



Rep. William "Will" Davis

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10400HB1224ham001

LRB104 06221 HLH 22555 a

1 AMENDMENT TO HOUSE BILL 1224

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 1224 by replacing  
3 everything after the enacting clause with the following:

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 "Satisfactory progress" means that a project is moving  
14 forward according to the established schedule and budget and  
15 that the work has been performed in accordance with industry  
16 standards and without deficiencies.

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

3 Section 10. Determination of satisfactory progress.  
4 Subject to the limitations set forth in Section 15, with  
5 respect to a contract entered into on or after the effective  
6 date of this Act, a State agency may withhold a portion of the  
7 moneys from the payment of a contract as retainage if and only  
8 if the State agency determines that satisfactory progress has  
9 not been achieved by a contractor or subcontractor during any  
10 period for which a payment is to be made. Retainage may not be  
11 used as a substitute for good contract management, and the  
12 State agency may not withhold funds without cause.  
13 Determinations to retain and the specific amount to be  
14 withheld must be made by the State agency on a case-by-case  
15 basis. These determinations must be based on an assessment of  
16 past performance and the likelihood that such performance will  
17 continue.

18 Section 15. Limitations on the amount of retainage. The  
19 amount of retainage withheld may not exceed 10% of the amount  
20 of any and all draw amounts submitted and approved under the  
21 terms of the contract until the contract is 50% completed, may  
22 not exceed 5% of the amount of any and all draw amounts  
23 submitted and approved under the terms of the contract for the  
24 duration of the contract, and may be adjusted as the contract

1 approaches completion to recognize better than expected  
2 performance, the ability to rely on alternative safeguards,  
3 and other factors. Upon completion of all contract  
4 requirements, amounts retained under this Act must be paid  
5 promptly.