



Sen. Cristina Castro

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10300HB3448sam001

LRB103 29664 SPS 60622 a

1 AMENDMENT TO HOUSE BILL 3448

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 3448 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Wage Payment and Collection Act  
5 is 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

1 performance of labor included in the subject of the contract  
2 between the primary contractor and the owner. This Section  
3 does not apply to work performed by a contractor of the federal  
4 government, the State, a special district, a city, a county,  
5 or any political subdivision of the State.

6 (b) As used in this Section:

7 "Construction" means building, altering, repairing,  
8 improving, or demolishing any structure or building or making  
9 improvements of any kind to real property.

10 "Primary contractor" means a contractor that has a direct  
11 contractual relationship with a property owner. "Primary  
12 contractor" may have the same meaning as a "general  
13 contractor", "prime contractor", or "construction manager". A  
14 property owner who acts as a primary contractor related to the  
15 erection, construction, alteration, or repair of his or her  
16 primary residence shall be exempt from liability under this  
17 Section.

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

20 "Subcontractor" means a contractor that has a contractual  
21 relationship with the primary contractor or with another  
22 subcontractor at any tier, who furnishes any goods or services  
23 in connection with the contract between the primary contractor  
24 and the property owner, but does not include contractors who  
25 solely provide goods and transport of such goods related to  
26 the contract.

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

6           (d) A primary contractor or any other person shall not  
7 evade or commit any act that negates the requirements of this  
8 Section. Except as otherwise provided in a contract between  
9 the primary contractor and the subcontractor, the  
10 subcontractor shall indemnify the primary contractor for any  
11 wages, fringe or other benefit payments or contributions,  
12 damages, interest, penalties, or attorney's fees owed as a  
13 result of the subcontractor's failure to pay wages or fringe  
14 or other benefit payments or contributions as provided in this  
15 Section, unless the subcontractor's failure to pay was due to  
16 the primary contractor's failure to pay moneys due to the  
17 subcontractor in accordance with the terms of their  
18 contractual relationship.

19           (e) Nothing in this Section shall supersede or modify the  
20 obligations and liability that any primary contractor,  
21 subcontractor, or property owner may bear as an employer under  
22 this Act or any other applicable law. The obligations and  
23 remedies provided in this Section shall be in addition to any  
24 obligations and remedies otherwise provided by law. Nothing in  
25 this Section shall be construed to impose liability on a  
26 primary contractor for anything other than unpaid wages,

1 fringe or other benefit payments or contributions, penalties  
2 assessed by the Department, interest owed, and reasonable  
3 attorney's fees.

4 (f) Claims brought pursuant to this Section shall be done  
5 so in accordance with this Act. Nothing in this Section shall  
6 be construed to provide a third party with the right to file a  
7 complaint with the Department alleging violation of this  
8 Section.

9 (g) The following shall be exempt from liability under  
10 this Section:

11 (1) primary contractors who are parties to a  
12 collective bargaining agreement on the project where the  
13 work is being performed; and

14 (2) primary contractors making or taking a contract in  
15 the State for the alteration or repair of an existing  
16 single-family dwelling or to a single residential unit in  
17 an existing multi-unit structure.

18 (h) Prior to the commencement of any civil action, a  
19 claimant or a representative of a claimant shall provide  
20 written notice to the employer and to the primary contractor  
21 detailing the nature and basis for the claim. Failure of the  
22 employer or the primary contractor to resolve the claim within  
23 10 days after receipt of this notice, or during any agreed upon  
24 period extending this deadline, may result in the filing of a  
25 civil action to enforce the provisions of this Act.

26 (i) Claims brought pursuant to this Section shall be filed

1 with the Department of Labor or filed with the circuit court  
2 within 3 years after the wages, final compensation, or wage  
3 supplements were due. This subsection does not apply to any  
4 other claims under this Act or any other applicable law  
5 against a primary contractor, subcontractor, or homeowner as  
6 an employer.

7 (j) Every primary contractor and subcontractor shall post  
8 and keep posted, in one or more conspicuous places accessible  
9 to all laborers, workers, and mechanics at a job site that is  
10 subject to the requirements of this Section, a notice, to be  
11 made available by the Director of Labor, summarizing the  
12 requirements of this Section and information pertaining to the  
13 filing of a complaint. The Director of Labor shall provide  
14 copies of summaries and rules to primary contractors and  
15 subcontractors upon request without charge. One copy of the  
16 notice at a job site shall satisfy the notice requirement for  
17 the primary contractor and all subcontractors. Any primary  
18 contractor or subcontractor who fails to provide notice as  
19 required by this Section shall be subject to a civil penalty,  
20 not to exceed \$250, payable to the Department of Labor.

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

22 Section 99. Effective date. This Act takes effect July 1,  
23 2023."