

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

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

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

1 Section 10. Construction contracts. All construction
2 contracts shall be deemed to provide the following:

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

20 (2) If a subcontractor has performed in accordance with the
21 provisions of his or her contract with the contractor or
22 subcontractor and the work has been accepted by the owner, the
23 owner's agent, or the contractor, the contractor shall pay to
24 his or her subcontractor and the subcontractor shall pay to his
25 or her subcontractor, within 15 calendar days of the
26 contractor's receipt from the owner or the subcontractor's

1 receipt from the contractor of each periodic payment, final
2 payment, or receipt of retainage monies, the full amount
3 received for the work of the subcontractor based on the work
4 completed or the services rendered under the construction
5 contract.

6 Section 15. Interest; suspension of performance.

7 (a) If a payment due pursuant to the provisions of this Act
8 is not made in a timely manner, the delinquent party shall be
9 liable for the amount of that payment, plus interest at a rate
10 equal to 10% per annum.

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

17 (c) The interest imposed by this Act shall not be
18 duplicative of the interest charged under the Mechanics Lien
19 Act.

20 Section 99. Effective date. This Act shall take effect upon
21 becoming law.