

AN ACT concerning employment.

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

Section 5. If and only if House Bill 5412 of the 102nd General Assembly becomes law, then the Department of Transportation Law of the Civil Administrative Code of Illinois is amended by adding Section 2705-620 as follows:

(20 ILCS 2705/2705-620 new)

Sec. 2705-620. Bond Reform in the Construction Industry Task Force.

(a) There is created the Bond Reform in the Construction Industry Task Force consisting of the following members:

(1) the Governor, or his or her designee;

(2) the State Treasurer, or his or her designee;

(3) the Director of Insurance, or his or her designee;

(4) 2 members appointed by the Speaker of the House of Representatives;

(5) 2 members appointed by the Minority Leader of the House of Representatives;

(6) 2 members appointed by the President of the Senate;

(7) 2 members appointed by the Minority Leader of the Senate; and

(8) 7 members representing the construction industry appointed by the Governor.

The Department of Transportation shall provide administrative support to the Task Force.

(b) The Task Force shall study innovative ways to reduce the cost of insurance in the private and public construction industry while protecting owners from risk of nonperformance. The Task Force shall consider options that include, but are not limited to, owner-financed insurance instead of contractor-financed insurance and alternative ways to manage risk other than bonds or other insurance products.

(c) The Task Force shall report its findings and recommendations to the General Assembly no later than March 1, 2023.

(d) This Section is repealed December 31, 2023.

Section 10. If and only if House Bill 5412 of the 102nd General Assembly becomes law, then the Illinois Wage Payment and Collection Act is amended by changing Section 13.5 as follows:

(820 ILCS 115/13.5)

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

(a) For all contracts entered into on or after July 1, 2022, a primary contractor making or taking a contract in the

State for the erection, construction, alteration, or repair of a building, structure, or other private work in the State where the aggregate costs of the project exceed \$20,000 ~~shall assume, and is liable for, any debt owed to a claimant under this Section or to a third party on a wage claimant's behalf incurred pursuant to this Act~~ by a subcontractor at any tier acting under, by, or for the primary contractor for the wage claimant's performance of labor included in the subject of the contract between the primary contractor and the owner. This Section does not apply to work performed by a contractor of the federal government, the State, a special district, a city, a county, or any political subdivision of the State.

(b) As used in this Section:

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

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

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

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

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

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

(e) Nothing in this Section shall supersede or modify the

obligations and liability that any primary contractor, subcontractor, or property owner may bear as an employer under this Act or any other applicable law. The obligations and remedies provided in this Section shall be in addition to any obligations and remedies otherwise provided by law. Nothing in this Section shall be construed to impose liability on a primary contractor for anything other than unpaid wages, fringe or other benefit payments or contributions, penalties assessed by the Department, interest owed, and reasonable attorney's fees.

(f) Claims brought pursuant to this Section shall be done so in accordance with ~~Section 11 and 11.5 of~~ this Act. Nothing in this Section shall be construed to provide a third party with the right to file a complaint with the Department alleging violation of this Section.

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

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

(2) primary contractors making or taking a contract in the State for the alteration or repair of an existing single-family dwelling or to a single residential unit in an existing multi-unit structure. Primary contractors who are parties to a collective bargaining agreement on the project where the work is being performed shall be exempt

~~from this Section.~~

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

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

(Source: 10200HB5412eng.)

Section 99. Effective date. This Act takes effect upon becoming law or on the date House Bill 5412 of the 102nd General Assembly takes effect, whichever is later.