



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

SB0013

Introduced 1/26/2005, by Sen. Jacqueline Y. Collins

SYNOPSIS AS INTRODUCED:

30 ILCS 540/7

from Ch. 127, par. 132.407

Amends the State Prompt Payment Act. Requires a State official or agency responsible for administering a contract, when submitting a voucher to the Comptroller for payment to a contractor, to promptly make available electronically the voucher number, the fate of the voucher, and the amount of the voucher. Provides that the State official or agency responsible for administering the contract shall provide subcontractors and material suppliers, known to the State official or agency, with instructions on how to access the electronic information. Provides that if a contractor, without reasonable cause, fails to make a full (now, any) payment of certain amounts due to his subcontractors and material supplier within 15 days after receipt of payment under a public construction contract, the contractor must pay the subcontractors and material suppliers 4% (now, 2%) interest each month in addition to the payments due until the amount is fully paid. Provides procedures for subcontractors and material suppliers to follow. Provides that if a State official or agency responsible for administering a contract determines, after notice to appropriate parties and a hearing, that a contractor has failed to make a payment in full within 45 days under a public construction contract, then that contractor must make payment within 15 days after the finding; if not, the contractor is barred from entering into a State public construction contract for one year.

LRB094 06980 JAM 37098 b

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning finance.

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 suppliers.

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

1 and suppliers shall be paid in full.

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

14 (1) If a contractor, without reasonable cause, fails to
15 make payment in full as provided in subsection (a) within
16 15 days after receipt of payment under the public
17 construction contract, any subcontractor or material
18 supplier to whom payments are owed may file a written
19 notice with the State official or agency setting forth the
20 amount owed by the contractor and the contractor's failure
21 to timely pay the amount owed.

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

32 (3) If the State official or agency determines that the
33 contractor failed to make payment in full, without
34 reasonable cause, as provided in subsection (a), then the
35 State official or agency shall, in writing, direct the
36 contractor to pay the amount owed to the subcontractors and

1 material suppliers plus interest within 15 days after the
2 State official's or agency's finding.

3 (4) If a contractor fails to make full payment within
4 15 days after the State official's or agency's finding,
5 then the contractor shall be barred from entering into a
6 State public construction contract for a period of one year
7 beginning on the date of the State official's or agency's
8 finding.

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