



Sen. Carole Pankau

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LRB096 04698 KTG 26909 a

1 AMENDMENT TO HOUSE BILL 344

2 AMENDMENT NO. _____. Amend House Bill 344 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Contractor Prompt Payment Act is amended by
5 changing Sections 5 and 10 as follows:

6 (815 ILCS 603/5)

7 Sec. 5. Definitions. In this Act:

8 (a) "Payment application" means, in accordance with the
9 terms and definitions of the applicable contract, any invoice,
10 bill or other request for periodic payment, final payment,
11 payment of change order or request for release of retainage
12 from the contractor to the owner.

13 (b) "Construction contract" means a contract or
14 subcontract, entered into after the effective date of this Act,
15 for the design, construction, alteration, improvement, or
16 repair of Illinois real property, except for contracts that

1 require the expenditure of public funds and contracts for the
2 design, construction, alteration, improvement, or repair of
3 single family residences or multiple family residences with 12
4 or fewer units in a single building.

5 (c) "Contractor" and "subcontractor" shall have the
6 meanings ascribed to them by the Illinois Mechanics Lien Act
7 and cases decided under that Act.

8 (d) "Retainage" means funds that are earned by the
9 contractor but not paid until some agreed upon date, such as
10 the completion of the job.

11 (Source: P.A. 95-567, eff. 8-31-07.)

12 (815 ILCS 603/10)

13 Sec. 10. Construction contracts.

14 (a) All construction contracts shall be deemed to provide
15 the following:

16 (1) If a contractor has performed in accordance with
17 the provisions of a construction contract and the payment
18 application has been approved by the owner or the owner's
19 agent, the owner shall pay the amount due to the contractor
20 pursuant to the payment application not more than 15
21 calendar days after the approval. The payment application
22 shall be deemed approved 25 days after the owner receives
23 it unless the owner provides, before the end of the 25-day
24 period, a written statement of the amount withheld and the
25 reason for withholding payment. If the owner finds that a

1 portion of the work not in accordance with the contract,
2 payment may be withheld for the reasonable value of that
3 portion only. Payment shall be made for any portion of the
4 contract for which the work has been performed in
5 accordance with the provisions of the contract.
6 Instructions or notification from an owner to his or her
7 lender or architect to process or pay a payment application
8 does not constitute approval of the payment application
9 under this Act.

10 (2) If a subcontractor has performed in accordance with
11 the provisions of his or her contract with the contractor
12 or subcontractor and the work has been accepted by the
13 owner, the owner's agent, or the contractor, the contractor
14 shall pay to his or her subcontractor and the subcontractor
15 shall pay to his or her subcontractor, within 15 calendar
16 days of the contractor's receipt from the owner or the
17 subcontractor's receipt from the contractor of each
18 periodic payment, final payment, or receipt of retainage
19 monies, the full amount received for the work of the
20 subcontractor based on the work completed or the services
21 rendered under the construction contract.

22 (b) Under a construction contract, it is unlawful to
23 withhold retainage on materials required for completion of the
24 construction contract that are delivered to a job site and are
25 billed in accordance with the periodic payments in the
26 construction contract.

1 (Source: P.A. 95-567, eff. 8-31-07.)

2 Section 99. Effective date. This Act takes effect upon
3 becoming law.".