

Ohio House Bill 568

Written Testimony

Proponent Testimony of the Construction Employers Association (CEA), Ohio House Bill 568 – Limit Retainage on Certain Private Construction Contracts to 5% House Small Business Committee November 2025

Chairman Ghanbari, Vice Chairman Dean, Ranking Member Upchurch and Honorable Members of the Ohio House Small Business Committee.

My name is Tim Linville, and I represent the Construction Employers Association (CEA). CEA is a non-profit trade association that represents over 200 construction firms in Ohio. These firms employ approximately 10,000 skilled trades and construction management personnel. CEA members span from large general contractors to smaller subcontractors, corporations, and small family-owned and operated businesses.

On behalf of our contractor members—and the building-trades craft workers whose paychecks depend on healthy, cash-flow-positive contractors—CEA strongly supports House Bill 568 and urges the committee to report the bill favorably with a recommendation.

Ohio's public construction market has lived comfortably with reasonable retainage limits for decades. Private owners, however, routinely withhold 10%, sometimes 15% or even more, for the entire duration of the project. That practice is no longer just “negotiating leverage”; it has become a major cash-flow choke point that threatens the financial survival of the very contractors and subcontractors who are actually performing the work.

A single 10% retainage hold on a \$20 million contract ties up \$2 million of earned dollars—often longer than 18 months. For many of our mid-sized members, that withheld amount exceeds their bonding capacity or their entire bank line of credit. When general contractors are forced to accept 10% retainage from the owner, they almost always flow that same 10% down to their subcontractors and suppliers. The result is a cascading cash-flow crisis that hits the smallest and most vulnerable companies the hardest.

House Bill 568 simply says: on private projects over \$1 million, retainage cannot exceed 5%. Five percent is the same reasonable standard that has worked without issue on every public project in Ohio and in every state after state that has already enacted private-sector reform.

States that have capped private retainage at 5% have seen the same consistent, positive outcomes:

- **New York (effective 2024)** – After decades of unrestricted 10% retainage, New York capped private retainage at 5% and allowed contractors to submit final invoices upon substantial completion. Industry reports one year in show improved cash flow, fewer disputes over final retention release, and no increase in owner risk or defect claims. Projects are finishing faster because financially stable contractors and subcontractors can keep crews on the job instead of pulling them off to chase cash on the next project.
- **California (effective January 1, 2026)** – California’s new 5% cap was enacted because the legislature heard the same testimony we are giving today: excessive retainage was driving contractors out of business and slowing project delivery. The California Contractors State License Board and major owner groups ultimately supported the 5% limit because it still gives owners meaningful security while ending the abuse of retainage as an interest-free loan.
- **Tennessee** – Has capped private retainage at 5% for more than 25 years. The sky has not fallen. Owners are still protected, and Tennessee’s construction industry has grown steadily without the cash-flow crises we routinely see in unrestricted states.
- **Other states with 5% private caps or very close limits** (Wisconsin, South Carolina, Utah, and others) report the same thing: better cash flow → healthier contractors → fewer bankruptcies mid-project → fewer delays and lien claims for owners have to fight.

Owners are not exposed under a 5% cap. Five percent of a multimillion-dollar contract is still a very large hammer—hundreds of thousands or millions of dollars—held until the punch list is complete and warranties begin. Performance and payment bonds, lien waivers, joint-check agreements, and the owner’s own inspection rights remain fully in place. What owners lose is the ability to sit on someone else’s money and earn interest on it while the contractor struggles to meet payroll.

CEA members are not “subs” asking for special treatment. We are general contractors and construction managers who bid, bond, and build the projects. We also know that when our subcontractors are starved for cash, our projects suffer. Delays, lien threats, and workforce turnover all increase when retainage exceeds reasonable levels. A 5% cap creates a healthier, more predictable payment ecosystem for the entire project team—owners included.

House Bill 568 brings Ohio’s private construction practices in line with public-sector standards and with modern, proven reforms adopted across the country. It keeps good contractors solvent, keeps skilled craft workers employed, and keeps Ohio projects moving on schedule.

CEA respectfully urges a favorable report and swift passage of House Bill 568.

Respectfully Submitted,

Tim Linville
Construction Employers Association
Unit A
5633 Brecksville Rd.
Independence, OH 44131