

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 changing Section 13.5 as follows:

6 (820 ILCS 115/13.5)

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 where the aggregate costs of the project exceed \$20,000 shall  
14 assume, and is liable for, any debt owed to a claimant under  
15 this Section by a subcontractor at any tier acting under, by,  
16 or for the primary contractor for the wage claimant's  
17 performance of labor included in the subject of the contract  
18 between the primary contractor and the owner. This Section  
19 does not apply to work performed by a contractor of the federal  
20 government, the State, a special district, a city, a county,  
21 or any 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) Nothing in this Section shall supersede or modify the  
13 obligations and liability that any primary contractor,  
14 subcontractor, or property owner may bear as an employer under  
15 this Act or any other applicable law. The obligations and  
16 remedies provided in this Section shall be in addition to any  
17 obligations and remedies otherwise provided by law. Nothing in  
18 this Section shall be construed to impose liability on a  
19 primary contractor for anything other than unpaid wages,  
20 fringe or other benefit payments or contributions, penalties  
21 assessed by the Department, interest owed, and reasonable  
22 attorney's fees.

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

1 Section.

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

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

7 (2) primary contractors making or taking a contract in  
8 the State for the alteration or repair of an existing  
9 single-family dwelling or to a single residential unit in  
10 an existing multi-unit structure.

11 (h) Prior to the commencement of any civil action, a  
12 claimant or a representative of a claimant shall provide  
13 written notice to the employer and to the primary contractor  
14 detailing the nature and basis for the claim. Failure of the  
15 employer or the primary contractor to resolve the claim within  
16 10 days after receipt of this notice, or during any agreed upon  
17 period extending this deadline, may result in the filing of a  
18 civil action to enforce the provisions of this Act.

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

26 (j) Every primary contractor and subcontractor shall post

1 and keep posted, in one or more conspicuous places accessible  
2 to all laborers, workers, and mechanics at a job site that is  
3 subject to the requirements of this Section, a notice, to be  
4 made available by the Director of Labor, summarizing the  
5 requirements of this Section and information pertaining to the  
6 filing of a complaint. The Director of Labor shall provide  
7 copies of summaries and rules to primary contractors and  
8 subcontractors upon request without charge. One copy of the  
9 notice at a job site shall satisfy the notice requirement for  
10 the primary contractor and all subcontractors. Any primary  
11 contractor or subcontractor who fails to provide notice as  
12 required by this Section shall be subject to a civil penalty,  
13 not to exceed \$250, payable to the Department of Labor.

14 (Source: P.A. 102-1065, eff. 6-10-22; 102-1076, eff. 6-10-22.)

15 Section 99. Effective date. This Act takes effect July 1,  
16 2023.