

1 AN ACT concerning State government.

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

4 Section 5. The State Prompt Payment Act is amended by
5 changing Sections 3-2, 3-6, and 7 as follows:

6 (30 ILCS 540/3-2)

7 Sec. 3-2. Beginning July 1, 1993, in any instance where a
8 State official or agency is late in payment of a vendor's bill
9 or invoice for goods or services furnished to the State, as
10 defined in Section 1, properly approved in accordance with
11 rules promulgated under Section 3-3, the State official or
12 agency shall pay interest to the vendor in accordance with the
13 following:

14 (1) (Blank). ~~Any bill, except a bill submitted under~~
15 ~~Article V of the Illinois Public Aid Code and except as~~
16 ~~provided under paragraph (1.05) of this Section, approved~~
17 ~~for payment under this Section must be paid or the payment~~
18 ~~issued to the payee within 60 days of receipt of a proper~~
19 ~~bill or invoice. If payment is not issued to the payee~~
20 ~~within this 60 day period, an interest penalty of 1.0% of~~
21 ~~any amount approved and unpaid shall be added for each~~
22 ~~month or fraction thereof after the end of this 60 day~~
23 ~~period, until final payment is made. Any bill, except a~~

1 ~~bill for pharmacy or nursing facility services or goods,~~
2 ~~and except as provided under paragraph (1.05) of this~~
3 ~~Section, submitted under Article V of the Illinois Public~~
4 ~~Aid Code approved for payment under this Section must be~~
5 ~~paid or the payment issued to the payee within 60 days~~
6 ~~after receipt of a proper bill or invoice, and, if payment~~
7 ~~is not issued to the payee within this 60 day period, an~~
8 ~~interest penalty of 2.0% of any amount approved and unpaid~~
9 ~~shall be added for each month or fraction thereof after~~
10 ~~the end of this 60 day period, until final payment is~~
11 ~~made. Any bill for pharmacy or nursing facility services~~
12 ~~or goods submitted under Article V of the Illinois Public~~
13 ~~Aid Code, except as provided under paragraph (1.05) of~~
14 ~~this Section, and approved for payment under this Section~~
15 ~~must be paid or the payment issued to the payee within 60~~
16 ~~days of receipt of a proper bill or invoice. If payment is~~
17 ~~not issued to the payee within this 60 day period, an~~
18 ~~interest penalty of 1.0% of any amount approved and unpaid~~
19 ~~shall be added for each month or fraction thereof after~~
20 ~~the end of this 60 day period, until final payment is~~
21 ~~made.~~

22 (1.05) For State fiscal year 2012 and future fiscal
23 years, any bill approved for payment under this Section
24 must be paid or the payment issued to the payee within 90
25 days of receipt of a proper bill or invoice. If payment is
26 not issued to the payee within this 90-day period, an

1 interest penalty of 1.0% of any amount approved and unpaid
2 shall be added for each month, or 0.033% (one-thirtieth of
3 one percent) of any amount approved and unpaid for each
4 day, after the end of this 90-day period, until final
5 payment is made.

6 (1.1) A State agency shall review ~~in a timely manner~~
7 each bill or invoice within 30 days after its receipt. If
8 the State agency determines that the bill or invoice
9 contains a defect making it unable to process the payment
10 request, the agency shall notify the vendor requesting
11 payment ~~as soon as possible after discovering the defect~~
12 ~~pursuant to rules promulgated under Section 3-3; provided,~~
13 ~~however, that the notice for construction related bills or~~
14 ~~invoices must be given~~ not later than 30 days after the
15 bill or invoice was first submitted. The notice shall
16 identify the defect and any additional information
17 necessary to correct the defect. If one or more items on a
18 construction related bill or invoice are disapproved, but
19 not the entire bill or invoice, then the portion that is
20 not disapproved shall be paid in accordance with the
21 requirements of this Act.

22 (2) Where a State official or agency is late in
23 payment of a vendor's bill or invoice properly approved in
24 accordance with this Act, and different late payment terms
25 are not reduced to writing as a contractual agreement, the
26 State official or agency shall automatically pay interest

1 penalties required by this Section amounting to \$50 or
2 more to the appropriate vendor. Each agency shall be
3 responsible for determining whether an interest penalty is
4 owed and for paying the interest to the vendor. Except as
5 provided in paragraph (4), an individual interest payment
6 amounting to \$5 or less shall not be paid by the State.
7 Interest due to a vendor that amounts to greater than \$5
8 and less than \$50 shall not be paid but shall be accrued
9 until all interest due the vendor for all similar warrants
10 exceeds \$50, at which time the accrued interest shall be
11 payable and interest will begin accruing again, except
12 that interest accrued as of the end of the fiscal year that
13 does not exceed \$50 shall be payable at that time. In the
14 event an individual has paid a vendor for services in
15 advance, the provisions of this Section shall apply until
16 payment is made to that individual.

17 (3) The provisions of Public Act 96-1501 reducing the
18 interest rate on pharmacy claims under Article V of the
19 Illinois Public Aid Code to 1.0% per month shall apply to
20 any pharmacy bills for services and goods under Article V
21 of the Illinois Public Aid Code received on or after the
22 date 60 days before January 25, 2011 (the effective date
23 of Public Act 96-1501) except as provided under paragraph
24 (1.05) of this Section.

25 (4) Interest amounting to less than \$5 shall not be
26 paid by the State, except for claims (i) to the Department

1 of Healthcare and Family Services or the Department of
2 Human Services, (ii) pursuant to Article V of the Illinois
3 Public Aid Code, the Covering ALL KIDS Health Insurance
4 Act, or the Children's Health Insurance Program Act, and
5 (iii) made (A) by pharmacies for prescriptive services or
6 (B) by any federally qualified health center for
7 prescriptive services or any other services.

8 Notwithstanding any provision to the contrary, interest
9 may not be paid under this Act when: (1) a Chief Procurement
10 Officer has voided the underlying contract for goods or
11 services under Article 50 of the Illinois Procurement Code; or
12 (2) the Auditor General is conducting a performance or program
13 audit and the Comptroller has held or is holding for review a
14 related contract or vouchers for payment of goods or services
15 in the exercise of duties under Section 9 of the State
16 Comptroller Act. In such event, interest shall not accrue
17 during the pendency of the Auditor General's review.

18 (Source: P.A. 100-1064, eff. 8-24-18.)

19 (30 ILCS 540/3-6)

20 Sec. 3-6. Federal funds; lack of authority. If an agency
21 incurs an interest liability under this Act that cannot be
22 charged to the same expenditure authority account to which the
23 related goods or services were charged due to federal
24 prohibitions, the agency is authorized to pay the interest
25 from its available appropriations from the General Revenue

1 Fund or from any other fund in the State Treasury that is not
2 otherwise prohibited from being used to pay interest, except
3 that the Department of Transportation is authorized to pay the
4 interest from its available appropriations from the Road Fund,
5 as long as the original goods or services were for purposes
6 consistent with Section 11 of Article IX of the Illinois
7 Constitution.

8 (Source: P.A. 103-588, eff. 6-5-24.)

9 (30 ILCS 540/7) (from Ch. 127, par. 132.407)

10 Sec. 7. Payments to subcontractors and material suppliers.

11 (a) When a State official or agency responsible for
12 administering a contract receives a proper bill or invoice
13 from a contractor, that State official or agency shall
14 transmit any approved amount to the Comptroller within 30 days
15 of receipt.

16 (a-1) When a State official or agency responsible for
17 administering a contract submits a voucher to the Comptroller
18 for payment to a contractor, that State official or agency
19 shall promptly make available electronically the voucher
20 number, the date of the voucher, and the amount of the voucher.
21 The State official or agency responsible for administering the
22 contract shall provide subcontractors and material suppliers,
23 known to the State official or agency, with instructions on
24 how to access the electronic information on the Comptroller's
25 website.

1 (a-5) When a contractor receives any payment, the
2 contractor shall pay each subcontractor and material supplier
3 electronically within 10 business days or 15 calendar days,
4 whichever occurs earlier, or, if paid by a printed check, the
5 printed check must be postmarked within 10 business days or 15
6 calendar days, whichever occurs earlier, after receiving
7 payment in proportion to the work completed by each
8 subcontractor and material supplier its application or pay
9 estimate, plus interest received under this Act. When a
10 contractor receives any payment, the contractor shall pay each
11 lower-tiered subcontractor and material supplier and each
12 subcontractor and material supplier shall make payment to its
13 own respective subcontractors and material suppliers. If the
14 contractor receives less than the full payment due under the
15 public construction contract, the contractor shall be
16 obligated to disburse on a pro rata basis those funds
17 received, plus interest received under this Act, with the
18 contractor, subcontractors and material suppliers each
19 receiving a prorated portion based on the amount of payment
20 each has earned. When, however, the State official or agency
21 does not release the full payment due under the contract
22 because there are specific areas of work or materials the
23 State agency or official has determined are not suitable for
24 payment, then those specific subcontractors or material
25 suppliers involved shall not be paid for that portion of work
26 rejected or deemed not suitable for payment and all other

1 subcontractors and suppliers shall be paid based upon the
2 amount of payment each has earned, plus interest received
3 under this Act.

4 (a-10) For construction contracts with the Department of
5 Transportation, the contractor, subcontractor, or material
6 supplier, regardless of tier, shall not offset, decrease, or
7 diminish payment or payments that are due to its
8 subcontractors or material suppliers without reasonable cause.

9 A contractor, who refuses to make prompt payment within 10
10 business days or 15 calendar days, whichever occurs earlier,
11 after receiving payment, in whole or in part, shall provide to
12 the subcontractor or material supplier and the public owner or
13 its agent, a written notice of that refusal. The written
14 notice shall be made by a contractor no later than 5 calendar
15 days after payment is received by the contractor. The written
16 notice shall identify the Department of Transportation's
17 contract, any subcontract or material purchase agreement, a
18 detailed reason for refusal, the value of the payment to be
19 withheld, and the specific remedial actions required of the
20 subcontractor or material supplier so that payment may be
21 made. Written notice of refusal may be given in a form and
22 method which is acceptable to the parties and public owner.

23 (b) If the contractor, without reasonable cause, fails to
24 make full payment of amounts due under subsection (a) to its
25 subcontractors and material suppliers within 10 business days
26 or 15 calendar days, whichever occurs earlier, after receipt

1 of payment from the State official or agency, the contractor
2 shall pay to its subcontractors and material suppliers, in
3 addition to the payment due them, interest in the amount of 2%
4 per month, calculated from the expiration of the
5 10-business-day period or the 15-calendar-day period until
6 fully paid. This subsection shall further apply to any
7 payments made by subcontractors and material suppliers to
8 their subcontractors and material suppliers and to all
9 payments made to lower tier subcontractors and material
10 suppliers throughout the contracting chain.

11 (1) If a contractor, without reasonable cause, fails
12 to make payment in full as provided in subsection (a-5)
13 within 10 business days or 15 calendar days, whichever
14 occurs earlier, after receipt of payment under the public
15 construction contract, any subcontractor or material
16 supplier to whom payments are owed may file a written
17 notice and request for administrative hearing with the
18 State official or agency setting forth the amount owed by
19 the contractor and the contractor's failure to timely pay
20 the amount owed. The written notice and request for
21 administrative hearing shall identify the public
22 construction contract, the contractor, and the amount
23 owed, and shall contain a sworn statement or attestation
24 to verify the accuracy of the notice. The notice and
25 request for administrative hearing shall be filed with the
26 State official for the public construction contract, with

1 a copy of the notice concurrently provided to the
2 contractor. Notice to the State official may be made by
3 certified or registered mail, messenger service, or
4 personal service, and must include proof of delivery to
5 the State official.

6 (2) The State official or agency, within 15 calendar
7 days after receipt of a subcontractor's or material
8 supplier's written notice and request for administrative
9 hearing, shall hold a hearing convened by an
10 administrative law judge to determine whether the
11 contractor withheld payment, without reasonable cause,
12 from the subcontractors or material suppliers and what
13 amount, if any, is due to the subcontractors or material
14 suppliers, and the reasonable cause or causes asserted by
15 the contractor. The State official or agency shall provide
16 appropriate notice to the parties of the date, time, and
17 location of the hearing. Each contractor, subcontractor,
18 or material supplier has the right to be represented by
19 counsel at a hearing and to cross-examine witnesses and
20 challenge documents. Upon the request of the subcontractor
21 or material supplier and a showing of good cause,
22 reasonable continuances may be granted by the
23 administrative law judge.

24 (3) Upon a finding by the administrative law judge
25 that the contractor failed to make payment in full,
26 without reasonable cause, as provided in subsection

1 (a-10), then the administrative law judge shall, in
2 writing, order the contractor to pay the amount owed to
3 the subcontractors or material suppliers plus interest
4 within 15 calendar days after the order.

5 (4) If a contractor fails to make full payment as
6 ordered under paragraph (3) of this subsection (b) within
7 15 days after the administrative law judge's order, then
8 the contractor shall be barred from entering into a State
9 public construction contract for a period of one year
10 beginning on the date of the administrative law judge's
11 order.

12 (5) If, on 2 or more occasions within a
13 3-calendar-year period, there is a finding by an
14 administrative law judge that the contractor failed to
15 make payment in full, without reasonable cause, and a
16 written order was issued to a contractor under paragraph
17 (3) of this subsection (b), then the contractor shall be
18 barred from entering into a State public construction
19 contract for a period of 6 months beginning on the date of
20 the administrative law judge's second written order, even
21 if the payments required under the orders were made in
22 full.

23 (6) If a contractor fails to make full payment as
24 ordered under paragraph (4) of this subsection (b), the
25 subcontractor or material supplier may, within 30 days of
26 the date of that order, petition the State agency for an

1 order for reasonable attorney's fees and costs incurred in
2 the prosecution of the action under this subsection (b).
3 Upon that petition and taking of additional evidence, as
4 may be required, the administrative law judge may issue a
5 supplemental order directing the contractor to pay those
6 reasonable attorney's fees and costs.

7 (7) The written order of the administrative law judge
8 shall be final and appealable under the Administrative
9 Review Law.

10 (b-5) On or before July 2021, the Department of
11 Transportation shall publish on its website a searchable
12 database that allows for queries for each active construction
13 contract by the name of a subcontractor or the pay item such
14 that each pay item is associated with either the prime
15 contractor or a subcontractor.

16 (c) This Section shall not be construed to in any manner
17 diminish, negate, or interfere with the
18 contractor-subcontractor or contractor-material supplier
19 relationship or commercially useful function.

20 (d) This Section shall not preclude, bar, or stay the
21 rights, remedies, and defenses available to the parties by way
22 of the operation of their contract, purchase agreement, the
23 Mechanics Lien Act, or the Public Construction Bond Act.

24 (e) State officials and agencies may adopt rules as may be
25 deemed necessary in order to establish the formal procedures
26 required under this Section.

1 (f) As used in this Section:

2 "Payment" means the discharge of an obligation in money or
3 other valuable consideration or thing delivered in full or
4 partial satisfaction of an obligation to pay. "Payment" shall
5 include interest paid pursuant to this Act.

6 "Reasonable cause" may include, but is not limited to,
7 unsatisfactory workmanship or materials; failure to provide
8 documentation required by the contract, subcontract, or
9 material purchase agreement; claims made against the
10 Department of Transportation or the subcontractor pursuant to
11 subsection (c) of Section 23 of the Mechanics Lien Act or the
12 Public Construction Bond Act; judgments, levies, garnishments,
13 or other court-ordered assessments or offsets in favor of the
14 Department of Transportation or other State agency entered
15 against a subcontractor or material supplier. "Reasonable
16 cause" does not include payments issued to the contractor that
17 create a negative or reduced valuation pay application or pay
18 estimate due to a reduction of contract quantities or work not
19 performed or provided by the subcontractor or material
20 supplier; the interception or withholding of funds for reasons
21 not related to the subcontractor's or material supplier's work
22 on the contract; anticipated claims or assessments of third
23 parties not a party related to the contract or subcontract;
24 asserted claims or assessments of third parties that are not
25 authorized by court order, administrative tribunal, or
26 statute. "Reasonable cause" further does not include the

1 withholding, offset, or reduction of payment, in whole or in
2 part, due to the assessment of liquidated damages or penalties
3 assessed by the Department of Transportation against the
4 contractor, unless the subcontractor's performance or supplied
5 materials were the sole and proximate cause of the liquidated
6 damage or penalty.

7 (Source: P.A. 100-43, eff. 8-9-17; 100-376, eff. 1-1-18;
8 100-863, eff. 8-14-18; 101-524, eff. 1-1-20.)

9 Section 99. Effective date. This Act takes effect July 1,
10 2027.