

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 1. Short title. This Act may be cited as the
5 Freelance Worker Protection Act.

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

7 "Construction" has the meaning set forth in Section 5 of
8 the Employee Classification Act.

9 "Department" means the Department of Labor.

10 "Director" means the Director of Labor or the Director's
11 designee.

12 "Freelance worker" means a natural person who is hired or
13 retained as an independent contractor by a contracting entity
14 to provide products or services in Illinois or for a
15 contracting entity located in Illinois in exchange for an
16 amount equal to or greater than \$500, either in a single
17 contract or when aggregated with all contracts for products or
18 services between the same contracting entity and the freelance
19 worker during the immediately preceding 120 days. "Freelance
20 worker" does not include an individual performing construction
21 services, an individual performing services as an employee
22 under Section 10 of the Employee Classification Act, or an
23 employee as defined in Section 2 of the Illinois Wage Payment

1 and Collection Act.

2 "Contracting entity" means any person who retains a
3 freelance worker to provide any service, other than:

4 (1) the United States government;

5 (2) the State of Illinois;

6 (3) a unit of local government, including school
7 districts; or

8 (4) any foreign government.

9 "Natural person" means an individual human being.

10 "Person" means any natural person, individual,
11 corporation, business enterprise or other legal entity, either
12 public or private, and any legal successor, representative,
13 agent or agency of that individual, corporation, business
14 enterprise, or legal entity.

15 Section 10. Payment of compensation for freelance workers.

16 (a) Except as otherwise provided by law, a freelance
17 worker shall be paid the contracted compensation amount on or
18 before the date the compensation is due under the terms of the
19 contract. If the contract does not specify when the hiring
20 party must pay the contracted compensation or the mechanism by
21 which the date will be determined, compensation shall be due
22 no later than 30 days after the completion of the freelance
23 worker's services under the contract.

24 (b) Once a freelance worker has commenced preparation of
25 the product or performance of the services under the contract,

1 the contracting entity shall not require as a condition of
2 timely payment that the freelance worker accept less
3 compensation than the amount of the contracted compensation.

4 Section 15. Contract for products and services of
5 freelance workers.

6 (a) Whenever a contracting entity retains a freelance
7 worker, the contract for such products or services shall be
8 reduced to writing. The contracting entity shall furnish a
9 copy of the written contract, either physically or
10 electronically, to the freelance worker.

11 (b) The written contract for the product and service of a
12 freelance worker shall include, at a minimum, the following
13 information:

14 (1) the name and contact information of both the
15 contracting entity and the freelance worker, including the
16 mailing address of the contracting entity;

17 (2) an itemization of all products and services to be
18 provided by the freelance worker, the value of the
19 products and services to be provided under the terms of
20 the contract, and the rate and method of compensation;

21 (3) the date on which the contracting entity must pay
22 the contracted compensation or the mechanism by which such
23 date will be determined, which shall be no later than 30
24 days after the products or services are provided; and

25 (4) the date by which a freelance worker must submit a

1 list of products or services rendered under such contract
2 to the contracting entity, if such a list is required in
3 order to meet any internal processing deadlines of the
4 contracting entity for the purposes of compensation being
5 timely rendered by the agreed-upon date as stipulated in
6 paragraph (3).

7 (c) The contracting entity shall retain the contract for
8 the service of a freelance worker for no less than 2 years and
9 shall make such contract available to the Department upon
10 request.

11 (d) The Department shall make available model contracts on
12 its website for use by the general public at no cost. Such
13 model contracts shall be made available in English and in the 8
14 languages most commonly spoken by limited English proficient
15 individuals in the State.

16 Section 20. Nondiscrimination. No contracting entity shall
17 threaten, intimidate, discipline, harass, deny a freelance
18 opportunity to, or take any other action that penalizes a
19 freelance worker for, or is reasonably likely to deter a
20 freelance worker from, exercising or attempting to exercise
21 any right guaranteed by this Act, or from obtaining any future
22 work opportunity because the freelance worker has done so.

23 Section 25. Complaint procedure.

24 (a) A freelance worker may file a complaint with the

1 Department alleging a violation of the Act by submitting a
2 completed form, provided by the Department, and by submitting
3 copies of all supporting documentation. The Department is
4 authorized to request or require any information the Director
5 deems relevant to the complaint or to its reporting
6 requirements under Section 50, including, but not limited to:

7 (1) the general sector or occupation of the freelance
8 worker submitting a claim under this Act;

9 (2) the county where the work by the freelance work
10 was performed, if in Illinois; and

11 (3) at the discretion of the freelance worker, the
12 demographic data of the freelance worker submitting a
13 claim under this Act.

14 (b) Complaints alleging violation of Section 10, 15, or 20
15 shall be filed within 2 years after the date the final
16 compensation was due. Complaints shall be reviewed by the
17 Department to determine whether there is cause for the
18 Department to initiate the process of facilitating the
19 exchange of information between the parties. The Department is
20 not required to initiate an information facilitation process
21 if either party to the contract has initiated a civil action in
22 a court of competent jurisdiction alleging a violation of this
23 chapter or a breach of contract arising out of the contract
24 that is the subject of the complaint filed under this Act,
25 unless such civil action has been dismissed without prejudice
26 to future claims; or either party to the contract has filed a

1 claim or complaint before any administrative agency under any
2 local, State, or federal law alleging a breach of contract
3 that is the subject of the complaint filed under this Act,
4 unless the administrative claim or complaint has been
5 withdrawn or dismissed without prejudice to future claims.
6 Failure of a contracting entity to keep adequate records or
7 provide written contract as required by this Act shall not
8 operate as a bar to a freelance worker filing a complaint.

9 (c) Each freelance worker who files a completed complaint
10 alleging a violation of this Act or a rule adopted thereunder
11 shall be provided with a written description of the
12 anticipated processing of the complaint, including
13 notification to the contracting entity and the contracting
14 entity's opportunity to respond.

15 (d) The Department shall, within 20 days of receiving a
16 complaint alleging a violation of this Act, initiate the
17 information facilitation process by sending the contracting
18 entity named in the complaint a written notice of the
19 complaint, or by notifying the freelance worker that the
20 Department lacks jurisdiction to initiate such process. When
21 the Department initiates this process, the notice of complaint
22 shall: (i) inform the contracting entity that a complaint has
23 been filed alleging a violation of this Act; (ii) detail the
24 civil remedies available to a freelance worker for violations
25 of this Act by a contracting entity; (iii) include a copy of
26 the complaint; and (iv) state that failure to respond to the

1 complaint by the deadline established in paragraph (1) of
2 subsection (e) creates a rebuttable presumption in any civil
3 action commenced in accordance with this Act that the
4 contracting entity committed the violations alleged in the
5 complaint. The Department shall send such notice by certified
6 mail.

7 (e) Response.

8 (1) Within 20 days of receiving the notice of
9 complaint, the contracting entity identified in the
10 complaint shall send the Director one of the following:

11 (A) For a complaint under Section 10, a written
12 statement that the freelance worker has been paid in
13 full and proof of such payment.

14 (B) For a complaint under Section 10, a written
15 statement that the freelance worker has not been paid
16 in full and the reasons for the failure to provide such
17 payment.

18 (C) For a complaint under Section 15 or 20, a
19 defense against the alleged violation.

20 (2) If the contracting entity identified in the
21 complaint does not respond to the notice within 20 days,
22 such failure to respond creates a rebuttable presumption
23 in any civil action commenced in accordance with this Act
24 that the contracting entity committed the violations
25 alleged in the complaint. Within 20 days of receiving a
26 written response, the Director shall send the freelance

1 worker a copy of:

2 (A) the contracting entity's response;

3 (B) any enclosures submitted with the response;

4 (C) materials informing the freelance worker about
5 the freelance worker's right to bring an action in a
6 court of competent jurisdiction; and

7 (D) any other information about the status of the
8 complaint.

9 (3) If the director receives no response to the notice
10 of complaint within the time provided by subsection (a),
11 the Director shall mail a notice of non-response to both
12 the freelance worker and the contracting entity by regular
13 mail and shall include with such notice proof that the
14 Director previously mailed the notice of complaint to the
15 contracting entity by certified mail. Upon satisfying the
16 requirements of this paragraph, the Director may close the
17 case.

18 (f) Attorney General powers.

19 (1) Whenever the Attorney General has reasonable cause
20 to believe that any person or entity is engaged in a
21 pattern and practice prohibited by this Act, the Attorney
22 General may initiate or intervene in a civil action in the
23 name of the People of the State of Illinois in any
24 appropriate court to obtain appropriate relief.

25 (2) Before initiating an action, the Attorney General
26 may conduct an investigation and may:

1 (A) require an individual or entity to file a
2 statement or report in writing under oath or
3 otherwise, as to all information the Attorney General
4 may consider necessary;

5 (B) examine under oath any person alleged to have
6 participated in or with knowledge of the alleged
7 violation; or

8 (C) issue subpoenas or conduct hearings in aid of
9 any investigation.

10 (3) Service by the Attorney General of any notice
11 requiring a person or entity to file a statement or
12 report, or of a subpoena upon any person or entity, shall
13 be made:

14 (A) personally by delivery of a duly executed copy
15 thereof to the person to be served or, if a person is
16 not a natural person, in the manner provided in the
17 Code of Civil Procedure when a complaint is filed; or

18 (B) by mailing by certified mail a duly executed
19 copy thereof to the person to be served at the person's
20 last known abode or principal place of business within
21 this State or, if a person is not a natural person, in
22 the manner provided in the Code of Civil Procedure
23 when a complaint is filed.

24 The Attorney General may compel compliance with
25 investigative demands under this Section through an order
26 by any court of competent jurisdiction.

1 (4) (A) In an action brought under this Act, the
2 Attorney General may obtain, as a remedy, monetary damages
3 to the State, restitution, and equitable relief, including
4 any permanent or preliminary injunction, temporary
5 restraining order, or other order, including an order
6 enjoining the defendant from engaging in a violation, or
7 order any action as may be appropriate. In addition, the
8 Attorney General may request and the court may impose a
9 civil penalty not to exceed \$5,000 for each violation or
10 \$10,000 for each repeat violation within a 5-year period.
11 For purposes of this Section, each violation of this Act
12 for each person who was subject to an agreement in
13 violation of this Act shall constitute a separate and
14 distinct violation.

15 (B) A civil penalty imposed under this subsection
16 shall be deposited into the Attorney General Court Ordered
17 and Voluntary Compliance Payment Projects Fund. Moneys in
18 the Fund shall be used, subject to appropriation, for the
19 performance of any function pertaining to the exercise of
20 the duties of the Attorney General, including, but not
21 limited to, enforcement of any law of this State and
22 conducting public education programs; however, any moneys
23 in the Fund that are required by the court or by an
24 agreement to be used for a particular purpose shall be
25 used for that purpose.

26 (g) Nothing in this Act shall be construed to prevent any

1 freelance worker from making complaint or prosecuting his or
2 her own claim for compensation. Any freelance worker aggrieved
3 by a violation of this Act or any rule adopted under this Act
4 may file suit in circuit court of Illinois, in the county where
5 the alleged violation occurred or where any freelance worker
6 who is party to the action resides, without regard to
7 exhaustion of any alternative administrative remedies provided
8 in this Act. Actions may be brought by one or more freelance
9 workers for and on behalf of themselves and other freelance
10 workers similarly situated.

11 (h) Nothing in this Act shall be construed to limit the
12 authority of the State's Attorney of any county to prosecute
13 actions for violation of this Act or to enforce the provisions
14 thereof independently and without specific direction of the
15 Department.

16 Section 30. Civil enforcement.

17 (a) Any freelance worker not timely paid final
18 compensation by a contracting entity as required by Section 10
19 shall be entitled to recover through civil action double the
20 amount of any such underpayments, injunctive relief, and other
21 such remedies as may be appropriate. In a civil action for
22 violation of Section 10, such freelance worker shall also be
23 entitled to recover costs and all reasonable attorney's fees.
24 A civil complaint alleging violation of Section 10 shall be
25 filed within 2 years after the date the final compensation was

1 due.

2 (b) Any freelance worker who was retained in violation of
3 paragraphs (a) or (b) of Section 15 despite the freelance
4 worker's request for a written contract prior to commencing
5 the contracted work as required by Section 15 shall be
6 entitled to recover through a civil action statutory damages
7 of \$500. A freelance worker who prevails on a claim alleging
8 violation of Section 15 and on one or more claims under other
9 Sections shall be awarded statutory damages equal to the value
10 of the underlying contract or \$500, whichever is greater, in
11 addition to the other remedies provided. Civil complaints
12 alleging violation of Section 15 shall be filed within 2 years
13 after the date the final compensation was due.

14 (c) Any freelance worker who is threatened, intimidated,
15 disciplined, harassed, denied a freelance opportunity, or
16 penalized by a contracting entity in violation of Section 20
17 shall be entitled to recover through a civil action statutory
18 damages equal to the value of the underlying contract for each
19 violation of Section 20. In a civil action for violation of
20 Section 20, such freelance worker shall also recover costs and
21 all reasonable attorney's fees.

22 Section 35. Public policy and intent.

23 (a) The provisions of this Act shall apply only to
24 contracts taking effect after the effective date of this Act.

25 (b) Except as otherwise provided by law, any provision of

1 a contract purporting to waive rights under this Act is void as
2 against public policy.

3 (c) The provisions of this Act are intended to supplement,
4 and do not diminish or replace, any other basis of liability,
5 remedy, or requirement established by statute or common law.

6 (d) Failure to comply with this Section does not render
7 any contract between a contracting entity and a freelance
8 worker void in total, voidable, or otherwise impair any
9 obligation, claim, or right related to the contract, nor does
10 it constitute a defense to any action or proceeding to
11 enforce, or for breach of, such contract.

12 (e) No provision of this Act relating to freelance workers
13 shall be construed as providing a determination about the
14 legal classification of any such worker as an employee or
15 independent contractor.

16 Section 40. Public awareness. Subject to appropriation,
17 the Department may conduct a public awareness campaign
18 regarding this Act that, at a minimum, includes making
19 information available on its website, otherwise informing
20 contracting entities of the provisions of this Act, and
21 establishing a means for assistance by a natural person
22 through phone or email.

23 Section 45. Reports. One year after the effective date of
24 this Act, and by November 1 every 5 years thereafter, the

1 Department shall submit to the General Assembly and publish on
2 its website a report regarding freelance contracting and
3 payment practices. The report shall include, but is not
4 limited to:

5 (1) the number of complaints received by the
6 Department under this Act;

7 (2) the value of the contracts disaggregated into
8 ranges of \$500 and by the Section of this Act the
9 associated contracting entity is alleged to have violated;

10 (3) the numbers of responses and non-responses
11 received from contracting entities by the Department
12 disaggregated by contract value into ranges of \$500 and by
13 the Section of this Act the associated contracting entity
14 is alleged to have violated;

15 (4) the general sector or occupation of the freelance
16 workers submitting claims in accordance with this Act;

17 (5) the counties where violations of this Act are
18 alleged to have occurred, if in Illinois, including the
19 number of violations from each county, identified by the
20 county where the work was performed;

21 (6) to the extent available, demographic data of the
22 freelance workers who have alleged violations of this Act;
23 and

24 (7) legislative recommendations as the Director deems
25 appropriate, which may include consideration of whether
26 certain occupations should be exempted from the scope of

1 the definition of freelance worker.

2 Section 50. Coordination. The Department is authorized to
3 coordinate efforts under this Act with other agencies and
4 combine complaints under this Act with claims under other
5 Acts.

6 Section 55. Rulemaking. The Director, or the Director's
7 authorized representatives, shall administer the provisions of
8 this Act. In order to accomplish the objectives of this Act and
9 to carry out the duties prescribed by this Act, the Director,
10 or the Director's authorized representative, may adopt rules
11 necessary to administer and enforce the provisions of this
12 Act.

13 Section 99. Effective date. This Act takes effect July 1,
14 2024.