

Sponsor Testimony: **HB 380 Prompt Pay Bill**

State Representative Jon Cross, 83rd Ohio House District
State Representative Bride Sweeney, 14th Ohio House District

November 6th – Commerce and Labor Committee

Representative Cross:

Chairman Manning, Vice-Chair Dean, Ranking Member Lepore-Hagan, and members of the House Commerce and Labor Committee, Representative Sweeney and I are excited to sponsor and testify in support of House Bill 380. Our legislation seeks to address an issue in the construction industry that unfortunately falls on those small businesses who can least afford it. Ohio House Bill 380 would require private sector owners of construction projects to provide payment to the prime contractors no more than 35 days after the prime contractors provide invoices to the owners.

According to the 2018 Construction Payments Report issued by Rabbet, there is a \$40 billion impact on the industry for carrying forward the fees and costs of slow payments. This same study found that an overwhelming majority of subcontractors must turn to other sources of financing for wages and materials while they wait for payment. Only 39% of subcontractors reported the ability to rely on their balance sheet, followed by 36% having to use a line of credit, 22% using credit cards, 15% use personal savings and 6% use retirement savings. While wages must be paid weekly or bi-weekly and materials are typically purchased on 30-day invoices terms, three out of four contractors reported waiting longer than 30 days to receive payments. One in three contractors reported waiting longer than 60 days.

This bill aims to get money flowing from bad developers because the good ones are already paying within a reasonable time. We're not trying to focus on home builders or smaller developers. We want to focus on large-scale commercial developers that are not paying their contractors within a reasonable time. House Bill 380 is modeled after 29 other states' current laws, including **Texas**.

I'll now turn it over to my colleague, Representative Sweeney, to discuss the details of the bill.

Representative Sweeney:

Thank you, Representative Cross. Chairwoman Manning, Vice-Chair Dean, Ranking Member Lepore-Hagan, and Members of the House Commerce and Labor Committee, when prime contractors are not paid promptly, everyone is left worse off. As Rep. Cross points out, businesses struggle to make ends meet when project owners fail to make payments in a timely manner. Slow payments and carrying over late fees cost the construction industry billions of dollars each year.

The construction industry suffers from 51 days sales outstanding which is the longest of any industry in the US. The General Assembly has tried to address this issue by placing certain time limits for payments. Current law states that public construction projects require the owner to pay the prime contractor within 30 days after the invoice. The prime contractor to sub-contractor payment is 10 days after the prime contractor receives the payment and then another 10 days from the sub to lower tiers.

However, there is no such provision to get the payments flowing for private construction projects. While the day limit for prime contractor to sub-contractor and sub-contractor to lower tier is the same for public or private, there is **no provision** on how long owners can pay their prime contractor on private projects. Since there is no time limit for when the general contractor gets paid, the sub-contractor is waiting to get paid and so goes the same down the line.

Prompt payment of prime contractors would offer stability to working class families. It would provide predictability to the small businesses and contractors that drive our economy and will be tasked with rebuilding Ohio's infrastructure in the years to come.

House Bill 380 harmonizes the laws governing the timeline of construction projects without creating an undue burden on the owners of those projects. Whether a contractor is working for the public on I-480 or privately on someone's new home in a growing neighborhood, that contractor should be able to count on prompt payment.

Thank you and we look forward to answering any of your questions.