

1 AN ACT concerning finance.

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

4 Section 5. The State Prompt Payment Act is amended by  
5 changing Sections 1 and 7 as follows:

6 (30 ILCS 540/1) (from Ch. 127, par. 132.401)

7 Sec. 1. This Act applies to any State official or agency  
8 authorized to provide for payment from State funds, by virtue  
9 of any appropriation of the General Assembly, for goods or  
10 services furnished to the State.

11 For purposes of this Act, "goods or services furnished to  
12 the State" include but are not limited to (i) covered health  
13 care provided to eligible members and their covered dependents  
14 in accordance with the State Employees Group Insurance Act of  
15 1971, including coverage through a physician-owned health  
16 maintenance organization under Section 6.1 of that Act, (ii)  
17 prevention, intervention, or treatment services and supports  
18 for persons with developmental disabilities, mental health  
19 services, alcohol and substance abuse services, rehabilitation  
20 services, and early intervention services provided by a vendor,  
21 and (iii) prevention, intervention, or treatment services and  
22 supports for youth provided by a vendor by virtue of a  
23 contractual grant agreement. For the purposes of items (ii) and

1 (iii), a vendor includes but is not limited to sellers of goods  
2 and services, including community-based organizations that are  
3 licensed to provide prevention, intervention, or treatment  
4 services and supports for persons with developmental  
5 disabilities, mental illness, and substance abuse problems, or  
6 that provides prevention, intervention, or treatment services  
7 and supports for youth.

8 For the purposes of this Act, "appropriate State official  
9 or agency" is defined as the Director or Chief Executive or his  
10 designee of that State agency or department or facility of such  
11 agency or department. With respect to covered health care  
12 provided to eligible members and their dependents in accordance  
13 with the State Employees Group Insurance Act of 1971,  
14 "appropriate State official or agency" also includes an  
15 administrator of a program of health benefits under that Act.

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

20 As used in this Act, "a proper bill or invoice" means a  
21 bill or invoice, including, but not limited to, an invoice  
22 issued under a contractual grant agreement, that includes the  
23 information necessary for processing the payment as may be  
24 specified by a State agency and in rules adopted in accordance  
25 with this Act. Beginning on and after July 1, 2021, "a proper  
26 bill or invoice" shall also include the names of all

1 subcontractors or subconsultants to be paid from the bill or  
2 invoice and the amounts due to each of them, if any.

3 (Source: P.A. 100-549, eff. 1-1-18.)

4 (30 ILCS 540/7) (from Ch. 127, par. 132.407)

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

6 (a) When a State official or agency responsible for  
7 administering a contract submits a voucher to the Comptroller  
8 for payment to a contractor, that State official or agency  
9 shall promptly make available electronically the voucher  
10 number, the date of the voucher, and the amount of the voucher.  
11 The State official or agency responsible for administering the  
12 contract shall provide subcontractors and material suppliers,  
13 known to the State official or agency, with instructions on how  
14 to access the electronic information.

15 (a-5) When a contractor receives any payment, the  
16 contractor shall pay each subcontractor and material supplier  
17 electronically within 7 business days or, if paid by a printed  
18 check, the printed check must be postmarked within 7 business  
19 days after receiving payment in proportion to the work  
20 completed by each subcontractor and material supplier its  
21 application or pay estimate, plus interest received under this  
22 Act. When a contractor receives any payment, the contractor  
23 shall pay each lower-tiered subcontractor and material  
24 supplier and each subcontractor and material supplier shall  
25 make payment to its own respective subcontractors and material

1 suppliers. If the contractor receives less than the full  
2 payment due under the public construction contract, the  
3 contractor shall be obligated to disburse on a pro rata basis  
4 those funds received, plus interest received under this Act,  
5 with the contractor, subcontractors and material suppliers  
6 each receiving a prorated portion based on the amount of  
7 payment each has earned. When, however, the State official or  
8 agency does not release the full payment due under the contract  
9 because there are specific areas of work or materials the State  
10 agency or official has determined are not suitable for payment,  
11 then those specific subcontractors or material suppliers  
12 involved shall not be paid for that portion of work rejected or  
13 deemed not suitable for payment and all other subcontractors  
14 and suppliers shall be paid based upon the amount of payment  
15 each has earned, plus interest received under this Act.

16 (a-10) For construction contracts with the Department of  
17 Transportation, the contractor, subcontractor, or material  
18 supplier, regardless of tier, shall not offset, decrease, or  
19 diminish payment or payments that are due to its subcontractors  
20 or material suppliers without reasonable cause.

21 A contractor, who refuses to make prompt payment within 7  
22 business days after receiving payment, in whole or in part,  
23 shall provide to the subcontractor or material supplier and the  
24 public owner or its agent, a written notice of that refusal.  
25 The written notice shall be made by a contractor no later than  
26 5 calendar days after payment is received by the contractor.

1 The written notice shall identify the Department of  
2 Transportation's contract, any subcontract or material  
3 purchase agreement, a detailed reason for refusal, the value of  
4 the payment to be withheld, and the specific remedial actions  
5 required of the subcontractor or material supplier so that  
6 payment may be made. Written notice of refusal may be given in  
7 a form and method which is acceptable to the parties and public  
8 owner.

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

22 (1) If a contractor, without reasonable cause, fails to  
23 make payment in full as provided in subsection (a-5) within  
24 7 business days ~~15-calendar days~~ after receipt of payment  
25 under the public construction contract, any subcontractor  
26 or material supplier to whom payments are owed may file a

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

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

1 supplier has the right to be represented by counsel at a  
2 hearing and to cross-examine witnesses and challenge  
3 documents. Upon the request of the subcontractor or  
4 material supplier and a showing of good cause, reasonable  
5 continuances may be granted by the administrative law  
6 judge.

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

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

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

1 public construction contract for a period of 6 months  
2 beginning on the date of the administrative law judge's  
3 second written order, even if the payments required under  
4 the orders were made in full.

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

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

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

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



1 relationship or commercially useful function.

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

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

9 (f) As used in this Section:

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

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

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

15 (Source: P.A. 100-43, eff. 8-9-17; 100-376, eff. 1-1-18;  
16 100-863, eff. 8-14-18.)