

SB0074



104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

SB0074

Introduced 1/13/2025, by Sen. Willie Preston

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 approved estimated amount under the terms of the contract until the contract is 50% completed. Prohibits retainage of more than 5% 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 05978 JRC 16011 b

A BILL FOR

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 money 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 contract amount until the contract is 50% completed,
6 may not exceed 5% for the duration of the contract, and may be
7 adjusted as the contract approaches completion to recognize
8 better than expected performance, the ability to rely on
9 alternative safeguards, and other factors. Upon completion of
10 all contract requirements, amounts retained under this Act
11 must be paid promptly.

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

14 (30 ILCS 540/1) (from Ch. 127, par. 132.401)

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

20 For purposes of this Act, "goods or services furnished to
21 the State" include but are not limited to (i) covered health
22 care provided to eligible members and their covered dependents
23 in accordance with the State Employees Group Insurance Act of
24 1971, including coverage through a physician-owned health

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

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

24 As used in this Act, "eligible member" means a member who
25 is eligible for health benefits under the State Employees
26 Group Insurance Act of 1971, and "member" and "dependent" have

1 the meanings ascribed to those terms in that Act.

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

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

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