



Rep. Will Guzzardi

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LRB103 04895 SPS 58059 a

1 AMENDMENT TO HOUSE BILL 1122

2 AMENDMENT NO. _____. Amend House Bill 1122 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Freelance Worker Protection Act.

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

7 "Department" means the Department of Labor.

8 "Director" means the Director of Labor or the Director's
9 designee.

10 "Freelance worker" means a natural person who is hired or
11 retained as an independent contractor by a contracting entity
12 to provide products or services in Illinois or for a
13 contracting entity located in Illinois in exchange for an
14 amount equal to or greater than \$500, either in a single
15 contract or when aggregated with all contracts for products or
16 services between the same contracting entity and the freelance

1 worker during the immediately preceding 120 days. "Freelance
2 worker" does not include an individual performing services as
3 an employee under Section 10 of the Employee Classification
4 Act or an employee as defined in Section 2 of the Illinois Wage
5 Payment and Collection Act.

6 "Contracting entity" means any person who retains a
7 freelance worker to provide any service, other than:

8 (1) the United States government;

9 (2) the State of Illinois;

10 (3) a unit of local government, including school
11 districts; or

12 (4) any foreign government.

13 "Natural person" means an individual human being.

14 "Person" means any natural person, individual,
15 corporation, business enterprise or other legal entity, either
16 public or private, and any legal successor, representative,
17 agent or agency of that individual, corporation, business
18 enterprise, or legal entity.

19 Section 10. Payment of compensation for freelance workers.

20 (a) Except as otherwise provided by law, a freelance
21 worker shall be paid the contracted compensation amount no
22 later than 30 days after the freelance worker provides the
23 product or completes the services under the contract.

24 (b) Once a freelance worker has commenced preparation of
25 the product or performance of the services under the contract,

1 the contracting entity shall not require as a condition of
2 timely payment that the freelance worker accept less
3 compensation than the amount of the contracted compensation.

4 Section 15. Contract for products and services of
5 freelance workers.

6 (a) Whenever a contracting entity retains a freelance
7 worker, the contract for such products or services shall be
8 reduced to writing. The contracting entity shall furnish a
9 copy of the written contract, either physically or
10 electronically, to the freelance worker and each party to the
11 written contract shall retain a copy thereof for a period of 2
12 years after the products or services are provided.

13 (b) The written contract for the product and service of a
14 freelance worker shall include, at a minimum, the following
15 information:

16 (1) the name and contact information of both the
17 contracting entity and the freelance worker, including the
18 mailing address of the contracting entity;

19 (2) an itemization of all products and services to be
20 provided by the freelance worker, the value of the
21 products and services to be provided under the terms of
22 the contract, and the rate and method of compensation;

23 (3) the date on which the contracting entity must pay
24 the contracted compensation or the mechanism by which such
25 date will be determined, which shall be no later than 30

1 days after the products or services are provided; and

2 (4) the date by which a freelance worker must submit a
3 list of products or services rendered under such contract
4 to the contracting entity, if such a list is required in
5 order to meet any internal processing deadlines of the
6 contracting entity for the purposes of compensation being
7 timely rendered by the agreed-upon date as stipulated in
8 paragraph (3).

9 (c) The contracting entity shall retain the contract for
10 the service of a freelance worker for no less than 2 years and
11 shall make such contract available to the Department upon
12 request.

13 (d) The Department shall make available model contracts on
14 its website for use by the general public at no cost. Such
15 model contracts shall be made available in English and in the 8
16 languages most commonly spoken by limited English proficient
17 individuals in the State.

18 Section 20. Nondiscrimination. No contracting entity shall
19 threaten, intimidate, discipline, harass, deny a freelance
20 opportunity to, or take any other action that penalizes a
21 freelance worker for, or is reasonably likely to deter a
22 freelance worker from, exercising or attempting to exercise
23 any right guaranteed by this Act, or from obtaining any future
24 work opportunity because the freelance worker has done so.

1 Section 25. Complaint procedure.

2 (a) A freelance worker may file a complaint with the
3 Department alleging a violation of the Act by submitting a
4 completed form, provided by the Department, and by submitting
5 copies of all supporting documentation. The Department is
6 authorized to request or require any information the Director
7 deems relevant to the complaint or to its reporting
8 requirements under Section 50, including, but not limited to:

9 (1) the general sector or occupation of the freelance
10 worker submitting a claim under this Act;

11 (2) the county where the work by the freelance work
12 was performed, if in Illinois; and

13 (3) at the discretion of the freelance worker, the
14 demographic data of the freelance worker submitting a
15 claim under this Act.

16 (b) Complaints alleging violation of Section 10, 15, or 20
17 shall be filed within 2 years after the date the final
18 compensation was due. Complaints shall be reviewed by the
19 Department to determine whether there is cause for the
20 Department to initiate the process of facilitating the
21 exchange of information between the parties. The Department is
22 not required to initiate an information facilitation process
23 if either party to the contract has initiated a civil action in
24 a court of competent jurisdiction alleging a violation of this
25 chapter or a breach of contract arising out of the contract
26 that is the subject of the complaint filed under this Act,

1 unless such civil action has been dismissed without prejudice
2 to future claims; or either party to the contract has filed a
3 claim or complaint before any administrative agency under any
4 local, State, or federal law alleging a breach of contract
5 that is the subject of the complaint filed under this Act,
6 unless the administrative claim or complaint has been
7 withdrawn or dismissed without prejudice to future claims.
8 Failure of a contracting entity to keep adequate records or
9 provide written contract as required by this Act shall not
10 operate as a bar to a freelance worker filing a complaint.

11 (c) Each freelance worker who files a completed complaint
12 alleging a violation of this Act or a rule adopted thereunder
13 shall be provided with a written description of the
14 anticipated processing of the complaint, including
15 notification to the contracting entity and the contracting
16 entity's opportunity to respond.

17 (d) The Department shall, within 20 days of receiving a
18 complaint alleging a violation of this Act, initiate the
19 information facilitation process by sending the contracting
20 entity named in the complaint a written notice of the
21 complaint, or by notifying the freelance worker that the
22 Department lacks jurisdiction to initiate such process. When
23 the Department initiates this process, the notice of complaint
24 shall: (i) inform the contracting entity that a complaint has
25 been filed alleging a violation of this Act; (ii) detail the
26 civil remedies available to a freelance worker for violations

1 of this Act by a contracting entity; (iii) include a copy of
2 the complaint; and (iv) state that failure to respond to the
3 complaint by the deadline established in paragraph (1) of
4 subsection (e) creates a rebuttable presumption in any civil
5 action commenced in accordance with this Act that the
6 contracting entity committed the violations alleged in the
7 complaint. The Department shall send such notice by certified
8 mail.

9 (e) Response.

10 (1) Within 20 days of receiving the notice of
11 complaint, the contracting entity identified in the
12 complaint shall send the Director one of the following:

13 (A) For a complaint under Section 10, a written
14 statement that the freelance worker has been paid in
15 full and proof of such payment.

16 (B) For a complaint under Section 10, a written
17 statement that the freelance worker has not been paid
18 in full and the reasons for the failure to provide such
19 payment.

20 (C) For a complaint under Section 15 or 20, a
21 defense against the alleged violation.

22 (2) If the contracting entity identified in the
23 complaint does not respond to the notice within 20 days,
24 such failure to respond creates a rebuttable presumption
25 in any civil action commenced in accordance with this Act
26 that the contracting entity committed the violations

1 alleged in the complaint. Within 20 days of receiving a
2 written response, the Director shall send the freelance
3 worker a copy of:

4 (A) the contracting entity's response;

5 (B) any enclosures submitted with the response;

6 (C) materials informing the freelance worker about
7 the freelance worker's right to bring an action in a
8 court of competent jurisdiction; and

9 (D) any other information about the status of the
10 complaint.

11 (3) If the director receives no response to the notice
12 of complaint within the time provided by subsection (a),
13 the Director shall mail a notice of non-response to both
14 the freelance worker and the contracting entity by regular
15 mail and shall include with such notice proof that the
16 Director previously mailed the notice of complaint to the
17 contracting entity by certified mail. Upon satisfying the
18 requirements of this paragraph, the Director may close the
19 case.

20 (f) Attorney General powers.

21 (1) Whenever the Attorney General has reasonable cause
22 to believe that any person or entity is engaged in a
23 pattern and practice prohibited by this Act, the Attorney
24 General may initiate or intervene in a civil action in the
25 name of the People of the State of Illinois in any
26 appropriate court to obtain appropriate relief.

1 (2) Before initiating an action, the Attorney General
2 may conduct an investigation and may:

3 (A) require an individual or entity to file a
4 statement or report in writing under oath or
5 otherwise, as to all information the Attorney General
6 may consider necessary;

7 (B) examine under oath any person alleged to have
8 participated in or with knowledge of the alleged
9 violation; or

10 (C) issue subpoenas or conduct hearings in aid of
11 any investigation.

12 (3) Service by the Attorney General of any notice
13 requiring a person or entity to file a statement or
14 report, or of a subpoena upon any person or entity, shall
15 be made:

16 (A) personally by delivery of a duly executed copy
17 thereof to the person to be served or, if a person is
18 not a natural person, in the manner provided in the
19 Code of Civil Procedure when a complaint is filed; or

20 (B) by mailing by certified mail a duly executed
21 copy thereof to the person to be served at the person's
22 last known abode or principal place of business within
23 this State or, if a person is not a natural person, in
24 the manner provided in the Code of Civil Procedure
25 when a complaint is filed.

26 The Attorney General may compel compliance with

1 investigative demands under this Section through an order
2 by any court of competent jurisdiction.

3 (4) (A) In an action brought under this Act, the
4 Attorney General may obtain, as a remedy, monetary damages
5 to the State, restitution, and equitable relief, including
6 any permanent or preliminary injunction, temporary
7 restraining order, or other order, including an order
8 enjoining the defendant from engaging in a violation, or
9 order any action as may be appropriate. In addition, the
10 Attorney General may request and the court may impose a
11 civil penalty not to exceed \$5,000 for each violation or
12 \$10,000 for each repeat violation within a 5-year period.
13 For purposes of this Section, each violation of this Act
14 for each person who was subject to an agreement in
15 violation of this Act shall constitute a separate and
16 distinct violation.

17 (B) A civil penalty imposed under this subsection
18 shall be deposited into the Attorney General Court Ordered
19 and Voluntary Compliance Payment Projects Fund. Moneys in
20 the Fund shall be used, subject to appropriation, for the
21 performance of any function pertaining to the exercise of
22 the duties of the Attorney General, including, but not
23 limited to, enforcement of any law of this State and
24 conducting public education programs; however, any moneys
25 in the Fund that are required by the court or by an
26 agreement to be used for a particular purpose shall be

1 used for that purpose.

2 (g) Nothing in this Act shall be construed to prevent any
3 freelance worker from making complaint or prosecuting his or
4 her own claim for compensation. Any freelance worker aggrieved
5 by a violation of this Act or any rule adopted under this Act
6 may file suit in circuit court of Illinois, in the county where
7 the alleged violation occurred or where any freelance worker
8 who is party to the action resides, without regard to
9 exhaustion of any alternative administrative remedies provided
10 in this Act. Actions may be brought by one or more freelance
11 workers for and on behalf of themselves and other freelance
12 workers similarly situated.

13 (h) Nothing in this Act shall be construed to limit the
14 authority of the State's Attorney of any county to prosecute
15 actions for violation of this Act or to enforce the provisions
16 thereof independently and without specific direction of the
17 Department.

18 Section 30. Civil enforcement.

19 (a) Any freelance worker not timely paid final
20 compensation by a contracting entity as required by Section 10
21 shall be entitled to recover through civil action double the
22 amount of any such underpayments, injunctive relief, and other
23 such remedies as may be appropriate. In a civil action for
24 violation of Section 10, such freelance worker shall also be
25 entitled to recover costs and all reasonable attorney's fees.

1 A civil complaint alleging violation of Section 10 shall be
2 filed within 2 years after the date the final compensation was
3 due.

4 (b) Any freelance worker who was retained in violation of
5 Section 15 despite the freelance worker's request for a
6 written contract prior to commencing the contracted work as
7 required by Section 15 shall be entitled to recover through a
8 civil action statutory damages of \$500. However, a freelance
9 worker who prevails on a claim alleging violation of Section
10 15 and on one or more claims under other Sections shall be
11 awarded statutory damages equal to the value of the underlying
12 contract or \$500, whichever is greater, in addition to the
13 other remedies provided. Civil complaints alleging violation
14 of Section 15 shall be filed within 2 years after the date the
15 final compensation was due.

16 (c) Any freelance worker who is threatened, intimidated,
17 disciplined, harassed, denied a freelance opportunity, or
18 penalized by a contracting entity in violation of Section 20
19 shall be entitled to recover through a civil action statutory
20 damages equal to the value of the underlying contract for each
21 violation of Section 20. In a civil action for violation of
22 Section 20, such freelance worker shall also recover costs and
23 all reasonable attorney's fees.

24 Section 35. Public policy and intent.

25 (a) The provisions of this Act shall apply only to

1 contracts taking effect after the effective date of this Act.

2 (b) Except as otherwise provided by law, any provision of
3 a contract purporting to waive rights under this Act is void as
4 against public policy.

5 (c) The provisions of this Act are intended to supplement,
6 and do not diminish or replace, any other basis of liability,
7 remedy, or requirement established by statute or common law.

8 (d) Failure to comply with this Section does not render
9 any contract between a contracting entity and a freelance
10 worker void in total, voidable, or otherwise impair any
11 obligation, claim, or right related to the contract, nor does
12 it constitute a defense to any action or proceeding to
13 enforce, or for breach of, such contract.

14 (e) No provision of this Act relating to freelance workers
15 shall be construed as providing a determination about the
16 legal classification of any such worker as an employee or
17 independent contractor.

18 Section 40. Public awareness. Subject to appropriation,
19 the Department may conduct a public awareness campaign
20 regarding this Act that, at a minimum, includes making
21 information available on its website, otherwise informing
22 contracting entities of the provisions of this Act, and
23 establishing a means for assistance by a natural person
24 through phone or email.

1 Section 45. Reports. One year after the effective date of
2 this Act, and by November 1 every 5 years thereafter, the
3 Department shall submit to the General Assembly and publish on
4 its website a report regarding freelance contracting and
5 payment practices. The report shall include, but is not
6 limited to:

7 (1) the number of complaints received by the
8 Department under this Act;

9 (2) the value of the contracts disaggregated into
10 ranges of \$500 and by the Section of this Act the
11 associated contracting entity is alleged to have violated;

12 (3) the numbers of responses and non-responses
13 received from contracting entities by the Department
14 disaggregated by contract value into ranges of \$500 and by
15 the Section of this Act the associated contracting entity
16 is alleged to have violated;

17 (4) the general sector or occupation of the freelance
18 workers submitting claims in accordance with this Act;

19 (5) the counties where violations of this Act are
20 alleged to have occurred, if in Illinois, including the
21 number of violations from each county, identified by the
22 county where the work was performed;

23 (6) to the extent available, demographic data of the
24 freelance workers who have alleged violations of this Act;
25 and

26 (7) legislative recommendations as the Director deems

1 appropriate, which may include consideration of whether
2 certain occupations should be exempted from the scope of
3 the definition of freelance worker.

4 Section 50. Coordination. The Department is authorized to
5 coordinate efforts under this Act with other agencies and
6 combine complaints under this Act with claims under other
7 Acts.

8 Section 55. Rulemaking. The Director, or the Director's
9 authorized representatives, shall administer the provisions of
10 this Act. In order to accomplish the objectives of this Act and
11 to carry out the duties prescribed by this Act, the Director,
12 or the Director's authorized representative, may adopt rules
13 necessary to administer and enforce the provisions of this
14 Act.

15 Section 99. Effective date. This Act takes effect July 1,
16 2024."