

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 Displaced Building Service Workers Protection Act.

6 Section 5. Definitions. In this Act:

7 "Building service" means work performed in connection with  
8 the care or maintenance of an existing building and includes,  
9 but is not limited to, work performed by a watchman, security  
10 officer, door staff, building cleaner, maintenance technician,  
11 handyman, janitor, elevator operator, window cleaner, building  
12 engineer and groundskeeper.

13 "Building service contract" means a contract let to any  
14 covered employer for the furnishing of building services and  
15 includes any subcontract for such services.

16 "Building service contractor" means any person who enters  
17 into a building service contract.

18 "Building service employee" means any person employed as a  
19 building service employee by a covered employer who has been  
20 regularly assigned to a building on a full or part-time basis  
21 for at least 90 days immediately preceding any transition in  
22 employment subject to this Section except for (i) persons who  
23 are managerial, supervisory, or confidential employees,  
24 provided that this exemption shall not apply to building  
25 engineers for existing properties, (ii) persons earning in  
26 excess of \$25 per hour from a covered employer, and (iii)  
27 persons regularly scheduled to work fewer than 6 hours per week  
28 at a building.

29 "State of Illinois" means any city, township,  
30 administration, department, division, bureau, board or  
31 commission, or a corporation, institution, or agency of  
32 government, the expenses of which are paid in whole or in part

1 from the State treasury.

2 "Covered employer" means any person who owns or manages  
3 real property, either on its own behalf or for another person,  
4 or any person who contracts or subcontracts with an owner or  
5 manager of real property within the State of Illinois for real  
6 estate, including, but not limited to, housing cooperatives,  
7 condominium associations, building managing agents, and any  
8 building service contractor provided, however, that the  
9 requirements of this Act shall not apply to (i) residential  
10 buildings under 50 units, (ii) commercial office,  
11 institutional, or retail buildings of less than 75,000 square  
12 feet, (iii) any building in which the State of Illinois or any  
13 governmental entity, the head or majority of members of which  
14 are appointed by one or more officers of the State of Illinois,  
15 occupies 50% or more of the rentable square footage, or (iv)  
16 any building that is owned or operated by a hospital or  
17 hospital affiliate as defined in the Hospital Licensing Act.

18 "Person" means any individual, proprietorship,  
19 partnership, joint venture, corporation, limited liability  
20 company, trust, association, or other entity that may employ  
21 persons or enter into service contracts, but shall not include  
22 the City of Chicago, the State of Illinois, and the federal  
23 government or any other entity, or any individual or entity  
24 managing real property for a governmental entity.

25 "Successor employer" means a covered employer that (i) has  
26 been awarded a building service contract to provide, in whole  
27 or in part, building services that are substantially similar to  
28 those provided under a service contract that has recently been  
29 terminated, or (ii) has purchased or acquired control of  
30 property in which building service employees were employed.

31 Section 10. Protection for building service employees.

32 (a) No less than 15 calendar days before terminating any  
33 building service contract, any covered employer shall request  
34 the terminated contractor to provide the successor employer and  
35 any collective bargaining representative of any of the affected

1 employees a full and accurate list containing the name,  
2 address, date of hire, and employment occupation  
3 classification of each building service employee employed on  
4 the notice date at the site or sites covered by the terminated  
5 contract.

6 (b) No less than 15 calendar days before transferring a  
7 controlling interest in any covered building in which building  
8 service employees are employed, any covered employer shall  
9 provide to the successor employer and any collective bargaining  
10 representative of any of the affected employees a full and  
11 accurate list containing the name, address, date of hire, and  
12 employment occupation classification of each building service  
13 employee currently employed at the site or sites covered by the  
14 transfer of controlling interest.

15 (c) Any covered employer shall provide to the successor  
16 employer and any collective bargaining representative of any of  
17 the affected employees a full and accurate list containing the  
18 name, address, date of hire, and employment occupation  
19 classification of each building service employee currently  
20 employed at the site or sites covered by the terminated  
21 building service contract no more than 7 calendar days after  
22 notice that its building service contract has been terminated.

23 (d) When providing the notice required under this Section,  
24 each covered employer shall ensure that a notice to building  
25 service employees is posted setting forth the rights provided  
26 under this Section and which includes a copy of the list  
27 provided under the preceding Sections, and that such notice is  
28 also provided to the employees' collective bargaining  
29 representative, if any. The notice and list shall be posted in  
30 the same location and manner that other statutorily required  
31 notices to employees are posted at the affected site or sites.

32 (e) A successor employer shall retain for a 90-day  
33 transition employment period at the affected site or sites  
34 those building service employees of the terminated building  
35 service contractor and its subcontractors, or other covered  
36 employer, employed at the site or sites covered by the

1 terminated building service contract or owned or operated by  
2 the former covered employer.

3 (f) If at any time the successor employer determines that  
4 fewer building service employees are required to perform  
5 building services at the affected building than had been  
6 performing such services under the former employer, the  
7 successor employer shall retain the predecessor building  
8 service employees by seniority within job classification;  
9 provided that during such a 90-day transition period, the  
10 successor employer shall maintain a preferential hiring list of  
11 those building service employees not retained at the building  
12 who shall be given a right of first refusal to any jobs within  
13 their classification that becomes available during that  
14 period.

15 (g) Except as provided in subsection (f), during such  
16 90-day period, the successor contractor shall not discharge  
17 without cause an employee retained pursuant to this Section.

18 (h) At the end of the 90-day transition period, the  
19 successor employer shall perform a written performance  
20 evaluation for each employee retained pursuant to this Section.  
21 If the employee's performance during such 90-day period is  
22 satisfactory, the successor contractor shall offer the  
23 employee continued employment under the terms and conditions  
24 established by the successor employer or as required by law.

25 Section 15. Violation.

26 (a) A building service employee who has been discharged or  
27 not retained in violation of this Act may bring an action in  
28 court against a successor contractor and covered employer for  
29 violation of any obligation imposed pursuant to this Act.

30 (b) The court shall have the authority to order injunctive  
31 relief to prevent or remedy a violation of any obligation  
32 imposed pursuant to this Act.

33 (c) If the court finds that by reason of a violation of any  
34 obligation imposed pursuant to subsection (b), a building  
35 service employee has been discharged in violation of this

1 Section, it shall award:

2 (1) Back pay for each day during which the violation  
3 continues, which shall be calculated at a rate of  
4 compensation not less than the higher of (i) the average  
5 regular rate of pay received by the employee during the  
6 last 3 years of the employee's employment in the same  
7 occupation classification; or (ii) the final regular rate  
8 received by the employee.

9 (2) Costs of benefits the successor employer would have  
10 incurred for the employee under the successor contractor's  
11 or employer's benefit plans.

12 (3) The building service employee's reasonable  
13 attorney's fees and costs.

14 (d) In any such action, the court shall have the authority  
15 to order the terminated contractor or former employer to  
16 provide the successor employer with the information required  
17 pursuant to Section 10(c) of this Act.

18 Section 20. Exemptions. The provisions of this Act do not  
19 apply:

20 (1) To any successor employer that, on or before, the  
21 effective date of the transfer of control from a  
22 predecessor covered employer to the successor employer to  
23 the commencement of services by a successor building  
24 service contractor, agrees to assume, or to be bound by,  
25 the collective bargaining agreement of the predecessor  
26 covered building service employees, provided that the  
27 collective bargaining agreement provides terms and  
28 conditions for the discharge or laying off of employees.

29 (2) Where there is no existing collective bargaining  
30 agreement as described in subdivision (1), to any successor  
31 employer that agrees, on or before the effective date of  
32 the transfer of control from a predecessor covered employer  
33 to the successor employer or the commencement of services  
34 by a successor building service contractor, to enter into a  
35 new collective bargaining agreement covering its building

1 service employees, provided that the collective bargaining  
2 agreement provides terms and conditions for the discharged  
3 or laying off of employees.

4 (3) To any successor employer whose building service  
5 employees will be accredited to a bargaining unit with a  
6 pre-existing collective bargaining agreement, provided  
7 that the collective bargaining agreement provides terms  
8 and conditions for the discharged or laying off of  
9 employees.

10 (4) To any covered employer that obtains a written  
11 commitment from a successor employer that the successor  
12 employer's building service employees will be covered by a  
13 collective bargaining agreement falling within subdivision  
14 (1), (2), or (3).

15 Section 99. Effective date. This Act takes effect upon  
16 becoming law.