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## ***PENNSYLVANIA HOUSE OF REPRESENTATIVE'S COMMERCE COMMITTEE TESTIMONY***

*April 7, 2015*

Thank you Chairman Harris, Chairman Thomas, and members of the Pennsylvania House of Representatives' Commerce Committee for the opportunity to speak with you today regarding payment concerns between contractors and specialty contractors. I am speaking with you today on behalf of the Pennsylvania Council of General Contractors (PennCGC). An organization of General Contractors who believe in the principles of fair, efficient, and competitive construction (bidding, awarding, and building).

PennCGC members believes in the importance of strong working relationships with all entities building or supplying materials on a construction job site: general contractors, specialty contractors, employees, suppliers, etc. Assuring that the construction project is completed on time, within budget, and with minimal change orders (from the construction end) is the best way to build quality construction and maintain strong and successful business relationships with owners and developers. An integral part of striving for a quality and productive worksite is to assure that all entities on a construction worksite are paid accordingly for work performed and paid promptly for their services.

Currently, before work commences on a worksite, the general contractor and specialty contractor enter into a contract which creates an "in-writing" understanding as to the working logistics for the project, the work performed requirements, and payment for completed work

acceptable to both the contractor in-charge and the owner. As should be common practice, the contract spells out the payment schedule and allocated timeline for the designated project. This signed "agreed-to" contract assures that all parties have agreed to the work to be performed and the payment of the project.

PennCGC has already been proactive in this effort by supporting Act 142 of 2014 introduced by Representative Killion. This law reforms Pennsylvania's current Mechanics Lien legislation to assure that the owner and general contractor are aware of all entities working on a construction project to assure payment for work performed or materials purchased. Act 142 of 2014 enables the owner to identify the entire field of specialty contractors. If the owner knows who all the specialty contractors are who worked on his/ her project, he/ she can take positive steps to assure payment for work performed, or address any lingering disputes. The PennCGC is working to assure that companies and workers are paid for their successful completion of work performed or materials supplied.

Though the Pennsylvania Council of General Contractors wishes to thank Representative Tobash for introducing House Bill 726 to host discussions on the topic of prompt pay, the PennCGC has concerns regarding the legislation.

1. House Bill 726 as written will create more oversight and regulations in an already over-regulated industry. Currently, the owners, general contractors, and specialty contractors enter into a contractual agreement with clear language regarding the payment structure and timelines for work completed. Why create more regulations.

2. The additional state regulated oversight set forth in House Bill 726 may deter businesses who are based out of Pennsylvania from expanding their operations, especially their brick and mortar work, into Pennsylvania. Currently the contractual agreements between the owner, general contractor, and specialty contractors assure that all agreed to parties have a consistent understanding of the rules to move forward and are paid accordingly for work completed.
  
3. Is there a problem with the current Prompt Pay law? What is the wrong with the current contractual agreements between the owner, general contractor, and specialty contractor? It is important not to perceive this problem as only a contractor to specialty contractor issue (as was the perception with Mechanics Lien Reform). If the contractor-specialty contractor payment concern is valid, it should be considered as contractor to specialty contractor and a specialty contractor to sub- specialty contractor issue. We would be naive to think that only contractors and subcontractors have payment disputes.

The PennCGC wishes to commend Representative Tobash for introducing House Bill 726 and we look forward to working with him and members of the Commerce committee to analyze the problems on the prompt payment system in Pennsylvania and work together to find a solution that would help owners, general contractors, and specialty contractors.

PennCGC wishes to thank the Commerce Committee for the opportunity to speak before you today and we look forward to working with you on this issue in the near future.

Respectfully Submitted,

Hank Butler, Executive Director

Pennsylvania Council of General Contractors