

1 AN ACT concerning employment.

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

4 Section 5. The Illinois Wage Payment and Collection Act is
5 amended by changing Section 13.5 as follows:

6 (820 ILCS 115/13.5)

7 Sec. 13.5. Primary contractor responsibility for wage
8 claims in construction industry.

9 (a) For all contracts entered into on or after July 1,
10 2022, a primary contractor making or taking a contract in the
11 State for the erection, construction, alteration, or repair of
12 a building, structure, or other private work in the State
13 where the aggregate costs of the project exceed \$20,000 shall
14 assume, and is liable for, any debt owed to a claimant under
15 this Section by a subcontractor at any tier acting under, by,
16 or for the primary contractor for the wage claimant's
17 performance of labor included in the subject of the contract
18 between the primary contractor and the owner. This Section
19 does not apply to work performed by a contractor of the federal
20 government, the State, a special district, a city, a county,
21 or any political subdivision of the State.

22 (b) As used in this Section:

23 "Construction" means building, altering, repairing,

1 improving, or demolishing any structure or building or making
2 improvements of any kind to real property.

3 "Primary contractor" means a contractor that has a direct
4 contractual relationship with a property owner. "Primary
5 contractor" may have the same meaning as a "general
6 contractor", "prime contractor", or "construction manager". A
7 property owner who acts as a primary contractor related to the
8 erection, construction, alteration, or repair of his or her
9 primary residence shall be exempt from liability under this
10 Section.

11 "Private work" means any erection, construction,
12 alteration, or repair of a building, structure, or other work.

13 "Subcontractor" means a contractor that has a contractual
14 relationship with the primary contractor or with another
15 subcontractor at any tier, who furnishes any goods or services
16 in connection with the contract between the primary contractor
17 and the property owner, but does not include contractors who
18 solely provide goods and transport of such goods related to
19 the contract.

20 (c) The primary contractor's liability under this Section
21 shall extend only to any unpaid wages or fringe or other
22 benefit payments or contributions, including interest owed,
23 penalties assessed by the Department, and reasonable
24 attorney's fees, but shall not extend to liquidated damages.

25 (d) A primary contractor or any other person shall not
26 evade or commit any act that negates the requirements of this

1 Section. Except as otherwise provided in a contract between
2 the primary contractor and the subcontractor, the
3 subcontractor shall indemnify the primary contractor for any
4 wages, fringe or other benefit payments or contributions,
5 damages, interest, penalties, or attorney's fees owed as a
6 result of the subcontractor's failure to pay wages or fringe
7 or other benefit payments or contributions as provided in this
8 Section, unless the subcontractor's failure to pay was due to
9 the primary contractor's failure to pay moneys due to the
10 subcontractor in accordance with the terms of their
11 contractual relationship.

12 (e) Nothing in this Section shall supersede or modify the
13 obligations and liability that any primary contractor,
14 subcontractor, or property owner may bear as an employer under
15 this Act or any other applicable law. The obligations and
16 remedies provided in this Section shall be in addition to any
17 obligations and remedies otherwise provided by law. Nothing in
18 this Section shall be construed to impose liability on a
19 primary contractor for anything other than unpaid wages,
20 fringe or other benefit payments or contributions, penalties
21 assessed by the Department, interest owed, and reasonable
22 attorney's fees.

23 (f) Claims brought pursuant to this Section shall be done
24 so in accordance with this Act. Nothing in this Section shall
25 be construed to provide a third party with the right to file a
26 complaint with the Department alleging violation of this

1 Section.

2 (g) The following shall be exempt from liability under
3 this Section:

4 (1) primary contractors who are parties to a
5 collective bargaining agreement on the project where the
6 work is being performed; and

7 (2) primary contractors making or taking a contract in
8 the State for the alteration or repair of an existing
9 single-family dwelling or to a single residential unit in
10 an existing multi-unit structure.

11 (h) Prior to the commencement of any civil action, a
12 claimant or a representative of a claimant shall provide
13 written notice to the employer and to the primary contractor
14 detailing the nature and basis for the claim. Failure of the
15 employer or the primary contractor to resolve the claim within
16 10 days after receipt of this notice, or during any agreed upon
17 period extending this deadline, may result in the filing of a
18 civil action to enforce the provisions of this Act.

19 (i) Claims brought pursuant to this Section shall be filed
20 with the Department of Labor or filed with the circuit court
21 within 3 years after the wages, final compensation, or wage
22 supplements were due. This subsection does not apply to any
23 other claims under this Act or any other applicable law
24 against a primary contractor, subcontractor, or homeowner as
25 an employer.

26 (j) Every primary contractor and subcontractor shall post

1 and keep posted, in one or more conspicuous places on the
2 premises where work is being performed, a notice, to be made
3 available by the Director of Labor, summarizing the
4 requirements of this Section and information pertaining to the
5 filing of a complaint. The Director of Labor shall provide
6 copies of summaries and rules to primary contractors and
7 subcontractors upon request without charge. Any primary
8 contractor or subcontractor who fails to provide notice as
9 required by this Section shall be subject to a civil penalty,
10 not to exceed \$250, payable to the Department of Labor.

11 (Source: P.A. 102-1065, eff. 6-10-22; 102-1076, eff. 6-10-22.)

12 Section 99. Effective date. This Act takes effect July 1,
13 2023.