

October 29, 2025

Chairwoman Kristina D. Roegner  
Vice Chair Theresa Gavarone  
Ranking Member Willis E. Blackshear, Jr.  
Honorable Members of the Senate General Government Committee  
The Ohio Senate  
136<sup>th</sup> General Assembly  
Ohio Statehouse  
1 Capitol Square  
Columbus, OH 43215

**Re: Senate Bill 262 – Draft 2 – Show Your Work**

Dear Chairwoman Roegner, Vice Chair Gavarone, Ranking Member Blackshear, and Honorable Members of the Senate General Government Committee:

My name is Aaron Evenchik. I am a partner at Hahn Loeser & Parks focusing on construction and real estate issues. I serve as the firm’s co-chair for both its construction and real estate groups. I am nationally recognized by Chambers in both construction and real estate (the only lawyer in Ohio recognized in both areas), and currently the Best Lawyer’s 2025 “Lawyer of the Year” for real estate litigation. In my practice, I regularly review construction contracts, participate in litigation and arbitration on construction project disputes (which always resolve around contract allocation of risk), and regularly provide seminars to clients and construction organizations such as the Construction Employers Association and Ohio Contractors Association on construction and claim issues. I am honored to represent many Ohio construction and real estate development companies.

I reviewed Senate Bill 262/House Bill 96 and believe it is positive for Ohio’s construction community. Contracts are the starting point for allocating risk and responsibilities. Clear contracts prevent disputes, permit accurate project bids and schedules, and enable the parties to know exactly who is doing what. Within the construction industry several “industry standard forms” exist including from the AIA, EJCDC, and ConcensusDocs. These forms are used across the county making their provisions well known, familiar risk allocation to contractors, and there is published caselaw on these contract forms. All the industry standard contract forms require that revisions be shown by the use of redlines under the licensing agreement. AIA, for example, produces an “additions and deletions” report, and attaches that report to the end contract. That

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report enables a contractor who is familiar with the AIA to quickly see the changes and evaluate risk.

However, when industry forms are modified in a manner that lacks redlines, that hides changes, increases risk, and leads to disputes. If a contractor is familiar with an industry standard form, when redlined correctly, the contractor can quickly review the changes, evaluate the risk, and decide if they should bid (or try to negotiate). This leads to clarity for both the public owner and contractor. Clarity reduces disputes. Without redlines, there is risk that small changes are not caught by the contractor (*i.e.*, the addition of the word “not” which reserves the meaning of a provision), leading to unpleasant surprises and disputes later on.

I have personally seen egregious revision of standard forms by lawyers for public owners. For example, in a modified AIA form for a public construction project, revisions to the AIA A201-2017 standard general conditions form (a form used all the time on projects) included:

- The owner’s lawyer can speak to the architect in the architect’s role as initial decision maker on claims, and those communications are considered privileged. If the architect is serving as the first adjudicator in a dispute between the owner and contractor, and the owner’s lawyer can speak with the architect hidden from the contractor, that is improper ex-parte communication. I told my clients they can never bid a contract containing a provision like that.
- Modification of the standard mutual waiver of consequential damages into a contractor only waiver of consequential damages.
- Significant additional requirements added for a contractor to make a claim, making it an administrative headache to make a simple delay or extra cost claim.

All these requirements significantly modified and increased risk for a contractor in the standard AIA form. If a contractor simply looked and saw it was a standard A201, with no redlines, the contractor would have no notice or idea these objectionable provisions were included. By requiring redlines, the contractor will quickly see these revisions and be able to evaluate the additional risk. Nothing in SB 262/HB 96 prevents an owner from including these objectionable provisions, but the public owner must simply identify them as changes from the standard form through redlines.

Finally, the Ohio Facilities Construction Commission and Ohio Department of Transportation both have standard forms that contractors are familiar with. When OFCC and ODOT forms are updated, both always publish redlines to show the contractor community the changes. SB 262/HB 96 simply apply the same requirement to public owners who use industry standard forms.

I look forward to meeting you on November 4. Please let me know if you have any questions.

Sincerely,



Aaron Evenchik