

104TH GENERAL ASSEMBLY**State of Illinois****2025 and 2026****HB1224**

Introduced 1/9/2025, by Rep. William "Will" Davis

SYNOPSIS AS INTRODUCED:

New Act
30 ILCS 540/1

from Ch. 127, par. 132.401

Creates the State Agency Retainage Act. Provides that, if a State agency determines that satisfactory progress has not been achieved by a contractor or subcontractor during any period for which a payment is to be made, a percentage of the payment may be retained by the State agency. Prohibits the amount of retainage under the Act from exceeding 10% of the amount of any and all draw amounts submitted and approved under the terms of the contract until the contract is 50% completed. Prohibits retainage of more than 5% of the contract of the amount of any and all draw amounts submitted and approved under the terms of the contract for the duration of the contract. Authorizes retainage to be adjusted as the contract approaches completion to recognize better than expected performance, the ability to rely on alternative safeguards, and other factors. Further provides that on completion of all contract requirements, amounts retained under the Act must be paid promptly. Defines the terms "retainage" and "State agency". Amends the State Prompt Payment Act. Specifies that the State Prompt Payment Act does not apply to retainage withheld under the State Agency Retainage Act.

LRB104 06221 JRC 16256 b

1 AN ACT concerning government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the State
5 Agency Retainage Act.

6 Section 5. Definitions. As used in this Act:

7 "Retainage" means a portion of moneys withheld from the
8 payment of a contract for a specified period of time to ensure
9 that a contractor or subcontractor completes a construction
10 project in the manner specified in the contract. "Retainage"
11 does not include moneys withheld due to violations of local,
12 State, or federal laws.

13 "State agency" has the meaning given to "State agencies"
14 in Section 1-7 of the Illinois State Auditing Act.

15 Section 10. Determination of satisfactory progress. If a
16 State agency determines that satisfactory progress has not
17 been achieved by a contractor or subcontractor during any
18 period for which a payment is to be made, a percentage of the
19 payment may be retained by the State agency. Retainage may not
20 be used as a substitute for good contract management, and the
21 State agency may not withhold funds without cause.
22 Determinations to retain and the specific amount to be

1 withheld must be made by the State agency on a case-by-case
2 basis. These determinations must be based on an assessment of
3 past performance and the likelihood that such performance will
4 continue. The amount of retainage withheld may not exceed 10%
5 of the amount of any and all draw amounts submitted and
6 approved under the terms of the contract until the contract is
7 50% completed, may not exceed 5% of the amount of any and all
8 draw amounts submitted and approved under the terms of the
9 contract for the duration of the contract, and may be adjusted
10 as the contract approaches completion to recognize better than
11 expected performance, the ability to rely on alternative
12 safeguards, and other factors. Upon completion of all contract
13 requirements, amounts retained under this Act must be paid
14 promptly.

15 Section 15. The State Prompt Payment Act is amended by
16 changing Section 1 as follows:

17 (30 ILCS 540/1) (from Ch. 127, par. 132.401)

18 Sec. 1. This Act applies to any State official or agency
19 authorized to provide for payment from State funds, by virtue
20 of any appropriation of the General Assembly, for goods or
21 services furnished to the State. This Act does not apply to
22 retainage withheld under the State Agency Retainage Act.

23 For purposes of this Act, "goods or services furnished to
24 the State" include but are not limited to (i) covered health

1 care provided to eligible members and their covered dependents
2 in accordance with the State Employees Group Insurance Act of
3 1971, including coverage through a physician-owned health
4 maintenance organization under Section 6.1 of that Act, (ii)
5 prevention, intervention, or treatment services and supports
6 for persons with developmental disabilities, mental health
7 services, alcohol and substance abuse services, rehabilitation
8 services, and early intervention services provided by a
9 vendor, and (iii) prevention, intervention, or treatment
10 services and supports for youth provided by a vendor by virtue
11 of a contractual grant agreement. For the purposes of items
12 (ii) and (iii), a vendor includes but is not limited to sellers
13 of goods and services, including community-based organizations
14 that are licensed to provide prevention, intervention, or
15 treatment services and supports for persons with developmental
16 disabilities, mental illness, and substance abuse problems, or
17 that provides prevention, intervention, or treatment services
18 and supports for youth.

19 For the purposes of this Act, "appropriate State official
20 or agency" is defined as the Director or Chief Executive or his
21 designee of that State agency or department or facility of
22 such agency or department. With respect to covered health care
23 provided to eligible members and their dependents in
24 accordance with the State Employees Group Insurance Act of
25 1971, "appropriate State official or agency" also includes an
26 administrator of a program of health benefits under that Act.

1 As used in this Act, "eligible member" means a member who
2 is eligible for health benefits under the State Employees
3 Group Insurance Act of 1971, and "member" and "dependent" have
4 the meanings ascribed to those terms in that Act.

5 As used in this Act, "a proper bill or invoice" means a
6 bill or invoice, including, but not limited to, an invoice
7 issued under a contractual grant agreement, that includes the
8 information necessary for processing the payment as may be
9 specified by a State agency and in rules adopted in accordance
10 with this Act. Beginning on and after July 1, 2021, "a proper
11 bill or invoice" shall also include the names of all
12 subcontractors or subconsultants to be paid from the bill or
13 invoice and the amounts due to each of them, if any.

14 As used in this Act, "retainage" means a portion of money
15 withheld from the payment of a contract for a specified period
16 of time to ensure that a contractor or subcontractor completes
17 a construction project in the manner specified in the
18 contract. "Retainage" does not include moneys withheld due to
19 violations of local, State, or federal laws.

20 (Source: P.A. 100-549, eff. 1-1-18; 101-524, eff. 1-1-20.)