



## 103RD GENERAL ASSEMBLY

### State of Illinois

2023 and 2024

SB2041

Introduced 2/9/2023, by Sen. Cristina H. Pacione-Zayas

#### 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 and signed by both parties. 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 enforcement; civil enforcement; public policy and intent; public awareness; reports; coordination; and rulemaking by the Department of Labor. Effective July 1, 2024.

LRB103 30684 SPS 57150 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 "Department" means the Department of Labor.

8 "Director" means the Director of Labor, or his or her  
9 designee.

10 "Freelance worker" means a natural person who is hired or  
11 retained as an independent contractor by a hiring party to  
12 provide products or services in Illinois or for a hiring party  
13 located in Illinois in exchange for an amount equal to or  
14 greater than \$500, either by itself or when aggregated with  
15 all contracts for products or services between the same hiring  
16 party and the freelance worker during the immediately  
17 preceding 120 days. "Freelance worker" does not include an  
18 individual performing services as an employee under Section 10  
19 of the Employee Classification Act or an employee as defined  
20 in Section 2 of the Wage Payment and Collection Act.

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

23 (1) the United States government;

- 1           (2) the State of Illinois;  
2           (3) a unit of local government; or  
3           (4) any foreign government.

4           "Natural person" means an individual human being.

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

10           Section 10. Payment of compensation for freelance workers.

11           (a) Except as otherwise provided by law, a freelance  
12 worker shall be paid the contracted compensation amount no  
13 later than 30 days after the freelance worker provides the  
14 product or completes the services under the contract.

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

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

22           (a) Whenever a hiring party retains a freelance worker,  
23 the contract for such products or services shall be reduced to  
24 writing and signed by the freelance worker and the hiring

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

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

8 (1) the name and mailing address of both the hiring  
9 party and the freelance worker;

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

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

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

23 (c) The Department may adopt rules as necessary to enforce  
24 this Act, including, but not limited to, requiring additional  
25 terms to ensure that the freelance worker and the hiring party  
26 understand their obligations under the contract.

1           (d) The hiring party shall retain the contract for the  
2 service of a freelance worker for no less than 6 years and  
3 shall make such contract available to the Department upon  
4 request. The failure of the hiring party to produce such  
5 contract within 5 business days upon the request of the  
6 Department shall give rise to a presumption that the terms the  
7 freelance worker has presented are the agreed upon terms.

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

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

20           Section 25. Enforcement.

21           (a) It shall be the duty of the Department to inquire  
22 diligently for any violations of this Act, and to institute  
23 the actions for penalties provided by this Act, and to enforce  
24 generally the provisions of this Act.

1 (b) A freelance worker may file a complaint with the  
2 Department alleging violations of the Act by submitting a  
3 signed, completed compensation claim application on the form  
4 provided by the Department and by submitting copies of all  
5 supporting documentation. The form provided by the Department  
6 shall include requests for information to facilitate its  
7 report making requirements under Section 50, including, (1)  
8 the general sector or occupation of the freelance worker  
9 submitting a claim under this Act, (2) the county where the  
10 work by the freelance worker was performed, and (3) the  
11 demographic data of the freelance worker submitting a claim  
12 under this Act, to be provided by the freelance worker on a  
13 voluntary basis. Complaints alleging violation of Section 15  
14 shall be filed within 2 years after the date the final  
15 compensation was due. Complaints alleging violation of Section  
16 10 shall be filed within 3 years after the date the final  
17 compensation was due. Applications shall be reviewed by the  
18 Department to determine whether there is cause for  
19 investigation. Failure of a hiring party to keep adequate  
20 records or provide written contract as required by this Act  
21 shall not operate as a bar to a freelance worker filing a  
22 complaint. The Department shall keep the names of freelance  
23 workers who are the subject of an investigation confidential  
24 until such time that disclosure is necessary for resolution of  
25 an investigation or complaint.

26 (c) Each freelance worker who files a completed

1 compensation claim application alleging a violation of this  
2 Act or a rule adopted thereunder shall be provided with a  
3 written description of the anticipated processing of the  
4 complaint, including investigation, case conference, potential  
5 civil and criminal penalties, and collection procedures. Each  
6 freelance worker and his or her authorized representative  
7 shall be notified in writing of any case conference before it  
8 is held and given the opportunity to attend. Each freelance  
9 worker and his or her authorized representative shall be  
10 notified in writing of any award and collection of civil  
11 penalties.

12 (d) The Department shall have the power to investigate and  
13 attempt equitably to adjust controversies between freelance  
14 workers and hiring entities in respect of compensation claims  
15 arising under this Act and to that end the Department through  
16 the Director or any other person in the Department designated  
17 by him or her, shall have the power to administer oaths,  
18 subpoena and examine witnesses, to issue subpoenas duces tecum  
19 requiring the production of such books, papers, records and  
20 documents as may be evidence of any matter under inquiry and to  
21 examine and inspect the same as may relate to the question in  
22 dispute. Service of such subpoenas shall be made by any  
23 sheriff or any person. Any court in this State, upon the  
24 application of the Department may compel attendance of  
25 witnesses, the production of books and papers, and the giving  
26 of testimony before the Department by attachment for contempt

1 or in any other way as the production of evidence may be  
2 compelled before such court. The Department may initiate a  
3 mediation conference.

4 (e) Where reasonable cause exists to believe that a hiring  
5 party is engaged in a pattern or practice of violations of this  
6 Act, the Attorney General may commence a civil action on  
7 behalf of the State in a court of competent jurisdiction. The  
8 Attorney General may receive injunctive relief, civil  
9 penalties, and any other relief deemed appropriate by the  
10 court.

11 (f) Nothing in this Act shall be construed to prevent any  
12 freelance worker from making complaint or prosecuting his or  
13 her own claim for compensation. Any freelance worker aggrieved  
14 by a violation of this Act or any rule adopted under this Act  
15 may file suit in circuit court of Illinois, in the county where  
16 the alleged violation occurred or where any freelance worker  
17 who is party to the action resides, without regard to  
18 exhaustion of any alternative administrative remedies provided  
19 in this Act. Actions may be brought by one or more freelance  
20 workers for and on behalf of themselves and other freelance  
21 workers similarly situated.

22 (g) Nothing in this Act shall be construed to limit the  
23 authority of the State's attorney of any county to prosecute  
24 actions for violation of this Act or to enforce the provisions  
25 thereof independently and without specific direction of the  
26 Department.



1 Section 30. Civil enforcement.

2 (a) Any freelance worker not timely paid final  
3 compensation by a hiring party as required by Section 10 shall  
4 be entitled to recover through a claim filed with the  
5 Department or in a civil action, but not both, double the  
6 amount of any such underpayments, injunctive relief, and other  
7 such remedies as may be appropriate. In a civil action for  
8 violation of Section 10, such freelance worker shall also  
9 recover costs and all reasonable attorney's fees. Civil  
10 complaints alleging violation of Section 10 shall be filed  
11 within 3 years after the date the final compensation was due.

12 (b) Any freelance worker who was retained in violation of  
13 Section 15 despite the freelance worker's request for a  
14 written contract prior to commencing the contracted work as  
15 required by Section 15 shall be entitled to recover through a  
16 claim filed with the Department or in a civil action, but not  
17 both, statutory damages of \$500. However, a freelance worker  
18 who prevails on a claim alleging violation of Section 15 and on  
19 one or more claims under other Sections shall be awarded  
20 statutory damages equal to the value of the underlying  
21 contract or \$500, whichever is greater, in addition to the  
22 other remedies provided. Civil complaints alleging violation  
23 of Section 15 shall be filed within 2 year after the date the  
24 final compensation was due.

25 (c) Any freelance worker who is threatened, intimidated,

1 disciplined, harassed, denied a freelance opportunity, or  
2 penalized by a hiring party in violation of Section 20 of this  
3 Act shall be entitled to recover through a claim filed with the  
4 Department or in a civil action, but not both, statutory  
5 damages equal to the value of the underlying contract for each  
6 violation of Section 20. In a civil action for violation of  
7 Section 20, such freelance worker shall also recover costs and  
8 all reasonable attorney's fees.

9 Section 35. Criminal penalties. In addition to the other  
10 remedies provided in this Act, any hiring party or any agent of  
11 a hiring party, who, being able to pay final compensation and  
12 being under a duty to pay, wilfully refuses to pay as provided  
13 in this Act, or falsely denies the amount or validity thereof  
14 or that the same is due, with intent to secure for the hiring  
15 party or other person any underpayment of such indebtedness or  
16 with intent to annoy, harass, oppress, hinder, delay, or  
17 defraud the freelance worker to whom such indebtedness is due,  
18 upon conviction, is guilty of:

19 (1) for unpaid final compensation in the amount of  
20 \$5,000 or less, a Class B misdemeanor; or

21 (2) for unpaid final compensation in the amount of  
22 more than \$5,000, a Class A misdemeanor.

23 Each day during which any violation of this Act continues  
24 shall constitute a separate and distinct offense.

25 Any hiring party or any agent of a hiring party who

1 violates this Act a subsequent time within 2 years of a prior  
2 criminal conviction under this Section is guilty, upon  
3 conviction, of a Class 4 felony.

4 Section 40. Public policy and intent.

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

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

11 (c) Failure to comply with this Section does not render  
12 any contract between a hiring party and a freelance worker  
13 void in total, voidable, or otherwise impair any obligation,  
14 claim, or right related to the contract, nor does it  
15 constitute a defense to any action or proceeding to enforce,  
16 or for breach of, such contract.

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

21 Section 45. Public awareness. Subject to appropriation,  
22 the Department may conduct a public awareness campaign, that  
23 shall include making information available on its website,  
24 otherwise informing hiring parties of the provisions of this

1 Act, and establishing a means for assistance by a natural  
2 person through phone or email.

3 Section 50. Reports. One year after the effective date of  
4 this Act, and by November 1 every 5 years thereafter, the  
5 Department shall submit to the General Assembly and publish on  
6 its website a report regarding the effectiveness of this Act  
7 at improving freelance contracting and payment practices. The  
8 report shall include, but is not limited to:

9 (1) the number of complaints received;

10 (2) the value of the contracts disaggregated into  
11 ranges of \$500 and by the Section of this Act the  
12 associated hiring party is alleged to have violated;

13 (3) the numbers of responses and non-responses  
14 received by the Department disaggregated by contract value  
15 into ranges of \$500 and by the Section of this Act the  
16 associated hiring party is alleged to have violated;

17 (d) the number of freelance workers that pursue their  
18 claims of violation of this Act through civil action or an  
19 alternative dispute resolution process, and a summary of  
20 the outcomes, if known;

21 (4) the general sector or occupation of the freelance  
22 workers submitting claims pursuant to this Act;

23 (5) the counties where violations of this Act are  
24 alleged to have occurred, including the number of  
25 violations from each county;

1 (6) to the extent available, demographic data of the  
2 freelance workers who allege violations of this Act; and

3 (7) legislative recommendations, including  
4 consideration of whether certain occupations should be  
5 exempted from the scope of the definition of freelance  
6 worker.

7 Section 55. Coordination.

8 (a) The Department is authorized to coordinate enforcement  
9 efforts with other agencies and combine claims under this Act  
10 with claims under other Acts.

11 (b) The Department is authorized to enter into agreements  
12 with other states to collect unpaid compensation from  
13 out-of-state hiring entities and to perform reciprocal  
14 services for such states in the State of Illinois.

15 Section 60. Rulemaking. The Director, or his authorized  
16 representatives, shall administer and enforce the provisions  
17 of this Act. In order to accomplish the objectives of this Act  
18 and to carry out the duties prescribed by this Act, the  
19 Director, or his authorized representative, shall adopt rules  
20 necessary to administer and enforce the provisions of this  
21 Act, including the procedures that shall be followed for  
22 hearings under Section 25. The adoption, amendment, or  
23 rescission of rules shall be in conformity with the  
24 requirements of the Illinois Administrative Procedure Act.

1           Section 99. Effective date. This Act takes effect July 1,  
2    2024.