

1 AMENDMENT TO SENATE BILL 155

2 AMENDMENT NO. _____. Amend Senate Bill 155, AS AMENDED,
3 by replacing everything after the enacting clause with the
4 following:

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

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

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

10 (a) When a State official or agency responsible for
11 administering a contract submits a voucher to the Comptroller
12 for payment to a contractor, that State official or agency
13 shall promptly make available electronically the voucher
14 number, the date of the voucher, and the amount of the
15 voucher. The State official or agency responsible for
16 administering the contract shall provide subcontractors and
17 material suppliers, known to the State official or agency,
18 with instructions on how to access the electronic
19 information. When a contractor receives any payment, the
20 contractor shall pay each subcontractor and material supplier
21 in proportion to the work completed by each subcontractor and
22 material supplier their application less any retention. If

1 the contractor receives less than the full payment due under
2 the public construction contract, the contractor shall be
3 obligated to disburse on a pro rata basis those funds
4 received, with the contractor, subcontractors and material
5 suppliers each receiving a prorated portion based on the
6 amount of payment. When, however, the public owner does not
7 release the full payment due under the contract because there
8 are specific areas of work or materials the contractor is
9 rejecting or because the contractor has otherwise determined
10 such areas are not suitable for payment, then those specific
11 subcontractors or suppliers involved shall not be paid for
12 that portion of work rejected or deemed not suitable for
13 payment and all other subcontractors and suppliers shall be
14 paid in full.

15 (b) If the contractor, without reasonable cause, fails
16 to make full any payment of amounts due under subsection (a)
17 to his subcontractors and material suppliers within 15 days
18 after receipt of payment under the public construction
19 contract, the contractor shall pay to his subcontractors and
20 material suppliers, in addition to the payment due them,
21 interest in the amount of 4% 2% per month, calculated from
22 the expiration of the 15-day period until fully paid. This
23 subsection shall also apply to any payments made by
24 subcontractors and material suppliers to their subcontractors
25 and material suppliers and to all payments made to lower tier
26 subcontractors and material suppliers throughout the
27 contracting chain.

28 (1) If a contractor, without reasonable cause,
29 fails to make payment in full as provided in subsection
30 (a) within 15 days after receipt of payment under the
31 public construction contract, any subcontractor or
32 material supplier to whom payments are owed may file a
33 written notice with the State official or agency setting
34 forth the amount owed by the contractor and the

1 contractor's failure to timely pay the amount owed.

2 (2) The State official or agency, within 15 days
3 after receipt of a subcontractor's or material supplier's
4 written notice of the failure to receive payment from the
5 contractor, shall hold a hearing to determine whether the
6 contractor withheld payment, without reasonable cause,
7 from the subcontractors and material suppliers and what
8 amount, if any, is due to the subcontractors and material
9 suppliers. The State official or agency shall provide
10 appropriate notice to the parties of the date, time, and
11 location of the hearing.

12 (3) If the State official or agency determines that
13 the contractor failed to make payment in full, without
14 reasonable cause, as provided in subsection (a), then the
15 State official or agency shall, in writing, direct the
16 contractor to pay the amount owed to the subcontractors
17 and material suppliers plus interest within 15 days after
18 the State official's or agency's finding.

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

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