

SB2161



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

SB2161

Introduced 2/15/2013, by Sen. Wm. Sam McCann

SYNOPSIS AS INTRODUCED:

815 ILCS 603/10

Amends the Contractor Prompt Payment Act. Provides that under a construction contract, it is unlawful to withhold more than 5% retainage on payments earned by contractors and subcontractors. Effective January 1, 2014.

LRB098 06921 JLS 36978 b

A BILL FOR

1 AN ACT concerning business.

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

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

6 (815 ILCS 603/10)

7 Sec. 10. Construction contracts.

8 (a) All construction contracts shall be deemed to provide
9 the following:

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

1 accordance with the provisions of the contract.
2 Instructions or notification from an owner to his or her
3 lender or architect to process or pay a payment application
4 does not constitute approval of the payment application
5 under this Act.

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

18 (b) Under a construction contract, it is unlawful to
19 withhold more than 5% retainage on payments earned by
20 contractors and subcontractors.

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

22 Section 99. Effective date. This Act takes effect January
23 1, 2014.