

1 AN ACT concerning procurement.

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

4 Section 5. The State Prompt Payment Act is amended by
5 changing Section 7 as follows:

6 (30 ILCS 540/7) (from Ch. 127, par. 132.407)

7 Sec. 7. Payments to subcontractors and material
8 suppliers.

9 (a) When a State official or agency responsible for
10 administering a contract submits a voucher to the Comptroller
11 for payment to a contractor, that State official or agency
12 shall promptly make available electronically the voucher
13 number, the date of the voucher, and the amount of the
14 voucher. The State official or agency responsible for
15 administering the contract shall provide subcontractors and
16 material suppliers, known to the State official or agency,
17 with instructions on how to access the electronic
18 information. When a contractor receives any payment, the
19 contractor shall pay each subcontractor and material supplier
20 in proportion to the work completed by each subcontractor and
21 material supplier their application less any retention. If
22 the contractor receives less than the full payment due under
23 the public construction contract, the contractor shall be
24 obligated to disburse on a pro rata basis those funds
25 received, with the contractor, subcontractors and material
26 suppliers each receiving a prorated portion based on the
27 amount of payment. When, however, the public owner does not
28 release the full payment due under the contract because there
29 are specific areas of work or materials the contractor is
30 rejecting or because the contractor has otherwise determined
31 such areas are not suitable for payment, then those specific

1 subcontractors or suppliers involved shall not be paid for
2 that portion of work rejected or deemed not suitable for
3 payment and all other subcontractors and suppliers shall be
4 paid in full.

5 (b) If the contractor, without reasonable cause, fails
6 to make full any payment of amounts due under subsection (a)
7 to his subcontractors and material suppliers within 15 days
8 after receipt of payment under the public construction
9 contract, the contractor shall pay to his subcontractors and
10 material suppliers, in addition to the payment due them,
11 interest in the amount of ~~4%~~ 2% per month, calculated from
12 the expiration of the 15-day period until fully paid. This
13 subsection shall also apply to any payments made by
14 subcontractors and material suppliers to their subcontractors
15 and material suppliers and to all payments made to lower tier
16 subcontractors and material suppliers throughout the
17 contracting chain.

18 (1) If a contractor, without reasonable cause,
19 fails to make payment in full as provided in subsection
20 (a) within 15 days after receipt of payment under the
21 public construction contract, any subcontractor or
22 material supplier to whom payments are owed may file a
23 written notice with the State official or agency setting
24 forth the amount owed by the contractor and the
25 contractor's failure to timely pay the amount owed.

26 (2) The State official or agency, within 15 days
27 after receipt of a subcontractor's or material supplier's
28 written notice of the failure to receive payment from the
29 contractor, shall hold a hearing to determine whether the
30 contractor withheld payment, without reasonable cause,
31 from the subcontractors and material suppliers and what
32 amount, if any, is due to the subcontractors and material
33 suppliers. The State official or agency shall provide
34 appropriate notice to the parties of the date, time, and

1 location of the hearing.

2 (3) If the State official or agency determines that
3 the contractor failed to make payment in full, without
4 reasonable cause, as provided in subsection (a), then the
5 State official or agency shall, in writing, direct the
6 contractor to pay the amount owed to the subcontractors
7 and material suppliers plus interest within 15 days after
8 the State official's or agency's finding.

9 (4) If a contractor fails to make full payment
10 within 15 days after the State official's or agency's
11 finding, then the contractor shall be barred from
12 entering into a State public construction contract for a
13 period of one year beginning on the date of the State
14 official's or agency's finding.

15 (Source: P.A. 87-773.)