



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB5412

Introduced 1/31/2022, by Rep. Marcus C. Evans, Jr.

SYNOPSIS AS INTRODUCED:

820 ILCS 115/13.5 new

Amends the Illinois Wage Payment and Collection Act. Provides that, 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, shall assume, and is liable for, any debt owed to a claimant incurred pursuant to the 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. Provides exemption from liability for a property owner who acts as a primary contractor related to the erection, construction, alteration, or repair of his or her primary residence. Defines terms. Provides that the primary contractor's liability under the new provisions 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. Provides that a primary contractor or any other person shall not evade or commit any act that negates the requirements of the new provisions. Provides that the obligations and remedies provided in the new provisions shall be in addition to any obligations and remedies otherwise provided by law, except that nothing in the new provisions shall be construed to impose liability on a primary contractor for anything other than unpaid wages, fringe or other benefit payment contributions, penalties assessed by the Department of Labor, interest owed, and reasonable attorney's fees. Provides that claims brought pursuant to the new provisions shall be done so in accordance with provisions concerning violations of the Act.

LRB102 25322 SPS 34596 b

1 AN ACT concerning employment.

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

4 Section 5. The Illinois Wage Payment and Collection Act is
5 amended by adding Section 13.5 as follows:

6 (820 ILCS 115/13.5 new)

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 shall assume, and is liable for, any debt owed to a claimant
14 under this Section or to a third party on a wage claimant's
15 behalf incurred pursuant to this Act by a subcontractor at any
16 tier acting under, by, or for the primary contractor for the
17 wage claimant's performance of labor included in the subject
18 of the contract between the primary contractor and the owner.
19 This Section does not apply to work performed by a contractor
20 of the State, a special district, a city, a county, or any
21 political subdivision of the State.

22 (b) As used in this Section:

23 "Construction" means building, altering, repairing,

1 improving, or demolishing any structure or building or making
2 improvements of any kind to real property.

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

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

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

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

25 (d) A primary contractor or any other person shall not
26 evade or commit any act that negates the requirements of this

1 Section. Except as otherwise provided in a contract between
2 the primary contractor and the subcontractor, the
3 subcontractor shall indemnify the primary contractor for any
4 wages, fringe or other benefit payments or contributions,
5 damages, interest, penalties, or attorney's fees owed as a
6 result of the subcontractor's failure to pay wages or fringe
7 or other benefit payments or contributions as provided in this
8 Section, unless the subcontractor's failure to pay was due to
9 the primary contractor's failure to pay moneys due to the
10 subcontractor in accordance with the terms of their
11 contractual relationship.

12 (e) The obligations and remedies provided in this Section
13 shall be in addition to any obligations and remedies otherwise
14 provided by law, except that nothing in this Section shall be
15 construed to impose liability on a primary contractor for
16 anything other than unpaid wages, fringe or other benefit
17 payments or contributions, penalties assessed by the
18 Department, interest owed, and reasonable attorney's fees.

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