

Senator Jay Hottinger
President Pro Tempore
Senate District 31



Senator Vernon Sykes
Senate District 28

Senate Bill 49, Sponsor Testimony
Senate Judiciary Committee
February 23, 2021

Chairman Manning, Vice-Chairman McColley, Ranking Member Thomas and members of the Senate Judiciary Committee, thank you for the opportunity to provide sponsor testimony on Senate Bill 49.

This legislation would establish a payment assurance program for registered design professionals. Design professionals include architects, landscape architects, engineers and surveyors. Design professionals who work in the construction industry currently have limited options when a commercial real estate owner does not pay for plans or specifications that they have created. It is unfair to them when an owner goes forward with construction without first compensating for the design work. Unlike construction contractors, the work of design professional does not improve the physical real estate, and therefore a design professional cannot file a mechanics' lien. Ohio is one of the only states that does not offer alternative payment protection for design professionals.

This bill would create a design professional lien right modeled after the brokers' lien (House Bill 510, 129th G.A.). The provisions would be identical for each of the design professionals and would not be included in Ohio's mechanics' lien law, Chapter 1311. In order to avoid any conflict, mechanics' liens will always take precedence over a design professional's lien, regardless of filing date.

The design professional lien will:

- Apply only to commercial property, and not to residential property;
- Apply only to private work, and not to public construction; and
- Will be subordinate to any real estate mortgage previously filed.

The intent of this legislation is to give design professionals leverage over private, commercial real estate owners under contract with a design professional to pay for plans and specifications.

Thank you again for allowing us to give sponsor testimony on Senate Bill 49. We would be happy to answer any questions the committee may have.