

AN ACT concerning employment.

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

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

Section 5. Definitions. As used in this Act:

"Construction" has the meaning set forth in Section 5 of
the Employee Classification Act.

"Department" means the Department of Labor.

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

"Freelance worker" means a natural person who is hired or
retained as an independent contractor by a contracting entity
to provide products or services in Illinois or for a
contracting entity located in Illinois in exchange for an
amount equal to or greater than \$500, either in a single
contract or when aggregated with all contracts for products or
services between the same contracting entity and the freelance
worker during the immediately preceding 120 days. "Freelance
worker" does not include an individual performing construction
services, an individual performing services as an employee
under Section 10 of the Employee Classification Act, or an
employee as defined in Section 2 of the Illinois Wage Payment

and Collection Act.

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

- (1) the United States government;
- (2) the State of Illinois;
- (3) a unit of local government, including school districts; or
- (4) any foreign government.

"Natural person" means an individual human being.

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

Section 10. Payment of compensation for freelance workers.

(a) Except as otherwise provided by law, a freelance worker shall be paid the contracted compensation amount on or before the date the compensation is due under the terms of the contract. If the contract does not specify when the hiring party must pay the contracted compensation or the mechanism by which the date will be determined, compensation shall be due no later than 30 days after the completion of the freelance worker's services under the contract.

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

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

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

(a) Whenever a contracting entity retains a freelance worker, the contract for such products or services shall be reduced to writing. The contracting entity shall furnish a copy of the written contract, either physically or electronically, to the freelance worker.

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

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

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

(3) the date on which the contracting entity must pay the contracted compensation or the mechanism by which such date will be determined, which shall be no later than 30 days after the products or services are provided; and

(4) the date by which a freelance worker must submit a

list of products or services rendered under such contract to the contracting entity, if such a list is required in order to meet any internal processing deadlines of the contracting entity for the purposes of compensation being timely rendered by the agreed-upon date as stipulated in paragraph (3).

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

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

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

Section 25. Complaint procedure.

(a) A freelance worker may file a complaint with the

Department alleging a violation of the Act by submitting a completed form, provided by the Department, and by submitting copies of all supporting documentation. The Department is authorized to request or require any information the Director deems relevant to the complaint or to its reporting requirements under Section 50, including, but not limited to:

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

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

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

(b) Complaints alleging violation of Section 10, 15, or 20 shall be filed within 2 years after the date the final compensation was due. Complaints shall be reviewed by the Department to determine whether there is cause for the Department to initiate the process of facilitating the exchange of information between the parties. The Department is not required to initiate an information facilitation process if either party to the contract has initiated a civil action in a court of competent jurisdiction alleging a violation of this chapter or a breach of contract arising out of the contract that is the subject of the complaint filed under this Act, unless such civil action has been dismissed without prejudice to future claims; or either party to the contract has filed a

claim or complaint before any administrative agency under any local, State, or federal law alleging a breach of contract that is the subject of the complaint filed under this Act, unless the administrative claim or complaint has been withdrawn or dismissed without prejudice to future claims. Failure of a contracting entity to keep adequate records or provide written contract as required by this Act shall not operate as a bar to a freelance worker filing a complaint.

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

(d) The Department shall, within 20 days of receiving a complaint alleging a violation of this Act, initiate the information facilitation process by sending the contracting entity named in the complaint a written notice of the complaint, or by notifying the freelance worker that the Department lacks jurisdiction to initiate such process. When the Department initiates this process, the notice of complaint shall: (i) inform the contracting entity that a complaint has been filed alleging a violation of this Act; (ii) detail the civil remedies available to a freelance worker for violations of this Act by a contracting entity; (iii) include a copy of the complaint; and (iv) state that failure to respond to the

complaint by the deadline established in paragraph (1) of subsection (e) creates a rebuttable presumption in any civil action commenced in accordance with this Act that the contracting entity committed the violations alleged in the complaint. The Department shall send such notice by certified mail.

(e) Response.

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

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

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

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

(2) If the contracting entity identified in the complaint does not respond to the notice within 20 days, such failure to respond creates a rebuttable presumption in any civil action commenced in accordance with this Act that the contracting entity committed the violations alleged in the complaint. Within 20 days of receiving a written response, the Director shall send the freelance

worker a copy of:

(A) the contracting entity's response;

(B) any enclosures submitted with the response;

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

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

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

(f) Attorney General powers.

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

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

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

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

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

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

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

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

The Attorney General may compel compliance with investigative demands under this Section through an order by any court of competent jurisdiction.

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

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

(g) Nothing in this Act shall be construed to prevent any

freelance worker from making complaint or prosecuting his or her own claim for compensation. Any freelance worker aggrieved by a violation of this Act or any rule adopted under this Act may file suit in circuit court of Illinois, in the county where the alleged violation occurred or where any freelance worker who is party to the action resides, without regard to exhaustion of any alternative administrative remedies provided in this Act. Actions may be brought by one or more freelance workers for and on behalf of themselves and other freelance workers similarly situated.

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

Section 30. Civil enforcement.

(a) Any freelance worker not timely paid final compensation by a contracting entity as required by Section 10 shall be entitled to recover through civil action double the amount of any such underpayments, injunctive relief, and other such remedies as may be appropriate. In a civil action for violation of Section 10, such freelance worker shall also be entitled to recover costs and all reasonable attorney's fees. A civil complaint alleging violation of Section 10 shall be filed within 2 years after the date the final compensation was

due.

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

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

Section 35. Public policy and intent.

(a) The provisions of this Act shall apply only to contracts taking effect after the effective date of this Act.

(b) Except as otherwise provided by law, any provision of

a contract purporting to waive rights under this Act is void as against public policy.

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

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

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

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

Section 45. Reports. One year after the effective date of this Act, and by November 1 every 5 years thereafter, the

Department shall submit to the General Assembly and publish on its website a report regarding freelance contracting and payment practices. The report shall include, but is not limited to:

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

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

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

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

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

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

(7) legislative recommendations as the Director deems appropriate, which may include consideration of whether certain occupations should be exempted from the scope of

the definition of freelance worker.

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

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

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