



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB0743

Introduced 2/7/2007, by Rep. John A. Fritchey

SYNOPSIS AS INTRODUCED:

New Act

Creates the Contractor Prompt Payment Act. Provides that all construction contracts, unless expressly excluded, shall be deemed to provide: (i) if a contractor has performed in accordance with the provisions of a construction contract and the billing has been approved by the owner or the owner's agent, the owner shall pay the amount due to the contractor pursuant to the billing not more than 10 calendar days after the approval; and (ii) if a subcontractor has performed in accordance with the provisions of his or her contract with the contractor or subcontractor and the work has been accepted by the owner, the owner's agent, or the contractor, the contractor shall pay to his or her subcontractor and the subcontractor shall pay to his or her subcontractor, within 10 calendar days of the contractor's receipt from the owner or the subcontractor's receipt from the contractor of each periodic payment, final payment, or receipt of retainage monies, the full amount received for the work of the subcontractor based on the work completed or the services rendered under the construction contract. Provides for interest and suspension of performance for nonpayment of any amount required under the Act. Effective immediately.

LRB095 06522 LCT 26624 b

1 AN ACT concerning construction contracts.

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 Contractor Prompt Payment Act.

6 Section 5. Definitions. In this Act:

7 (a) "Billing" means, in accordance with the terms and
8 definitions of the applicable contract, any invoice, bill or
9 other request for periodic payment, final payment, payment of
10 change order or request for release of retainage.

11 (b) "Construction contract" means a contract or
12 subcontract, entered into after the effective date of this Act,
13 for the design, construction, alteration, improvement, or
14 repair of Illinois real property, except for contracts that
15 require the expenditure of public funds and contracts for the
16 design, construction, alteration, improvement, or repair of
17 single family residences.

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

21 Section 10. Construction contracts. All construction
22 contracts shall be deemed to provide the following unless they

1 expressly exclude the provisions of this Act:

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

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

1 contract.

2 Section 15. Interest; suspension of performance.

3 (a) If a payment due pursuant to the provisions of this Act
4 is not made in a timely manner, the delinquent party shall be
5 liable for the amount of money owed under the construction
6 contract, plus interest at a rate equal to 10% per annum.

7 (b) A contractor or subcontractor who is not paid as
8 required by this Act may, after providing 7 calendar days'
9 written notice to the party failing to make the required
10 payment, suspend performance of a construction contract
11 without penalty for breach of contract, until the payment
12 required pursuant to this Act is made.

13 Section 99. Effective date. This Act shall take effect upon
14 becoming law.