



Sen. Cristina H. Pacione-Zayas

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10300SB2041sam001

LRB103 30684 SPS 58091 a

1 AMENDMENT TO SENATE BILL 2041

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 2041 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."