



Rep. Lindsey LaPointe

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10400HB4288ham001

LRB104 17163 HLH 35361 a

1 AMENDMENT TO HOUSE BILL 4288

2 AMENDMENT NO. _____. Amend House Bill 4288 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The State Prompt Payment Act is amended by
5 changing Sections 3-2, 3-6, and 7 as follows:

6 (30 ILCS 540/3-2)

7 Sec. 3-2. Beginning July 1, 1993, in any instance where a
8 State official or agency is late in payment of a vendor's bill
9 or invoice for goods or services furnished to the State, as
10 defined in Section 1, properly approved in accordance with
11 rules promulgated under Section 3-3, the State official or
12 agency shall pay interest to the vendor in accordance with the
13 following:

14 (1) (Blank). ~~Any bill, except a bill submitted under~~
15 ~~Article V of the Illinois Public Aid Code and except as~~
16 ~~provided under paragraph (1.05) of this Section, approved~~

1 ~~for payment under this Section must be paid or the payment~~
2 ~~issued to the payee within 60 days of receipt of a proper~~
3 ~~bill or invoice. If payment is not issued to the payee~~
4 ~~within this 60-day period, an interest penalty of 1.0% of~~
5 ~~any amount approved and unpaid shall be added for each~~
6 ~~month or fraction thereof after the end of this 60 day~~
7 ~~period, until final payment is made. Any bill, except a~~
8 ~~bill for pharmacy or nursing facility services or goods,~~
9 ~~and except as provided under paragraph (1.05) of this~~
10 ~~Section, submitted under Article V of the Illinois Public~~
11 ~~Aid Code approved for payment under this Section must be~~
12 ~~paid or the payment issued to the payee within 60 days~~
13 ~~after receipt of a proper bill or invoice, and, if payment~~
14 ~~is not issued to the payee within this 60 day period, an~~
15 ~~interest penalty of 2.0% of any amount approved and unpaid~~
16 ~~shall be added for each month or fraction thereof after~~
17 ~~the end of this 60 day period, until final payment is~~
18 ~~made. Any bill for pharmacy or nursing facility services~~
19 ~~or goods submitted under Article V of the Illinois Public~~
20 ~~Aid Code, except as provided under paragraph (1.05) of~~
21 ~~this Section, and approved for payment under this Section~~
22 ~~must be paid or the payment issued to the payee within 60~~
23 ~~days of receipt of a proper bill or invoice. If payment is~~
24 ~~not issued to the payee within this 60-day period, an~~
25 ~~interest penalty of 1.0% of any amount approved and unpaid~~
26 ~~shall be added for each month or fraction thereof after~~

1 ~~the end of this 60 day period, until final payment is~~
2 ~~made.~~

3 (1.05) For State fiscal year 2012 and future fiscal
4 years, any bill approved for payment under this Section
5 must be paid or the payment issued to the payee within 90
6 days of receipt of a proper bill or invoice. If payment is
7 not issued to the payee within this 90-day period, an
8 interest penalty of 1.0% of any amount approved and unpaid
9 shall be added for each month, or 0.033% (one-thirtieth of
10 one percent) of any amount approved and unpaid for each
11 day, after the end of this 90-day period, until final
12 payment is made.

13 (1.1) A State agency shall review ~~in a timely manner~~
14 each bill or invoice within 30 days after its receipt. If
15 the State agency determines that the bill or invoice
16 contains a defect making it unable to process the payment
17 request, the agency shall notify the vendor requesting
18 payment ~~as soon as possible after discovering the defect~~
19 ~~pursuant to rules promulgated under Section 3-3; provided,~~
20 ~~however, that the notice for construction related bills or~~
21 ~~invoices must be given~~ not later than 30 days after the
22 bill or invoice was first submitted. The notice shall
23 identify the defect and any additional information
24 necessary to correct the defect. If one or more items on a
25 construction related bill or invoice are disapproved, but
26 not the entire bill or invoice, then the portion that is

1 not disapproved shall be paid in accordance with the
2 requirements of this Act.

3 (2) Where a State official or agency is late in
4 payment of a vendor's bill or invoice properly approved in
5 accordance with this Act, and different late payment terms
6 are not reduced to writing as a contractual agreement, the
7 State official or agency shall automatically pay interest
8 penalties required by this Section amounting to \$50 or
9 more to the appropriate vendor. Each agency shall be
10 responsible for determining whether an interest penalty is
11 owed and for paying the interest to the vendor. Except as
12 provided in paragraph (4), an individual interest payment
13 amounting to \$5 or less shall not be paid by the State.
14 Interest due to a vendor that amounts to greater than \$5
15 and less than \$50 shall not be paid but shall be accrued
16 until all interest due the vendor for all similar warrants
17 exceeds \$50, at which time the accrued interest shall be
18 payable and interest will begin accruing again, except
19 that interest accrued as of the end of the fiscal year that
20 does not exceed \$50 shall be payable at that time. In the
21 event an individual has paid a vendor for services in
22 advance, the provisions of this Section shall apply until
23 payment is made to that individual.

24 (3) The provisions of Public Act 96-1501 reducing the
25 interest rate on pharmacy claims under Article V of the
26 Illinois Public Aid Code to 1.0% per month shall apply to

1 any pharmacy bills for services and goods under Article V
2 of the Illinois Public Aid Code received on or after the
3 date 60 days before January 25, 2011 (the effective date
4 of Public Act 96-1501) except as provided under paragraph
5 (1.05) of this Section.

6 (4) Interest amounting to less than \$5 shall not be
7 paid by the State, except for claims (i) to the Department
8 of Healthcare and Family Services or the Department of
9 Human Services, (ii) pursuant to Article V of the Illinois
10 Public Aid Code, the Covering ALL KIDS Health Insurance
11 Act, or the Children's Health Insurance Program Act, and
12 (iii) made (A) by pharmacies for prescriptive services or
13 (B) by any federally qualified health center for
14 prescriptive services or any other services.

15 Notwithstanding any provision to the contrary, interest
16 may not be paid under this Act when: (1) a Chief Procurement
17 Officer has voided the underlying contract for goods or
18 services under Article 50 of the Illinois Procurement Code; or
19 (2) the Auditor General is conducting a performance or program
20 audit and the Comptroller has held or is holding for review a
21 related contract or vouchers for payment of goods or services
22 in the exercise of duties under Section 9 of the State
23 Comptroller Act. In such event, interest shall not accrue
24 during the pendency of the Auditor General's review.

25 (Source: P.A. 100-1064, eff. 8-24-18.)

1 (30 ILCS 540/3-6)

2 Sec. 3-6. Federal funds; lack of authority. If an agency
3 incurs an interest liability under this Act that cannot be
4 charged to the same expenditure authority account to which the
5 related goods or services were charged due to federal
6 prohibitions, the agency is authorized to pay the interest
7 from its available appropriations from the General Revenue
8 Fund or from any other fund in the State Treasury that is not
9 otherwise prohibited from being used to pay interest, except
10 that the Department of Transportation is authorized to pay the
11 interest from its available appropriations from the Road Fund,
12 as long as the original goods or services were for purposes
13 consistent with Section 11 of Article IX of the Illinois
14 Constitution.

15 (Source: P.A. 103-588, eff. 6-5-24.)

16 (30 ILCS 540/7) (from Ch. 127, par. 132.407)

17 Sec. 7. Payments to subcontractors and material suppliers.

18 (a) When a State official or agency responsible for
19 administering a contract receives a proper bill or invoice
20 from a contractor, that State official or agency shall
21 transmit any approved amount to the Comptroller within 30 days
22 of receipt.

23 (a-1) When a State official or agency responsible for
24 administering a contract submits a voucher to the Comptroller
25 for payment to a contractor, that State official or agency

1 shall promptly make available electronically the voucher
2 number, the date of the voucher, and the amount of the voucher.
3 The State official or agency responsible for administering the
4 contract shall provide subcontractors and material suppliers,
5 known to the State official or agency, with instructions on
6 how to access the electronic information on the Comptroller's
7 website.

8 (a-5) When a contractor receives any payment, the
9 contractor shall pay each subcontractor and material supplier
10 electronically within 10 business days or 15 calendar days,
11 whichever occurs earlier, or, if paid by a printed check, the
12 printed check must be postmarked within 10 business days or 15
13 calendar days, whichever occurs earlier, after receiving
14 payment in proportion to the work completed by each
15 subcontractor and material supplier its application or pay
16 estimate, plus interest received under this Act. When a
17 contractor receives any payment, the contractor shall pay each
18 lower-tiered subcontractor and material supplier and each
19 subcontractor and material supplier shall make payment to its
20 own respective subcontractors and material suppliers. If the
21 contractor receives less than the full payment due under the
22 public construction contract, the contractor shall be
23 obligated to disburse on a pro rata basis those funds
24 received, plus interest received under this Act, with the
25 contractor, subcontractors and material suppliers each
26 receiving a prorated portion based on the amount of payment

1 each has earned. When, however, the State official or agency
2 does not release the full payment due under the contract
3 because there are specific areas of work or materials the
4 State agency or official has determined are not suitable for
5 payment, then those specific subcontractors or material
6 suppliers involved shall not be paid for that portion of work
7 rejected or deemed not suitable for payment and all other
8 subcontractors and suppliers shall be paid based upon the
9 amount of payment each has earned, plus interest received
10 under this Act.

11 (a-10) For construction contracts with the Department of
12 Transportation, the contractor, subcontractor, or material
13 supplier, regardless of tier, shall not offset, decrease, or
14 diminish payment or payments that are due to its
15 subcontractors or material suppliers without reasonable cause.

16 A contractor, who refuses to make prompt payment within 10
17 business days or 15 calendar days, whichever occurs earlier,
18 after receiving payment, in whole or in part, shall provide to
19 the subcontractor or material supplier and the public owner or
20 its agent, a written notice of that refusal. The written
21 notice shall be made by a contractor no later than 5 calendar
22 days after payment is received by the contractor. The written
23 notice shall identify the Department of Transportation's
24 contract, any subcontract or material purchase agreement, a
25 detailed reason for refusal, the value of the payment to be
26 withheld, and the specific remedial actions required of the

1 subcontractor or material supplier so that payment may be
2 made. Written notice of refusal may be given in a form and
3 method which is acceptable to the parties and public owner.

4 (b) If the contractor, without reasonable cause, fails to
5 make full payment of amounts due under subsection (a) to its
6 subcontractors and material suppliers within 10 business days
7 or 15 calendar days, whichever occurs earlier, after receipt
8 of payment from the State official or agency, the contractor
9 shall pay to its subcontractors and material suppliers, in
10 addition to the payment due them, interest in the amount of 2%
11 per month, calculated from the expiration of the
12 10-business-day period or the 15-calendar-day period until
13 fully paid. This subsection shall further apply to any
14 payments made by subcontractors and material suppliers to
15 their subcontractors and material suppliers and to all
16 payments made to lower tier subcontractors and material
17 suppliers throughout the contracting chain.

18 (1) If a contractor, without reasonable cause, fails
19 to make payment in full as provided in subsection (a-5)
20 within 10 business days or 15 calendar days, whichever
21 occurs earlier, after receipt of payment under the public
22 construction contract, any subcontractor or material
23 supplier to whom payments are owed may file a written
24 notice and request for administrative hearing with the
25 State official or agency setting forth the amount owed by
26 the contractor and the contractor's failure to timely pay

1 the amount owed. The written notice and request for
2 administrative hearing shall identify the public
3 construction contract, the contractor, and the amount
4 owed, and shall contain a sworn statement or attestation
5 to verify the accuracy of the notice. The notice and
6 request for administrative hearing shall be filed with the
7 State official for the public construction contract, with
8 a copy of the notice concurrently provided to the
9 contractor. Notice to the State official may be made by
10 certified or registered mail, messenger service, or
11 personal service, and must include proof of delivery to
12 the State official.

13 (2) The State official or agency, within 15 calendar
14 days after receipt of a subcontractor's or material
15 supplier's written notice and request for administrative
16 hearing, shall hold a hearing convened by an
17 administrative law judge to determine whether the
18 contractor withheld payment, without reasonable cause,
19 from the subcontractors or material suppliers and what
20 amount, if any, is due to the subcontractors or material
21 suppliers, and the reasonable cause or causes asserted by
22 the contractor. The State official or agency shall provide
23 appropriate notice to the parties of the date, time, and
24 location of the hearing. Each contractor, subcontractor,
25 or material supplier has the right to be represented by
26 counsel at a hearing and to cross-examine witnesses and

1 challenge documents. Upon the request of the subcontractor
2 or material supplier and a showing of good cause,
3 reasonable continuances may be granted by the
4 administrative law judge.

5 (3) Upon a finding by the administrative law judge
6 that the contractor failed to make payment in full,
7 without reasonable cause, as provided in subsection
8 (a-10), then the administrative law judge shall, in
9 writing, order the contractor to pay the amount owed to
10 the subcontractors or material suppliers plus interest
11 within 15 calendar days after the order.

12 (4) If a contractor fails to make full payment as
13 ordered under paragraph (3) of this subsection (b) within
14 15 days after the administrative law judge's order, then
15 the contractor shall be barred from entering into a State
16 public construction contract for a period of one year
17 beginning on the date of the administrative law judge's
18 order.

19 (5) If, on 2 or more occasions within a
20 3-calendar-year period, there is a finding by an
21 administrative law judge that the contractor failed to
22 make payment in full, without reasonable cause, and a
23 written order was issued to a contractor under paragraph
24 (3) of this subsection (b), then the contractor shall be
25 barred from entering into a State public construction
26 contract for a period of 6 months beginning on the date of

1 the administrative law judge's second written order, even
2 if the payments required under the orders were made in
3 full.

4 (6) If a contractor fails to make full payment as
5 ordered under paragraph (4) of this subsection (b), the
6 subcontractor or material supplier may, within 30 days of
7 the date of that order, petition the State agency for an
8 order for reasonable attorney's fees and costs incurred in
9 the prosecution of the action under this subsection (b).
10 Upon that petition and taking of additional evidence, as
11 may be required, the administrative law judge may issue a
12 supplemental order directing the contractor to pay those
13 reasonable attorney's fees and costs.

14 (7) The written order of the administrative law judge
15 shall be final and appealable under the Administrative
16 Review Law.

17 (b-5) On or before July 2021, the Department of
18 Transportation shall publish on its website a searchable
19 database that allows for queries for each active construction
20 contract by the name of a subcontractor or the pay item such
21 that each pay item is associated with either the prime
22 contractor or a subcontractor.

23 (c) This Section shall not be construed to in any manner
24 diminish, negate, or interfere with the
25 contractor-subcontractor or contractor-material supplier
26 relationship or commercially useful function.

1 (d) This Section shall not preclude, bar, or stay the
2 rights, remedies, and defenses available to the parties by way
3 of the operation of their contract, purchase agreement, the
4 Mechanics Lien Act, or the Public Construction Bond Act.

5 (e) State officials and agencies may adopt rules as may be
6 deemed necessary in order to establish the formal procedures
7 required under this Section.

8 (f) As used in this Section:

9 "Payment" means the discharge of an obligation in money or
10 other valuable consideration or thing delivered in full or
11 partial satisfaction of an obligation to pay. "Payment" shall
12 include interest paid pursuant to this Act.

13 "Reasonable cause" may include, but is not limited to,
14 unsatisfactory workmanship or materials; failure to provide
15 documentation required by the contract, subcontract, or
16 material purchase agreement; claims made against the
17 Department of Transportation or the subcontractor pursuant to
18 subsection (c) of Section 23 of the Mechanics Lien Act or the
19 Public Construction Bond Act; judgments, levies, garnishments,
20 or other court-ordered assessments or offsets in favor of the
21 Department of Transportation or other State agency entered
22 against a subcontractor or material supplier. "Reasonable
23 cause" does not include payments issued to the contractor that
24 create a negative or reduced valuation pay application or pay
25 estimate due to a reduction of contract quantities or work not
26 performed or provided by the subcontractor or material

1 supplier; the interception or withholding of funds for reasons
2 not related to the subcontractor's or material supplier's work
3 on the contract; anticipated claims or assessments of third
4 parties not a party related to the contract or subcontract;
5 asserted claims or assessments of third parties that are not
6 authorized by court order, administrative tribunal, or
7 statute. "Reasonable cause" further does not include the
8 withholding, offset, or reduction of payment, in whole or in
9 part, due to the assessment of liquidated damages or penalties
10 assessed by the Department of Transportation against the
11 contractor, unless the subcontractor's performance or supplied
12 materials were the sole and proximate cause of the liquidated
13 damage or penalty.

14 (Source: P.A. 100-43, eff. 8-9-17; 100-376, eff. 1-1-18;
15 100-863, eff. 8-14-18; 101-524, eff. 1-1-20.)

16 Section 99. Effective date. This Act takes effect July 1,
17 2027."