

Understanding Ohio's Prompt Payment Law
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Ohio's Prompt Payment Law, codified in Ohio Revised Code §4113.61, was drafted to prevent contractors, subcontractors, and materialmen, who get paid themselves, from delaying payment owed to lower tier subcontractors and materialmen. (The law however, does not apply to any construction or improvement of any single-, two-, or three-family detached dwelling houses.)

Generally, this law provides that any contractor or subcontractor must pay lower tier subcontractors or materialmen their owed portion of the payment received (including the payment of final retainage and wages) within ten days of receiving payment, if the following requirements are met:

- The subcontractor, lower tier subcontractor or materialman submitted an application, invoice, or pay request in time to permit the contractor to include the application, request, or invoice within his/her own pay request submitted to an owner; and,
- The contractor receives such funds.

Ohio's Prompt Payment Law states that the amount paid to subcontractors shall be equal to the percentage of completion allowed by the owner for the amount of labor or work performed. With respect to materialmen, the law states that the amount to be paid shall be equal to that portion of the materials furnished by the materialman. However, both amounts may be reduced by any retainage set out in the contract or any amount needed to resolve liens or claim disputes with subcontractors or materialmen.

If payment is not made within the ten-day timeframe, the contractor, subcontractor, or materialman must pay not only the amount due, but also interest in the amount of 18% per annum, beginning on the eleventh day following the date the contractor is paid and continuing until both the principle and interest are paid. In addition, if the principle and interest are not paid within thirty days

of the receipt of funds, then the unpaid subcontractor or materialman may bring a legal action and may also receive litigation fees (attorneys' fees and court costs).

As a final note, no provision of Ohio's Prompt Payment Law may be waived by any agreement to the contrary and if waiver is in fact a term in any contract or agreement, that provision will be unenforceable as against public policy.