

1 AN ACT concerning employment.

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

4 Section 5. If and only if House Bill 5412 of the 102nd  
5 General Assembly becomes law, then the Department of  
6 Transportation Law of the Civil Administrative Code of  
7 Illinois is amended by adding Section 2705-620 as follows:

8 (20 ILCS 2705/2705-620 new)

9 Sec. 2705-620. Bond Reform in the Construction Industry  
10 Task Force.

11 (a) There is created the Bond Reform in the Construction  
12 Industry Task Force consisting of the following members:

13 (1) the Governor, or his or her designee;

14 (2) the State Treasurer, or his or her designee;

15 (3) the Director of Insurance, or his or her designee;

16 (4) 2 members appointed by the Speaker of the House of  
17 Representatives;

18 (5) 2 members appointed by the Minority Leader of the  
19 House of Representatives;

20 (6) 2 members appointed by the President of the  
21 Senate;

22 (7) 2 members appointed by the Minority Leader of the  
23 Senate; and

1           (8) 7 members representing the construction industry  
2           appointed by the Governor.

3           The Department of Transportation shall provide  
4           administrative support to the Task Force.

5           (b) The Task Force shall study innovative ways to reduce  
6           the cost of insurance in the private and public construction  
7           industry while protecting owners from risk of nonperformance.  
8           The Task Force shall consider options that include, but are  
9           not limited to, owner-financed insurance instead of  
10           contractor-financed insurance and alternative ways to manage  
11           risk other than bonds or other insurance products.

12           (c) The Task Force shall report its findings and  
13           recommendations to the General Assembly no later than March 1,  
14           2023.

15           (d) This Section is repealed December 31, 2023.

16           Section 10. If and only if House Bill 5412 of the 102nd  
17           General Assembly becomes law, then the Illinois Wage Payment  
18           and Collection Act is amended by changing Section 13.5 as  
19           follows:

20           (820 ILCS 115/13.5)

21           Sec. 13.5. Primary contractor responsibility for wage  
22           claims in construction industry.

23           (a) For all contracts entered into on or after July 1,  
24           2022, a primary contractor making or taking a contract in the

1 State for the erection, construction, alteration, or repair of  
2 a building, structure, or other private work in the State  
3 where the aggregate costs of the project exceed \$20,000  ~~and~~  
4 shall assume, and is liable for, any debt owed to a claimant  
5 under this Section  ~~or to a third party on a wage claimant's~~  
6  ~~behalf incurred pursuant to this Act~~ by a subcontractor at any  
7 tier acting under, by, or for the primary contractor for the  
8 wage claimant's performance of labor included in the subject  
9 of the contract between the primary contractor and the owner.  
10 This Section does not apply to work performed by a contractor  
11 of the federal government, the State, a special district, a  
12 city, a county, or any political subdivision of the State.

13 (b) As used in this Section:

14 "Construction" means building, altering, repairing,  
15 improving, or demolishing any structure or building or making  
16 improvements of any kind to real property.

17 "Primary contractor" means a contractor that has a direct  
18 contractual relationship with a property owner. "Primary  
19 contractor" may have the same meaning as a "general  
20 contractor", "prime contractor", or "construction manager". A  
21 property owner who acts as a primary contractor related to the  
22 erection, construction, alteration, or repair of his or her  
23 primary residence shall be exempt from liability under this  
24 Section.

25 "Private work" means any erection, construction,  
26 alteration, or repair of a building, structure, or other work.

1 "Subcontractor" means a contractor that has a contractual  
2 relationship with the primary contractor or with another  
3 subcontractor at any tier, who furnishes any goods or services  
4 in connection with the contract between the primary contractor  
5 and the property owner, but does not include contractors who  
6 solely provide goods and transport of such goods related to  
7 the contract.

8 (c) The primary contractor's liability under this Section  
9 shall extend only to any unpaid wages or fringe or other  
10 benefit payments or contributions, including interest owed,  
11 penalties assessed by the Department, and reasonable  
12 attorney's fees, but shall not extend to liquidated damages.

13 (d) A primary contractor or any other person shall not  
14 evade or commit any act that negates the requirements of this  
15 Section. Except as otherwise provided in a contract between  
16 the primary contractor and the subcontractor, the  
17 subcontractor shall indemnify the primary contractor for any  
18 wages, fringe or other benefit payments or contributions,  
19 damages, interest, penalties, or attorney's fees owed as a  
20 result of the subcontractor's failure to pay wages or fringe  
21 or other benefit payments or contributions as provided in this  
22 Section, unless the subcontractor's failure to pay was due to  
23 the primary contractor's failure to pay moneys due to the  
24 subcontractor in accordance with the terms of their  
25 contractual relationship.

26 (e) Nothing in this Section shall supersede or modify the

1 obligations and liability that any primary contractor,  
2 subcontractor, or property owner may bear as an employer under  
3 this Act or any other applicable law. The obligations and  
4 remedies provided in this Section shall be in addition to any  
5 obligations and remedies otherwise provided by law. Nothing in  
6 this Section shall be construed to impose liability on a  
7 primary contractor for anything other than unpaid wages,  
8 fringe or other benefit payments or contributions, penalties  
9 assessed by the Department, interest owed, and reasonable  
10 attorney's fees.

11 (f) Claims brought pursuant to this Section shall be done  
12 so in accordance with ~~Section 11 and 11.5 of~~ this Act. Nothing  
13 in this Section shall be construed to provide a third party  
14 with the right to file a complaint with the Department  
15 alleging violation of this Section.

16 (g) The following shall be exempt from liability under  
17 this Section:

18 (1) primary contractors who are parties to a  
19 collective bargaining agreement on the project where the  
20 work is being performed; and

21 (2) primary contractors making or taking a contract in  
22 the State for the alteration or repair of an existing  
23 single-family dwelling or to a single residential unit in  
24 an existing multi-unit structure. ~~Primary contractors who~~  
25 ~~are parties to a collective bargaining agreement on the~~  
26 ~~project where the work is being performed shall be exempt~~

1 ~~from this Section.~~

2 (h) Prior to the commencement of any civil action, a  
3 claimant or a representative of a claimant shall provide  
4 written notice to the employer and to the primary contractor  
5 detailing the nature and basis for the claim. Failure of the  
6 employer or the primary contractor to resolve the claim within  
7 10 days after receipt of this notice, or during any agreed upon  
8 period extending this deadline, may result in the filing of a  
9 civil action to enforce the provisions of this Act.

10 (i) Claims brought pursuant to this Section shall be filed  
11 with the Department of Labor or filed with the circuit court  
12 within 3 years after the wages, final compensation, or wage  
13 supplements were due. This subsection does not apply to any  
14 other claims under this Act or any other applicable law  
15 against a primary contractor, subcontractor, or homeowner as  
16 an employer.

17 (Source: 10200HB5412eng.)

18 Section 99. Effective date. This Act takes effect upon  
19 becoming law or on the date House Bill 5412 of the 102nd  
20 General Assembly takes effect, whichever is later.