



HOUSE SMALL BUSINESS COMMITTEE, PROPONENT TESTIMONY ON H.B. 288

Provided on June 3, 2025 by
Andrea Ashley, Vice President of Government Relations
Associated General Contractors (AGC) of Ohio

Chair Ghanbari, Vice Chair Dean, Ranking Member Upchurch, and Representatives on the House Small Business Committee:

Thank you for the opportunity to share the AGC of Ohio's support of House Bill 288, legislation that would create a prompt pay law for private owners of construction projects.

AGC of Ohio is a construction association representing 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 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. Strong cash flow is essential for construction companies to secure bonding, insurance, and be considered for future projects, as clients assess contractors' financial stability.

The Ohio Revised Code contains several prompt pay laws. Ohio has a Prompt Pay Act requiring contractors 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, which H.B. 288 addresses.**



And, Ohio would not be alone in passing this legislation. Thirty other states have similar prompt pay laws, including liberal states like California and conservative ones like Florida and Texas.

This bill has passed the Ohio House twice, with broad, bipartisan support. During those deliberations, we received questions about payment and retainage. To help those of you unfamiliar with how the industry operates, we wanted to provide that information upfront:

- **Payment:** Contractors and owners sign contracts before a project begins, outlining payment terms based on milestones, completed work, inspections, or certifications by architects, engineers, or the owner’s representative. H.B. 288 acknowledges this in Sec. 4113.61(A)(1)(a).
- **Retainage:** Retainage is separate from prompt payment. H.B. 288 permits withholding retainage under Sec. 4113.61(A)(1)(b). While Ohio law addresses retainage on public projects, there is no statute for private projects. Owners and top-tier contractors often use retainage to ensure work is completed or minor issues are resolved at the end of a project.

AGC of Ohio appreciates Representatives Roemer and Sweeney for their leadership on this bill, and thanks the committee for its consideration. Give contractors a tool to ensure cash flow and safeguard the success of current and future projects, along with the workers who depend on them.

We respectfully urge you to support H.B. 288.



OHIO'S PROMPT PAY LAWS

PAYMENT FROM OWNER TO CONTRACTOR

Laws 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. 288 addresses.***

PAYMENT FROM CONTRACTOR TO SUBCONTRACTORS, MATERIAL SUPPLIERS

The Ohio Revised Code contains prompt pay laws governing a contractor's payments to subcontractors, material suppliers and lower tier subcontractors and suppliers on both public and private, nonresidential construction projects. (R.C. 4113.61)

Ohio's prompt pay law requires contractors to pay subcontractors within 10 calendar days after receipt of payment from the owner. The contractor may reduce the payment under a retainage provision in the contract, and/or withhold amounts necessary to resolve disputed liens or claims involving the work or labor performed or material furnished.

Ohio's Prompt Pay Act does not just apply to progress and final payments; it also covers retainage. Contractors must pay retainage within 10 calendar days after receipt of the retainage from the owner, or within the time period provided in the contract (whichever is shorter), provided that the contractor and owner approve the work.

If the contractor fails to meet its payment deadlines, it must pay an interest penalty at a rate of 18% annually. The contractor is also liable for the subcontractor's attorney's fees and court costs unless those payments would be inequitable.

Ohio's prompt pay laws impose similar payment timing requirements on lower-tier subcontractors and material suppliers. Within 10 days of receipt of payment from the contractor, subcontractors must pay lower-tier subcontractors and material suppliers. The 10-day requirement applies through the chain of contracts as each lower-tier contractor is paid. This keeps the money flowing downhill in a timely manner to ensure all subcontractors and material suppliers are being paid.