



## 103RD GENERAL ASSEMBLY

### State of Illinois

2023 and 2024

HB1122

Introduced 1/12/2023, by Rep. Will Guzzardi

#### SYNOPSIS AS INTRODUCED:

New Act

Creates the Freelance Worker Protection Act. Provides that freelance workers must be compensated by hiring parties for their services in a timely manner. Provides that whenever a hiring party retains the services of a freelance worker, the contract between the hiring party and the freelance worker shall be reduced to writing. Provides that no hiring party shall threaten, intimidate, discipline, harass, deny a work opportunity to, or discriminate against a freelance worker, 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 under the Act. Contains provisions concerning complaints to the Director of Labor; the powers and duties of the Director; civil actions brought by freelance workers; civil actions brought by the State; the scope of freelance worker contracts; a public awareness campaign; and surveys, information collection, and reporting requirements. Effective immediately.

LRB103 04895 SPS 49905 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 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 "Construction contractor" means any person, sole  
8 proprietor, partnership, firm, corporation, limited liability  
9 company, association, or other legal entity that by itself or  
10 through others offers to undertake, holds itself out as being  
11 able to undertake, or does undertake a construction project.

12 "Construction project" means the providing of any labor or  
13 services, and the use of any materials or equipment in order to  
14 alter, build, excavate, add to, subtract from, improve,  
15 repair, maintain, renovate, move, wreck, or demolish any  
16 bridge, building, highway, road, railroad, land, tunnel,  
17 sewer, drainage, or other structure, project, development, or  
18 improvement, or the doing of any part thereof, including the  
19 erection of scaffolding or other structures or works in  
20 connection with the construction project.

21 "Department" means the Department of Labor.

22 "Director" means the Director of Labor, or his or her  
23 designee.

1 "Freelance worker" means any person or organization  
2 composed of no more than one person, whether or not  
3 incorporated or employing a trade name, that is hired or  
4 retained as an independent contractor by a hiring party to  
5 provide services in exchange for an amount equal to or greater  
6 than \$250, either by itself or when aggregated with all  
7 contracts for services between the same hiring party and  
8 freelance worker during the immediately preceding 120 days.

9 "Freelance worker" does not include:

10 (1) any person who is a sales representative under the  
11 terms of the contract at issue;

12 (2) any person engaged in the practice of law under  
13 the terms of the contract at issue and who is a member in  
14 good standing of the bar of the highest court of any state,  
15 district, or territory and who is not under any order of  
16 court suspending, enjoining, restraining, disbaring, or  
17 otherwise restricting such person in the practices of law;

18 (3) any person who is a licensed medical professional;  
19 or

20 (4) any person who is a construction contractor.

21 "Hiring party" means any person who retains a freelance  
22 worker to provide any service, other than:

23 (1) the United States government;

24 (2) the State of Illinois, including any office,  
25 Department, agency, or other body of the State, including  
26 the General Assembly and the judiciary;

- 1           (3) a municipality, including any office, Department,  
2           agency, or other body of a municipality; or  
3           (4) any foreign government.

4           Section 10. Guarantee of compensation to freelance  
5           workers.

6           (a) Except as otherwise provided by law, the contracted  
7           compensation shall be paid to a freelance worker either:

8           (1) on or before the date such compensation is due  
9           under the terms of the contract; or

10          (2) if the contract does not specify when the hiring  
11          party must pay the contracted compensation or the  
12          mechanism by which the date will be determined, no later  
13          than 30 days after the completion of the freelance  
14          worker's services under the contract.

15          (b) Once a freelance worker has commenced performance of  
16          the services under the contract, the hiring party shall not  
17          require as a condition of timely payment that the freelance  
18          worker accept less compensation than the amount of the  
19          contracted compensation.

20          Section 15. Required contracts between hiring parties and  
21          freelance workers.

22          (a) Whenever a hiring party retains the services of a  
23          freelance worker, the contract between the hiring party and  
24          the freelance worker shall be reduced to writing. The hiring

1 party must furnish a copy of the written contract, either  
2 physically or electronically, to the freelance worker and each  
3 party to the written contract shall retain a copy.

4 (b) The written contract shall include, at a minimum, the  
5 following information:

6 (1) the name and mailing address of both the hiring  
7 party and the freelance worker;

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

12 (3) the date on which the hiring party must pay the  
13 contracted compensation or the mechanism by which the date  
14 will be determined; and

15 (4) the date by which a freelance worker must submit a  
16 list of services rendered under the contract to the hiring  
17 party in order to meet any internal processing deadlines  
18 of the hiring party for the purposes of compensation being  
19 timely rendered by the agreed-upon date as described in  
20 paragraph (3).

21 (c) The Department may adopt rules requiring additional  
22 terms to a written contract to ensure that the freelance  
23 worker and the hiring party understand their obligations under  
24 the written contract.

25 (d) The hiring party shall be required to keep the written  
26 contract for a period of no less than 6 years and shall make

1 the contract available to the Director upon request. The  
2 failure of a hiring party to produce a contract upon request of  
3 the Director shall give rise to a presumption that the terms  
4 that the freelance worker has presented are the agreed upon  
5 terms.

6 (e) The Director shall make available model contracts on  
7 the Department's website for use by the general public at no  
8 cost. The model contracts shall be made available in English,  
9 Spanish, and the next 4 most commonly used languages in the  
10 State.

11 Section 20. Prohibition on coercive acts by hiring  
12 parties. No hiring party shall threaten, intimidate,  
13 discipline, harass, deny a work opportunity to, or  
14 discriminate against a freelance worker, or take any other  
15 action that penalizes a freelance worker for, or is reasonably  
16 likely to deter a freelance worker from, exercising or  
17 attempting to exercise any right guaranteed under this Act, or  
18 from obtaining any future work opportunity because the  
19 freelance worker has exercised or attempted to exercise any  
20 right guaranteed under this Act.

21 Section 25. Complaints.

22 (a) Any freelance worker or his or her authorized  
23 representative may file with the Director a complaint claiming  
24 a violation of this Act and the Director shall investigate the

1 complaint. The Director shall keep the names of freelance  
2 workers who are the subject of an investigation confidential  
3 until the time that disclosure is necessary for the resolution  
4 of the complaint. Failure of a hiring party to keep adequate  
5 records or provide a written contract as required under this  
6 Act, in addition to exposing the hiring party to penalties  
7 authorized under this Act, shall not operate as a bar to the  
8 filing of a complaint by a freelance worker. If the hiring  
9 party fails to keep accurate records in violation of this Act,  
10 the hiring party shall bear the burden of proving that the  
11 complaining freelance worker was paid in accordance with this  
12 Act.

13 (b) Each freelance worker who files a complaint regarding  
14 a violation of this Act or a rule or regulation adopted in  
15 accordance with this Act, shall be provided with a written  
16 description of the anticipated processing of the complaint,  
17 including investigation, case conference, potential civil and  
18 criminal penalties, and collection procedures.

19 (c) Each freelance worker and his or her authorized  
20 representative shall be notified in writing of any case  
21 conference before it is held and given the opportunity to  
22 attend.

23 (d) Each freelance worker and his or her authorized  
24 representative shall be notified in writing of any award and  
25 collection of civil penalties.

1 Section 30. Powers and duties of the Director.

2 (a) The Director shall have the following powers and  
3 duties:

4 (1) The Director shall investigate and attempt to  
5 adjust equitably controversies between freelance workers  
6 and hiring parties relating to the provisions of this Act.

7 (2) The Director may take assignments of claims for  
8 wages under this Act from freelance workers or third  
9 parties in trust for such freelance workers or for the  
10 benefit of various funds for such freelance workers. All  
11 such assignments shall run to the Director and his or her  
12 successor in office. The Director may sue hiring parties  
13 on wage claims assigned to it, with the benefits and  
14 subject to the provisions of existing law applying to  
15 actions by freelance workers for the collection of wages.  
16 The Director may join in a single action any number of wage  
17 claims against the same hiring party.

18 (b)(1) The Director is authorized and empowered to enter  
19 into reciprocal agreements with the labor department or  
20 corresponding agency of any other state or with the person,  
21 board, officer, or commission authorized to act on behalf of  
22 the department or agency, for the collection in the other  
23 state of claims and judgments for wages based upon claims  
24 assigned to the Director.

25 (2) The Director may, to the extent provided for by any  
26 reciprocal agreement entered into by law or with any agency of



1 another state as provided in paragraph (1), maintain actions  
2 in the courts of the other state for the collection of claims  
3 and judgments for wages and may assign the claims and  
4 judgments to the labor department or agency of the other state  
5 for collection to the extent that an assignment may be  
6 permitted or provided for by the law of the other state or by  
7 reciprocal agreement.

8 (3) The Director may, upon the written consent of the  
9 labor department or other corresponding agency of any other  
10 state or of any person, board, officer, or commission of the  
11 state authorized to act on behalf of the labor department or  
12 corresponding agency, maintain actions in the courts of this  
13 State upon assigned claims and judgments for wages arising in  
14 the other state in the same manner and to the same extent that  
15 the actions by the Director are authorized when arising in  
16 this State. Actions may be maintained only in cases where the  
17 other state by law or reciprocal agreement extends a like  
18 comity to cases arising in this State.

19 (c) Nothing in this Section shall be construed as  
20 requiring the Director in every instance to investigate and  
21 attempt to adjust controversies, or to take assignments of  
22 wage claims.

23 Section 35. Civil actions brought by freelance workers.

24 (a) A freelance worker alleging a violation of this Act  
25 may bring an action in any court of competent jurisdiction for

1 damages as follows:

2 (1) Any action alleging a violation of Section 15  
3 shall be brought within 2 years after the acts alleged to  
4 have violated this Act occurred. A freelance worker who  
5 solely alleges a violation of Section 15 must prove that  
6 he or she requested a written contract before the  
7 contracted work began.

8 (2) Any action alleging a violation of Section 10 or  
9 Section 20 shall be brought within 6 years after the acts  
10 alleged to have violated this Act occurred.

11 (b) Within 10 days after having commenced a civil action  
12 under this Section, a freelance worker shall serve a copy of  
13 the complaint upon an authorized representative of the  
14 Director. Failure to serve a copy of the complaint to the  
15 Director does not adversely affect any freelance worker's  
16 cause of action.

17 (c) (1) A freelance worker who prevails on a claim alleging  
18 a violation of Section 10 shall be awarded damages equal to  
19 twice the amount of the contracted compensation, injunctive  
20 relief, reasonable attorney fees and costs, and other remedies  
21 as may be appropriate.

22 (2) A freelance worker who prevails on a claim alleging a  
23 violation of Section 15 shall be awarded statutory damages of  
24 \$250.

25 (3) A freelance worker who prevails on a claim alleging a  
26 violation of Section 20 shall be awarded statutory damages

1 equal to the value of the underlying contract for each  
2 violation.

3 (4) A freelance worker who prevails on a claim alleging a  
4 violation of this Act and one or more claims alleging a  
5 violation of any other State law regarding wage payment shall  
6 be awarded statutory damages equal to the value of the  
7 underlying contract for the violation of this Act in addition  
8 to the remedies specified for the other wage payment  
9 violations.

10

11 Section 40. Civil actions brought by the State.

12 (a) Where reasonable cause exists to believe that a hiring  
13 party is engaged in a pattern or practice of violations of this  
14 Act, the Attorney General may commence a civil action on  
15 behalf of the State in a court of competent jurisdiction. A  
16 civil action brought by the Attorney General under this  
17 paragraph shall be commenced by filing a complaint setting  
18 forth facts relating to such pattern or practice and  
19 requesting relief, which may include injunctive relief, civil  
20 penalties, and any other appropriate relief.

21 (b) Nothing in this Section prohibits:

22 (1) a person alleging a violation of this Act from  
23 filing a civil action based on the same facts as a civil  
24 action commenced by the Attorney General under this  
25 Section; or

1           (2) the Director from sending a notice of complaint,  
2           unless otherwise barred from doing so.

3           (c) In any civil action commenced under this Section, the  
4           trier of fact may impose a civil penalty of not more than  
5           \$25,000 for a finding that a hiring party has engaged in a  
6           pattern or practice of violations of this Act. Any civil  
7           penalty so recovered shall be paid into the General Revenue  
8           Fund.

9           Section 45. Scope of contracts.

10          (a) Except as otherwise provided by law, any provision of  
11          a contract purporting to waive rights under this Act is void as  
12          against public policy.

13          (b) The provisions of this Act supplement, and do not  
14          diminish or replace, any other basis of liability or  
15          requirement established by statute or common law.

16          (c) Failure to comply with the provisions of this Act does  
17          not render any contract between a hiring party and a freelance  
18          worker void or voidable or otherwise impair any obligation,  
19          claim, or right related to the contract or constitute a  
20          defense to any action or proceeding to enforce, or for breach  
21          of, the contract.

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

1           Section 50. Public awareness campaign. The Department  
2 shall conduct a public awareness campaign, that shall include  
3 making information available on its website, otherwise  
4 informing hiring parties of the provisions of this Act, and  
5 establishing a means for assistance by a person through phone  
6 and email.

7           Section 55. Surveys; information collection; reporting  
8 requirements.

9           (a) No later than 6 months after the Director sends to a  
10 freelance worker either a hiring party's response and  
11 accompanying materials or a notice of non-response in  
12 accordance with this Act, the Director shall send the  
13 freelance worker a survey requesting additional information  
14 about the resolution of the freelance worker's claims. The  
15 survey shall ask whether or not the freelance worker pursued  
16 any such claims in court or through an alternative dispute  
17 resolution process and whether or not the hiring party  
18 ultimately paid any or all of the compensation the freelance  
19 worker alleged was due or if the matter was resolved in a  
20 different manner. The survey shall state clearly that response  
21 to the survey is voluntary.

22           (b) The Director shall collect and track information about  
23 complaints alleging violations of this Act. The information  
24 collected shall include, at minimum:

1           (1) the identity of the hiring party alleged to have  
2 violated this Act;

3           (2) the freelance worker's occupation;

4           (3) the Section of this Act that was alleged to have  
5 been violated;

6           (4) the value of the contract;

7           (5) the response or non-response from the hiring  
8 party; and

9           (6) information from a completed survey identified in  
10 subsection (a).

11           (c) One year after the effective date of this Act, and  
12 every 5 years thereafter by November 1, the Director shall  
13 submit to the General Assembly and publish on its website a  
14 report regarding the effectiveness of the provisions of this  
15 Act at improving freelance contracting and payment practices.  
16 Such report shall include, at a minimum:

17           (1) the number of complaints the Director has received  
18 in accordance with the provisions of this Act;

19           (2) the value of the contracts disaggregated into  
20 ranges of \$500 and by the Section of this Act allegedly  
21 violated;

22           (3) the numbers of responses and non-responses  
23 received by the Director disaggregated by contract value  
24 into ranges of \$500 and by the Section of this Act  
25 allegedly violated;

26           (4) the proportion of surveys received from freelance

1 workers that indicate that they pursued their claims in  
2 court and the proportion of surveys received from  
3 freelance workers that indicate that they pursued their  
4 claims through an alternative dispute resolution process  
5 and a summary of the outcomes of such cases; and

6 (5) legislative recommendations, including  
7 consideration of whether certain occupations should be  
8 exempted from the scope of the definition of "freelance  
9 worker" in this Act.

10 Section 99. Effective date. This Act takes effect upon  
11 becoming law.