

LEGAL ALERT

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OHIO HOUSE OF REPRESENTATIVES PASSES BILL CONSIDERING PROMPT PAYMENT PROTECTION FOR GENERAL CONTRACTORS

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Yesterday, the Ohio House of Representatives passed a bill (H.B. No. 68) that would amend Ohio's Prompt Pay Act (ORC Section 4113.61) to provide general contractors with payment protection akin to that currently enjoyed by subcontractors under the Act.

House Bill 68 is similar to House Bill 380 (which was proposed in October 2019 but died in committee), but with two important differences.

First, HB 68 shortens the proposed payment period from 35 days (as proposed by the House in 2019) to 30 days.

Second, HB 68 establishes two different triggers for the 30-day payment term, depending on whether the project requires plan approval by a local government entity.

- For private projects that require both (1) a seal by an architect, and (2) plan approval by municipal, township, or county building departments, or the superintendent of industrial compliance, owners must issue payment within 30 days after the work is certified as complying with the approved plans, or 30 days after the owner receives the request for payment, whichever is later.
- For all other private projects, owners must issue payment within 30 days of receiving a contractor's request for payment.

The bill also permits (but does not require) owners to withhold amounts for retainage or to resolve unresolved liens or claims.

Owners who fail to issue payment within the 30-day period would be required to pay interest at the rate of 18% per year, accruing on day 31 after the application for payment is received.

Finally, if a civil action is brought to enforce the prompt payment requirement, the court has authority to award attorney fees to the prevailing party in the dispute.

The proposed modifications would be beneficial for contractors on private projects and provide greater certainty of payment. Private owners will need to closely monitor the timing of payment applications and (if applicable) plan approvals in order to ensure that payment is made in a timely fashion.

We will be monitoring the bill's progress closely and will keep our clients informed of its progress.

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