



**HOUSE SMALL BUSINESS COMMITTEE
REPRESENTATIVE GHANBARI, CHAIR**

**TESTIMONY OF
BROCK MISKIMEN
OF COUNSEL, BRICKER GRAYDON
JUNE 10, 2025**

Chair Ghanbari and members of the House Small Business Committee, my name is Brock Miskimen. I am an attorney at the law firm of Bricker Graydon and practice in our Construction Law Group. Our firm works with and serves as counsel to the Ohio Manufacturers' Association (OMA).

The OMA was created in 1910 to advocate for Ohio's manufacturers; today, it has nearly 1,300 members. Its mission is to protect and grow Ohio manufacturing.

Thank you for the opportunity to provide opponent testimony on House Bill 288 (HB 288). HB 288 would require that the owners of private construction projects -- including manufacturers that are building, improving, or maintaining facilities in Ohio -- to pay contractors within 30 days of receiving an application for payment from the contractor or, if there is a process of certification of a payment application by a design professional, within 30 days after the payment application has been certified, whichever is later.

HB 288 also contains provisions wherein late payments would be subject to a punitive 18% interest rate plus potential attorneys' fees and costs. These provisions will incentivize litigation and could lead to a cottage industry for attorneys to go after companies that are trying to build improvements and grow Ohio's economy.

One of the pillars of a free-market economy is freedom of contract. Virtually every private construction contract is a freely negotiated agreement that sets forth the payment terms in detail and sets agreed upon consequences for late payment or failure to pay, typically with reasonable interest rates and/or other penalties. We are not aware of systemic late payments coming from manufacturing projects, and thus do not understand the conditions for this proposed legislation.

Our members seek to have their facilities up and running as soon as possible and cannot risk the delays that come with late or missed payments to contractors. Furthermore, an owner who fails to timely pay a prime contractor risks having subcontractors walk off the job because of the inability of the prime contractor to pay them, and the prime contractor also has the ability to file a mechanic's lien against the property for failure to pay. Both of these possibilities are strong incentives for an owner to timely pay a contractor according to the terms of their negotiated agreement.

HB 288 allows the state to step in and set the terms of a contract with a potential windfall to one of the parties at the expense of the other. The provisions contained in the bill are far from industry standards negotiated today in both terms of time allowed to pay and the amount of penalties.

The OMA's members negotiate and engage in countless contracts every year. They have embedded processes to comply with the terms of each contract whether that is for the construction of a new facility or supplying manufactured parts to an OEM. HB 288 rejects the concept of freedom of contract, which has governed the majority of private transactions in this state and substitutes a state-sponsored version with terms and penalties much more punitive – and we would argue unnecessarily so -- than what exists in the marketplace.

We appreciate the opportunity to share our concerns with the bill as drafted and look forward to continuing our dialogue with the bill sponsors and the committee. Thank you. I would be happy to try to answer any questions.