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LRB094 06980 JAM 45597 a

1 AMENDMENT TO SENATE BILL 13

2 AMENDMENT NO. _____. Amend Senate Bill 13 by replacing
3 everything after the enacting clause with the following:

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

1 prorated portion based on the amount of payment. When, however,
2 the public owner does not release the full payment due under
3 the contract because there are specific areas of work or
4 materials the contractor is rejecting or because the contractor
5 has otherwise determined such areas are not suitable for
6 payment, then those specific subcontractors or suppliers
7 involved shall not be paid for that portion of work rejected or
8 deemed not suitable for payment and all other subcontractors
9 and suppliers shall be paid in full.

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

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

30 (2) The State official or agency, within 15 days after
31 receipt of a subcontractor's or material supplier's
32 written notice of the failure to receive payment from the
33 contractor, shall hold a hearing convened by an
34 administrative law judge to determine whether the

1 contractor withheld payment, without reasonable cause,
2 from the subcontractors and material suppliers and what
3 amount, if any, is due to the subcontractors and material
4 suppliers. The State official or agency shall provide
5 appropriate notice to the parties of the date, time, and
6 location of the hearing. Each contractor, subcontractor,
7 and material supplier has the right to be represented by
8 counsel at the hearing and to cross-examine witnesses and
9 challenge documents.

10 (3) If there is a finding by the administrative law
11 judge that the contractor failed to make payment in full,
12 without reasonable cause, as provided in subsection (a),
13 then the administrative law judge shall, in writing, direct
14 the contractor to pay the amount owed to the subcontractors
15 and material suppliers plus interest within 15 days after
16 the finding.

17 (4) If a contractor fails to make full payment within
18 15 days after the administrative law judge's finding, then
19 the contractor shall be barred from entering into a State
20 public construction contract for a period of one year
21 beginning on the date of the administrative law judge's
22 finding.

23 (Source: P.A. 87-773.)".