



**HOUSE COMMERCE AND LABOR COMMITTEE
PROPONENT TESTIMONY ON H.B. 68**

**Provided on March 3, 2021 by
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Chair Stein, Vice Chair Johnson, Ranking Member Lepore-Hagan and Representatives on the House Commerce and Labor Committee:

Thank you for the opportunity to share the AGC of Ohio's support of House Bill 68, legislation that would create a prompt pay law for private owners of construction projects.

AGC of Ohio is a construction association that represents large and small, union and open shop (non-union), commercial building and industrial contractors from across the state. Our members work in both the public and private arena; they construct hospitals, offices, schools, wastewater treatment plants, warehouses and manufacturing facilities, mixed-use developments, and a host of other vertical structures.

Commercial construction is a high-risk, high-volume and low-margin industry – particularly on the vertical building side. Cash flow is extremely important. Money is necessary to compensate workers, pay subcontractors and suppliers, procure materials and equipment, fund new projects, and finance other company functions. Cash flow can impact a construction company's ability to obtain appropriate bonding and insurance, as well as a company's ability to be considered for future construction projects.

The Ohio Revised Code contains several prompt pay laws. Ohio has a Prompt Pay Act that requires a contractor to make timely payments to subcontractors on both public and private construction projects [R.C. 4113.61(A)]. Laws also exist for the prompt payment of contractors by public owners (R.C. 153.12-153.14; R.C. 5525.19 for ODOT). **Notably missing is a statute requiring prompt payment from a private owner to a contractor once a request for payment is made, which H.B. 68 addresses.**

This committee had questions during sponsor testimony about contractual obligations and payment, as well as retainage on private construction projects that we would like to address:

- **Payment:** Contractors and owners sign contracts prior to the start of a project that stipulates payment terms. Those terms are tied to project milestones/completion of work, building inspection approval, architect/engineer certification, and/or the approval from an owner's representative. H.B. 68 recognizes this under Sec. 4113.61 (A)(1)(a).



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- **Retainage:** Retainage is a separate issue than prompt pay. The bill allows for the withholding of retainage from payments to contractors in Sec 4113.61(A)(1)(b). While Ohio has laws governing the use of retainage on public construction projects, there is no related statute for privately owned or financed projects. Retainage is often used by owners and higher-tier contractors to ensure a contractor or subcontractor will return to the job to complete work or address minor issues at the end of the job.

We appreciate Representatives Cross and Sweeney’s continued efforts with this bill, and this committee for its consideration. Give contractors another tool in their toolbox to ensure cashflow, as well as protect the viability of their current and future projects and those working on them. **We urge you to support H.B. 68.**