For example, your premium for car insurance is in part based on where you live (risk), your age (risk), and your car accident record (performance). As another example, the United Kingdom’s biggest home warranty program’s (National House-Building Council or NHBC) premiums are computed by referring to the length of time the builder has been with the program (risk) and a calculation that uses the claims history of the builder as compared to a national average (performance).

As mentioned in the Executive Summary, Tarion’s enrolment fee scale varies only by the selling price of a home and is the same for all builders. PBP will set enrolment fee scales dependent on a builder’s performance.

(b) *What is Performance as Compared to Risk?*

Performance in the context of this consultation paper refers to a builder’s track record in constructing a quality home free of defects, and if there are defects, to remedy them at the builder’s cost with minimum inconvenience to the homeowner. Risk refers to the overall risk that the builder will not perform as defined above, but goes much further in looking at several other aspects. These include the builder’s financial strength or lack thereof, the builder’s experience in constructing homes of a certain type, the depth and breadth of the builder’s staff and the quality of the builder’s suggested project and construction team when applicable (hi-rise condominium construction).

There are many options available in choosing a fee program based on performance and risk. Consequently, the task force developed a set of principles to serve as guidance in choosing and narrowing down the field of options to a manageable level. The proposals in this document are based on the operating principles contained in Appendix 1.

Section 2: The Proposed Rating System and Publishing of Results

(a) *The Proposed Rating System at a High Level*

Applying the above principles, the task force considered various options for a rating system. Options ranged from the very simple considering only one or two aspects of performance or risk to the very complex considering several components of underwriting. Some were studied in detail. Since the task force and the Board strongly preferred simplicity over complexity, this paper is a set of options that attempts to achieve that objective. Simplicity does not mean lack of effectiveness. Modeling showed that the relatively simple system being proposed did a very good job of differentiating the performance of builders. The Frequently Asked Questions (“FAQ”) in Appendix 2 discusses other rating alternatives that the task force and Board considered while developing this proposal.

The proposal is to develop a rating system that will score each builder out of 100 points. A builder’s score, computed annually, will place the builder into one of several categories, with each category requiring different levels of enrolment fees. The scoring will be comprised of three equally weighted components:

1. Tenure;
2. Claims history; and
3. Chargeable conciliation (“CC”) history.

Ratings will be disclosed on the Tarion website after a two year moratorium on disclosure to allow builders to adjust their processes and improve their performance thus increasing their scores. Builders will be allowed to use their rating in their advertising materials should they wish to do so.

(b) *Components of the Rating System*

The proposed rating system will have three equally weighted components as follows:

Component	Maximum Possible Points
Tenure (years as a Tarion registered builder)	33.33
Claims history per possession <i>as compared to the total population</i>	33.33
CC ratio <i>as compared to a peer group</i>	33.33
Total maximum possible points	100 (rounded)

Each of the above three components are discussed in detail in the next sections.

(c) *Tenure (Years as a Tarion Registered Builder)*

Tenure refers to the time a vendor/builder has had a license with Tarion. There are four reasons why tenure has been included in the proposed PBP system.

1. Modeling of Tarion's claims history has shown that tenure is loosely correlated to lower claim dollars per possession;
2. Generally, the longer a company has been in business, the better the probability of staying in business (i.e., less likely of failing);
3. If a company manages to survive over many years, it is likely profitable with a healthy financial position since if it was not, it would likely not survive; and
4. A company that has existed for some time has likely had a few ups and downs in its day so knows from experience how to handle problems more readily than a less experienced company.

We have chosen the following tenure bands to assign points for tenure. These bands are based on those used by the NHBC.

Tenure band	Points
15 years and over	33.3
10 years to under 15 years	22.2
5 years to under 10 years	11.1
Under 5 years	0

(d) *Claims History per Possession as Compared to the Total Population*

Generally, a builder who allows a claim to occur in the past is more likely to allow a claim to occur in the future as compared to a builder who does not allow any claim to occur. Therefore, it is considered reasonable to include claims history as a component of scoring. By claims history we mean the claims that Tarion has paid out under the warranty program.

Scoring bands are compared to the average claim paid per possession over a certain time period for the entire builder population as a whole. We have chosen to average claims paid per possession on the most recent four years of claims and possession history consistent with the CC category that will be discussed in the next section. Choosing four years as the time period is not arbitrary. Four years is roughly the amount of time needed for CC history to fully develop on a possession. As the program advances, the most recent four year period will

always be used. As was the case with tenure, the bands themselves mirror those used by the NHBC's program.

The scoring bands are as shown in the table below. Note that we have included an example of the dollar ranges to give the reader an appreciation of the size of each band. The dollars shown here are for illustrative purposes only and matches the dollars in our modeling population of claims history which was 2006 through 2009 inclusive. Actual dollar ranges will vary each year of the program.

Range of Claims Dollars <i>per Possession</i>	Claim Dollar Range (model sample only using \$112 average <i>per possession</i>)	Points
No claims	\$0	33.33
Under 50%	< \$56	25.00
50% to under 150%	\$56 to < \$168	16.67
150% to under 500%	\$168 to < \$560	8.33
500% or more	> \$560	0

(e) *Chargeable Conciliation Ratio as Compared to a Peer Group*

Since October 1, 2003, Tarion and the building industry have been well served by using Builder Bulletin 42 as a basis for complaint handling. CCs are an outcome of the established Bulletin 42 process. Therefore, the task force decided that including CCs as a component of scoring was reasonable.

The table below shows the scoring for this component. An average ratio of CCs to possessions for all builders within each of the four size categories is computed. The size categories are as described in the paragraph immediately below the table. A particular builder's ratio is similarly computed. ***The builder's ratio is compared to the average for all builders of the same size category and plotted in the table.*** All references to averaging in this paragraph refer to averaging using possession counts. As an example, if the average ratio for a size category is 0.25%, then a builder with a ratio of .124% would score 25 points. As with tenure and claims, the points are allotted in equal band sizes for simplicity.

The CC table bands are as follows:

Ratio of CCs to Possessions as Compared to Peer Group Ratio	Points
No CCs	33.33
Builder's ratio is under 50% of peer group ratio	25.00
Builder's ratio is 50% to under 150% of peer group ratio	16.67
Builder's ratio is 150% to under 500% of peer group ratio	8.33
Builder's ratio is 500% or more of peer group ratio	0

Because Customer Service Standard ("CSS") statistics vary widely by size of the builder, CC data is organized into four size categories consistent with the disclosures in the builder portal.

The size categories are:

1. small (possession average 1-10);
2. medium (possession average 11-100);
3. large (possession average 101-300); and
4. very large (possession average over 300).

CSS statistics for condominium Common Elements ("CE") per Builder Bulletin 49, which was effective for condominiums registered after July 1, 2010, will be added at a later date when sufficient history has occurred to make the statistics meaningful. For now, CE data will only be included in the claims paid calculation.

(f) *Determining the Rating*

A builder's rating will be determined by totalling up the scores from the three components that were mentioned above: tenure, claims and CCs. This total score will be given a rating based on the following table:

Builder's Score	Rating
> = 95 points, at least 1 possession in the past 4 years	Excellent
85 points to less than 95 points, at least 1 possession in the past 4 years	Very Good
75 points to less than 85 points, at least 1 possession in the past 4 years	Good
60 points to less than 75 points, at least 1 possession in the past 4 years	Meets Minimum Standards
50 points to less than 60 points, at least 1 possession in the past 4 years	Needs Improvement
< 50 points, at least 1 possession in the past 4 years	Considerable Improvement Required
Builder with an active Notice of Proposal	Under review
Builder with a final Notice of Proposal	License revoked
Builder has no possessions in the past 4 years	Not rated

Here are a few further points about a builder's rating in the above table:

1. A builder must have an active builder license.
2. An umbrella builder is a collection of related builders as defined in Builder Bulletin 28. All possessions for umbrella builders, even those possessions for expired registrations or relatively new registrations in the umbrella¹, will be included in the scoring.

¹ These inclusions are the same as those for disclosure on the Tarion website.

3. If there is an active Notice of Proposal² (“NOP”) to revoke the builder’s license, the builder will be rated as shown above. If there are any enrolments that occur after the NOP is issued but before it is final, the maximum enrolment fee rate will be levied on such enrolments. This rule will apply regardless of the reason(s) for the NOP³. If there is an active NOP, the builder’s score will be shown as “Under review.”

(g) *How do the Ratings Translate into Fee Impacts?*

As was mentioned earlier in this document, many alternatives exist for how to adjust fees based on builder scores. To keep the process simple, it was decided to restrict the fee adjustment to enrolment fees only, as opposed to impacting other fee types. Enrolment fees have the advantage of automatically calibrating extra amounts being levied or providing discounts based on builder size, keeping the process simple and fair.

The current enrolment fee table in effect is shown in Appendix 3. It shows the enrolment fee (plus applicable HST) that must be paid by the builder to Tarion based on the sales price of the home. The proposal here is to provide a discount to better performing builders, and impose a levy on top of the base enrolment fees for builders that score lower. While such discounts and levies will change over time, initial modeling estimates show that the highest discounts for best performing builders are not likely to be higher than about \$100 per enrolment and levies are not expected to exceed about \$600 per enrolment. The discounts and levies would be applied to all price bands equally in the enrolment fee table to maintain simplicity. Builder ratings would be computed annually and so any discount or levy on the enrolment fees would be applied for the following year. For example, if the ratings were computed as of June 30th of a particular year and published in the third or fourth quarter, they would take effect in the following calendar year.

² The mechanism for revoking a builder’s license is discussed in Builder Bulletin 28 available at www.tarion.com.

³ The reader is reminded that an NOP can be issued for reasons other than poor customer service or poor construction practices.

A representative discount and levy selection that approximately achieves break even on Tarion's cash flow in the modeling sample used is as follows (for illustrative purposes only):

Ratings	Base Enrolment Fee Table Change	
Excellent	Lower by	\$90
Very Good	Lower by	\$50
Good	Lower by	\$25
Meets Minimum Standards		\$0
Needs Improvement	Higher by	\$300
Considerable Improvement Required	Higher by	\$600
Under Review	Higher by	\$600

Here are some examples to assist with interpreting the table. A builder who scores in the Meets Minimum Standards category would use the enrolment fee table currently in use. A builder who scores in the Excellent category would reduce all of the enrolment fees by \$90 while a builder that scores in the Considerable Improvement Required or Under Review categories would add \$600 to each enrolment.

The reader will note that the discounts noted above are much smaller than the levies being charged. This occurs for the following reason. There are many more builders (and corresponding enrolments) in the "good" categories than in the "needs improvement" categories. Principle #5 of the program requires the PBP program to be financially neutral over time. Therefore, fewer low performing builders are available to fund the higher performing builders causing the levies to be much higher than the discounts.

(h) *Publishing of Results and Transition*

Four years of history are required to achieve fair scores under this proposal. Once the PBP process is built, scores and ratings will be provided to builders for two years to allow them sufficient time to improve their performance. Since four years of history is required in total under the program, two years of immediate past history will be included in the scoring. After the two year publishing moratorium, ratings will be published on the Tarion website.

As an example, if a process is approved by July 1, 2012, then Tarion could be in a position to provide builders with their scores and ratings by the end of the year, December 31, 2012. These scores would include historical data from July 1, 2008 to June 30, 2012. Each year the time span for inclusion of data would move to the immediately preceding four years. By December 31, 2014, publishing of results would commence and would include data from July 1, 2010 to June 30, 2014.

Section 3: Consultation and Implementation Plan

(a) Consultation

Tarion's consultations on the PBP proposal will include a variety of stakeholder groups.

While each of these groups will provide feedback to Tarion with respect to strengths and issues they see in the proposal, Tarion is particularly interested in receiving feedback on the following questions:

- 1) Do you feel the methodology in this proposal fairly measures a builder's performance? If not, please be as specific as possible with alternatives you may wish to suggest.
- 2) Do you feel that this PBP methodology will influence a builder to improve performance, or motivate an already high performing builder to keep performing at a high level?
- 3) Do you feel disclosure of ratings on Tarion's website will influence a builder to try and achieve a higher rating or motivate an already high performing builder to maintain their high rating?

(b) Implementation Plan

Development of the PBP process will take a significant amount of time. At this point in the process, Tarion's timetable for completing consultations and implementing the new PBP process is as follows:

Milestone		Date
1	Stakeholder consultation paper given to the Ministry of Consumer Services (then posted to the Ministry of Consumer Services Regulatory registry 30 days later)	April 23, 2012 and May 9, 2012
2	Tarion launches its public stakeholder consultation process and reviews feedback. Tarion will consult with a variety of stakeholder groups, including: a) OHBA Liaison Committee b) Ministry of Consumer Services	April 23 to July 9, 2012
3	The "clock starts ticking" on the two year moratorium of disclosing ratings on the Tarion website	July 1, 2012
4	Task force review of consultation results and amendment of the approach if warranted	Early to mid-September 2012

Milestone		Date
5	Board reviews / approves revised approach based on fully costed project with timetable	October 4, 2012 Board Meeting
6	PBP process build	Approximately 6 to 9 months - July 2013 estimated completion time
7	First trial iteration of PBP including providing scoring results to builders	Third quarter of 2013
8	Analysis of results, fine tune process, board approval for any changes	Fourth quarter of 2013 to second quarter of 2014
9	Second trial iteration of PBP including providing scoring results to builders	Third quarter of 2014
10	Analysis of results, fine tune process	Fourth quarter of 2014 to April 2015
11	Board approves proposed regulatory changes	April 2015 Board meeting
12	PBP becomes law	July 1, 2015
13	Full implementation including disclosure of ratings on Tarion website. This iteration will include scoring based on performance components from the prior four years ending June 30, 2015.	Third quarter of 2015
14	Enrolment fees based on the ratings published in 3 rd quarter of 2015 go into effect January 1, 2016 and are effective for all of 2016	Full year 2016

Appendix 1: Operating Principles

The proposals in the document are based on the following principles:

1. The objective of PBP is to influence better builder performance and to improve builder communications with homeowners. This initiative is meant to encourage builders to:
 - a. Build better homes;
 - b. Fix defects promptly and at their cost; and
 - c. Keep homeowners informed about the status of repairs.

It will be important to monitor builder performance year by year as the program progresses to ensure PBP influences better builder performance as intended. Adjustments will be made to the program if necessary.

2. The criteria to rate builders will be a combination of both performance (measuring activity that negatively impacts both the consumer and Tarion) and risk (measuring activity that may have a negative financial impact on Tarion).
3. Disclose rating criteria; have a phase-in period with no publishing to allow builders to adjust their systems and behavior.
4. To incent a builder to improve, the enrolment fees Tarion charges to builders will vary based on the rating of the builder determined under this program.
5. The program should be financially neutral to Tarion in the long-term, but it may be necessary to incur a short-term cost to implement the program. The costs of the program will include discounts in enrolment fees as well as costs to administer the program while the revenue will be the increased enrolment fees paid by builders.
6. Keep PBP simple and straightforward so that builders and consumers can easily understand the program.

Appendix 2: Frequently Asked Questions

A selection of questions and answers relating to the PBP consultation paper are set out below:

1) What other rating systems were considered and why were they rejected?

Various options for rating systems were considered. For example, the NHBC process was studied but considered too complex for our needs. The task force also considered including other components in pricing such as Request for Conciliation history and conciliation counts. Since a builder cannot directly control the incidence of such components, including them in the scoring was rejected because there was a view that they lacked objectivity. The task force also considered alternate weights for components, but in the end, equal weights appeared to provide the necessary level of differentiation of builder performance as did more complex weighting alternatives. The simplest weight model was chosen as an initial proposal.

2) Does a builder's performance affect other builders' scores?

There are three rating components in the scoring system being proposed, tenure, claims history and chargeable conciliation ratio. A builder's tenure score is unaffected by the tenure of any other builder. ***The latter two are relative scores.*** Specifically, the claims history per possession of a builder is compared to an overall industry average to determine the builder's score. The score is therefore relative to the claims performance of all other builders. In a similar fashion, for chargeable conciliation ratio, a builder's score is determined by comparing the ratio of the builder to the industry average ratio for the same size category.

3) For the tenure band, will a company be given credit when it works out of province or on other types of construction?

The tenure used for PBP will be solely based on the amount of time the builder has been registered with Tarion. No credit will be given for any experience the builder may have in other jurisdictions, or outside of new home building while registered with Tarion.

4) Does claims history include all claims or just claims paid under year 1 and year 2 warranties?

Claims history for purposes of this program will include all claims paid by Tarion under any of the warranties.

5) Will builders be allowed to pass on discounts or levies of enrolment fees to homeowners?

In the case of builders receiving a discount from the base enrolment fee table, they will be allowed to pass on the savings from discounts to their homeowners although they will not be required to do so. In the case of builders who are required to pay a levy on top of the base enrolment fee table, they will not be allowed to pass on this extra charge to homeowners.

6) Why is scoring based only on performance and some aspects of risk instead of all aspects of risk of a builder?

Other risks associated with a builder (for example, financial risk) are evaluated by Tarion and impact the builder's terms and conditions of registration. As an example, a builder with a weak financial position, i.e. low equity, may be required to provide Tarion with more security. Including other criteria would have unduly complicated the process while not necessarily motivating builders to improve their performance.

7) What is the difference between a vendor and a builder?

A vendor is a person or legal entity that is licensed by Tarion to sell a home. A builder is someone licensed by Tarion to construct a home. Both vendors and builders pay a licensing fee to Tarion. Often, the vendor and builder are one in the same person or legal entity. A vendor is responsible to honour the warranty, while a builder simply builds a home and usually enters into a contract with the vendor to fix all defects that are warranted. Further, it is the vendor that must enrol the home with Tarion. The vendor also pays the enrolment fee to Tarion although in most cases, vendors simply pass on that cost to their home purchasers, typically in the statement of adjustments at closing.

8) Do companies or persons who are builders but not vendors participate in the PBP program?

A contract home builder will be included in the PBP program as he/she is responsible for enrolling the home and honouring the warranty. A builder who is not also a vendor, will not participate in the program because he/she constructs a home under contract to a vendor but has no possessions. Only vendors have possessions for such homes.

9) How does the PBP process relate to the NOP process?

It is not intended that the PBP process be used to "drive out" poor performing builders. While that may occur, the PBP process is intended to have a more subtle effect on builder behaviour over time. It is not a replacement for the NOP process, which is in place to revoke the licenses of technically or financially unviable builders.

10) How will the PBP process affect a builder's terms and conditions of registration?

Since all the criteria in the PBP process are already considered in a builder's terms and conditions of registration, this new process will not affect the terms and conditions of registration, including the amount of security taken and its timing of release. Should a builder refuse to remit the applicable enrolment fees under this program, the builder's terms and conditions of registration would be impacted. This is currently regular practice with other fees.

11) What happens if the builder changes size category i.e. goes from medium to large or large to medium? How will his/her rating be determined?

The ratings under this program will be computed annually. The size of a builder will be assigned at the cut-off date which is expected to be mid-year (June 30th).

Appendix 3: Current Enrolment Fee Table per Builder Bulletin 27

The current enrolment fee table is provided here for the reader's convenience:

Sale Price Range (Excluding HST)	Unit Enrolment Fee	+	13% HST	=	Total Enrolment Fee
Up to \$ 100,000.00	\$535.00	+	\$69.55	=	\$604.55
\$100,000.01 - 150,000.00	\$580.00	+	\$75.40	=	\$655.40
\$150,000.01 - 200,000.00	\$650.00	+	\$84.50	=	\$734.50
\$200,000.01 - 250,000.00	\$720.00	+	\$93.60	=	\$813.60
\$250,000.01 - 300,000.00	\$790.00	+	\$102.70	=	\$892.70
\$300,000.01 - 350,000.00	\$860.00	+	\$111.80	=	\$971.80
\$350,000.01 - 400,000.00	\$930.00	+	\$120.90	=	\$1,050.90
\$400,000.01 - 450,000.00	\$1,000.00	+	\$130.00	=	\$1,130.00
\$450,000.01 - 500,000.00	\$1,070.00	+	\$139.10	=	\$1,209.10
\$500,000.01 - 550,000.00	\$1,150.00	+	\$149.50	=	\$1,299.50
\$550,000.01 - 600,000.00	\$1,200.00	+	\$156.00	=	\$1,356.00
\$600,000.01 - 650,000.00	\$1,250.00	+	\$162.50	=	\$1,412.50
\$650,000.01 - 700,000.00	\$1,300.00	+	\$169.00	=	\$1,469.00
\$700,000.01 - 750,000.00	\$1,350.00	+	\$175.50	=	\$1,525.50
\$750,000.01 - 800,000.00	\$1,400.00	+	\$182.00	=	\$1,582.00
\$800,000.01 - 850,000.00	\$1,450.00	+	\$188.50	=	\$1,638.50
\$850,000.01 - 900,000.00	\$1,500.00	+	\$195.00	=	\$1,695.00
\$900,000.01 - 950,000.00	\$1,550.00	+	\$201.50	=	\$1,751.50
\$950,000.01 - 1,000,000.00	\$1,600.00	+	\$208.00	=	\$1,808.00
Greater than \$1,000,000.00	\$1,650.00	+	\$214.50	=	\$1,864.50

Appendix 4: Task Force Members

Member	Company	Industry Experience and Primary Building Locations
Mark Basciano	President, Mountainview Homes	Tarion Board member Large freehold builder in Niagara area
Mitch Cohen	President, The Daniels Group	Large hi-rise condo builder in GTA
Frank Giannone	President, FRAM Building Group	Tarion Board member (Task Force Vice-Chair) Large hi-rise condo builder in GTA
David Guiney	Chief Operating Officer, Tarion Warranty Corporation	Tarion staff
Brian Johnston	President, Monarch	Tarion Board member (Task Force Chair) Large hi-rise condo and large freehold builder in GTA and Ottawa
Rick Morris	Vice President Operations, Domicile	Large hi-rise builder in Ottawa area
Lea Ray	Chartered Accountant	Tarion Board member
Paul Stinson	President, Stinson Builders	Small freehold builder in eastern Ontario