



Sen. Martin A. Sandoval

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10000SB1266sam001

LRB100 08808 MLM 22887 a

1 AMENDMENT TO SENATE BILL 1266

2 AMENDMENT NO. _____. Amend Senate Bill 1266 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The State Prompt Payment Act is amended by
5 changing Section 7 as follows:

6 (30 ILCS 540/7) (from Ch. 127, par. 132.407)

7 Sec. 7. Payments to subcontractors and material suppliers.

8 (a) When a State official or agency responsible for
9 administering a contract submits a voucher to the Comptroller
10 for payment to a contractor, that State official or agency
11 shall promptly make available electronically the voucher
12 number, the date of the voucher, and the amount of the voucher.
13 The State official or agency responsible for administering the
14 contract shall provide subcontractors and material suppliers,
15 known to the State official or agency, with instructions on how
16 to access the electronic information. When a contractor

1 receives any payment, the contractor shall pay each
2 subcontractor and material supplier in proportion to the work
3 completed by each subcontractor and material supplier their
4 application, plus interest received under this Act, less any
5 retention. If the contractor receives less than the full
6 payment due under the public construction contract, the
7 contractor shall be obligated to disburse on a pro rata basis
8 those funds received, plus interest received under this Act,
9 with the contractor, subcontractors and material suppliers
10 each receiving a prorated portion based on the amount of
11 payment. When, however, the public owner does not release the
12 full payment due under the contract because there are specific
13 areas of work or materials the contractor is rejecting or
14 because the contractor has otherwise determined such areas are
15 not suitable for payment, then those specific subcontractors or
16 suppliers involved shall not be paid for that portion of work
17 rejected or deemed not suitable for payment and all other
18 subcontractors and suppliers shall be paid in full, plus
19 interest received under this Act.

20 A contractor with the Department of Transportation may
21 require either a performance bond or retention of payment of a
22 subcontractor as part of the subcontract. However, a contractor
23 may not require both.

24 A contractor with the Capital Development Board may not
25 require a subcontractor to post a performance bond as part of
26 the subcontract.

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(b) If the contractor, without reasonable cause, fails to make full payment of amounts due under subsection (a) to his subcontractors and material suppliers within 15 days after receipt of payment under the public construction contract, the contractor shall pay to his subcontractors and material suppliers, in addition to the payment due them, interest in the amount of 2% per month, calculated from the expiration of the 15-day period until fully paid. This subsection shall also apply to any payments made by subcontractors and material suppliers to their subcontractors and material suppliers and to all payments made to lower tier subcontractors and material suppliers throughout the contracting chain.

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(1) If a contractor, without reasonable cause, fails to make payment in full as provided in subsection (a) within 15 days after receipt of payment under the public construction contract, any subcontractor or material supplier to whom payments are owed may file a written notice with the State official or agency setting forth the amount owed by the contractor and the contractor's failure to timely pay the amount owed.

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(2) The State official or agency, within 15 days after receipt of a subcontractor's or material supplier's written notice of the failure to receive payment from the contractor, shall hold a hearing convened by an administrative law judge to determine whether the

1 contractor withheld payment, without reasonable cause,
2 from the subcontractors and material suppliers and what
3 amount, if any, is due to the subcontractors and material
4 suppliers. The State official or agency shall provide
5 appropriate notice to the parties of the date, time, and
6 location of the hearing. Each contractor, subcontractor,
7 and material supplier has the right to be represented by
8 counsel at the hearing and to cross-examine witnesses and
9 challenge documents.

10 (3) If there is a finding by the administrative law
11 judge that the contractor failed to make payment in full,
12 without reasonable cause, as provided in subsection (a),
13 then the administrative law judge shall, in writing, direct
14 the contractor to pay the amount owed to the subcontractors
15 and material suppliers plus interest within 15 days after
16 the finding.

17 (4) If a contractor fails to make full payment within
18 15 days after the administrative law judge's finding, then
19 the contractor shall be barred from entering into a State
20 public construction contract for a period of one year
21 beginning on the date of the administrative law judge's
22 finding.

23 (Source: P.A. 94-672, eff. 1-1-06; 94-972, eff. 7-1-07.)".