



## 94TH GENERAL ASSEMBLY

### State of Illinois

2005 and 2006

HB4018

Introduced 2/28/2005, by Rep. JoAnn D. Osmond

#### SYNOPSIS AS INTRODUCED:

New Act

Creates the Construction Escrow Account Act. Provides that a construction contract may include a provision for the retention of a portion of any amount due under the contract. Provides that any retention shall be deposited into an escrow account and shall be distributed under the direction of the general contractor for the sole purpose of eliminating retention of subcontractors who have completed their work. Provides that, before any payment shall be made from the escrow account containing the retention, the general contractor shall certify the subcontractor's work as complete and acceptable. Provides that the general contractor shall inspect the work of the subcontractor no later than 7 days after notification by the subcontractor of completion. Provides that if the workmanship of the subcontractor is acceptable, the general contractor shall pay the subcontractor the remaining portion of his or her retention. Provides that if the workmanship of the subcontractor is not acceptable, the general contractor shall notify the subcontractor and shall specify any improvements or corrections that must be made by the subcontractor before the retention shall be paid the retention. Effective immediately.

LRB094 09844 LCB 42199 b

1 AN ACT concerning construction.

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

4 Section 1. Short title. This Act may be cited as the  
5 Construction Escrow Account Act.

6 Section 5. Definitions. As used in this Act:

7 "Construction contract" means a written agreement relating  
8 to the construction, alteration, repair, maintenance, moving,  
9 or demolition of any building, structure, or improvement or  
10 relating to the excavation of or other development or  
11 improvement to land. "Construction contract" includes a  
12 subcontract for any of these provisions.

13 "General contractor" means any entity that has a direct  
14 contract with an owner to perform work under a construction  
15 contract.

16 "Retention" means funds due and payable for satisfactory  
17 performance under a construction contract, but withheld until  
18 substantial completion, or as set forth in the construction  
19 contract documents.

20 "Subcontractor" means any entity that has a direct contract  
21 with a prime contractor to perform a portion of the work under  
22 a construction contract.

23 Section 10. Escrow account; deposits.

24 (a) A construction contract may include a provision for the  
25 retention of a portion of any amount due under the contract.

26 (b) Any retention shall be deposited into an escrow account  
27 and shall be distributed under the direction of the general  
28 contractor for the sole purpose of eliminating retention of  
29 subcontractors who have completed their work.

30 Section 15. Payment; inspection.

1           (a) Before any payment shall be made from the escrow  
2 account containing the retention, the general contractor shall  
3 certify the subcontractor's work as complete and acceptable.

4           (b) The general contractor shall inspect the work of the  
5 subcontractor no later than 7 days after notification by the  
6 subcontractor of completion.

7           (c) If the workmanship of the subcontractor is acceptable,  
8 the general contractor shall pay to the subcontractor the  
9 remaining portion of his or her retention.

10          (d) If the workmanship of the subcontractor is not  
11 acceptable, the general contractor shall notify the  
12 subcontractor and shall specify any improvements or  
13 corrections that must be made by the subcontractor before the  
14 retention shall be paid the retention.

15          Section 99. Effective date. This Act takes effect upon  
16 becoming law.