



Rep. Will Guzzardi

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10300HB1122ham001

LRB103 04895 SPS 57336 a

1 AMENDMENT TO HOUSE BILL 1122

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 1122 by replacing  
3 everything after the enacting clause with the following:

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 "Department" means the Department of Labor.

8 "Director" means the Director of Labor, or his or her  
9 designee.

10 "Freelance worker" means a natural person who is hired or  
11 retained as an independent contractor by a hiring party to  
12 provide products or services in Illinois or for a hiring party  
13 located in Illinois in exchange for an amount equal to or  
14 greater than \$500, either by itself or when aggregated with  
15 all contracts for products or services between the same hiring  
16 party and the freelance worker during the immediately

1 preceding 120 days. "Freelance worker" does not include an  
2 individual performing services as an employee under Section 10  
3 of the Employee Classification Act or an employee as defined  
4 in Section 2 of the Wage Payment and Collection Act.

5 "Hiring party" means any person who retains a freelance  
6 worker to provide any service, other than:

- 7 (1) the United States government;
- 8 (2) the State of Illinois;
- 9 (3) a unit of local government; or
- 10 (4) any foreign government.

11 "Natural person" means an individual human being.

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

17 Section 10. Payment of compensation for freelance workers.

18 (a) Except as otherwise provided by law, a freelance  
19 worker shall be paid the contracted compensation amount no  
20 later than 30 days after the freelance worker provides the  
21 product or completes the services under the contract.

22 (b) Once a freelance worker has commenced preparation of  
23 the product or performance of the services under the contract,  
24 the hiring party shall not require as a condition of timely  
25 payment that the freelance worker accept less compensation

1 than the amount of the contracted compensation.

2 Section 15. Contract for products and services of  
3 freelance workers.

4 (a) Whenever a hiring party retains a freelance worker,  
5 the contract for such products or services shall be reduced to  
6 writing and signed by the freelance worker and the hiring  
7 party. The hiring party shall furnish a copy of the written  
8 contract, either physically or electronically, to the  
9 freelance worker and each party to the written contract shall  
10 retain a copy thereof.

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 mailing address of both the hiring  
15 party and the freelance worker;

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

20 (3) the date on which the hiring party must pay the  
21 contracted compensation or the mechanism by which such  
22 date will be determined; and

23 (4) the date by which a freelance worker must submit a  
24 list of products or services rendered under such contract  
25 to the hiring party in order to meet any internal

1 processing deadlines of the hiring party for the purposes  
2 of compensation being timely render by the agreed-upon  
3 date as stipulated in paragraph (3).

4 (c) The Department may adopt rules as necessary to enforce  
5 this Act, including, but not limited to, requiring additional  
6 terms to ensure that the freelance worker and the hiring party  
7 understand their obligations under the contract.

8 (d) The hiring party shall retain the contract for the  
9 service of a freelance worker for no less than 6 years and  
10 shall make such contract available to the Department upon  
11 request. The failure of the hiring party to produce such  
12 contract within 5 business days upon the request of the  
13 Department shall give rise to a presumption that the terms the  
14 freelance worker has presented are the agreed upon terms.

15 (e) The Department shall make available model contracts on  
16 its website for use by the general public at no cost. Such  
17 model contracts shall be made available in English and in the 8  
18 languages most commonly spoken by limited English proficient  
19 individuals in the State.

20 Section 20. Nondiscrimination. No hiring party shall  
21 threaten, intimidate, discipline, harass, deny a freelance  
22 opportunity to, or take any other action that penalizes a  
23 freelance worker for, or is reasonably likely to deter a  
24 freelance worker from, exercising or attempting to exercise  
25 any right guaranteed by this Act, or from obtaining any future

1 work opportunity because the freelance worker has done so.

2 Section 25. Enforcement.

3 (a) It shall be the duty of the Department to inquire  
4 diligently for any violations of this Act, and to institute  
5 the actions for penalties provided by this Act, and to enforce  
6 generally the provisions of this Act.

7 (b) A freelance worker may file a complaint with the  
8 Department alleging violations of the Act by submitting a  
9 signed, completed compensation claim application on the form  
10 provided by the Department and by submitting copies of all  
11 supporting documentation. The form provided by the Department  
12 shall include requests for information to facilitate its  
13 report making requirements under Section 50, including, (1)  
14 the general sector or occupation of the freelance worker  
15 submitting a claim under this Act, (2) the county where the  
16 work by the freelance worker was performed, and (3) the  
17 demographic data of the freelance worker submitting a claim  
18 under this Act, to be provided by the freelance worker on a  
19 voluntary basis. Complaints alleging violation of Section 15  
20 shall be filed within 2 years after the date the final  
21 compensation was due. Complaints alleging violation of Section  
22 10 shall be filed within 3 years after the date the final  
23 compensation was due. Applications shall be reviewed by the  
24 Department to determine whether there is cause for  
25 investigation. Failure of a hiring party to keep adequate

1 records or provide written contract as required by this Act  
2 shall not operate as a bar to a freelance worker filing a  
3 complaint. The Department shall keep the names of freelance  
4 workers who are the subject of an investigation confidential  
5 until such time that disclosure is necessary for resolution of  
6 an investigation or complaint.

7 (c) Each freelance worker who files a completed  
8 compensation claim application alleging a violation of this  
9 Act or a rule adopted thereunder shall be provided with a  
10 written description of the anticipated processing of the  
11 complaint, including investigation, case conference, potential  
12 civil and criminal penalties, and collection procedures. Each  
13 freelance worker and his or her authorized representative  
14 shall be notified in writing of any case conference before it  
15 is held and given the opportunity to attend. Each freelance  
16 worker and his or her authorized representative shall be  
17 notified in writing of any award and collection of civil  
18 penalties.

19 (d) The Department shall have the power to investigate and  
20 attempt equitably to adjust controversies between freelance  
21 workers and hiring entities in respect of compensation claims  
22 arising under this Act and to that end the Department through  
23 the Director or any other person in the Department designated  
24 by him or her, shall have the power to administer oaths,  
25 subpoena and examine witnesses, to issue subpoenas duces tecum  
26 requiring the production of such books, papers, records and

1 documents as may be evidence of any matter under inquiry and to  
2 examine and inspect the same as may relate to the question in  
3 dispute. Service of such subpoenas shall be made by any  
4 sheriff or any person. Any court in this State, upon the  
5 application of the Department may compel attendance of  
6 witnesses, the production of books and papers, and the giving  
7 of testimony before the Department by attachment for contempt  
8 or in any other way as the production of evidence may be  
9 compelled before such court. The Department may initiate a  
10 mediation conference.

11 (e) Where reasonable cause exists to believe that a hiring  
12 party is engaged in a pattern or practice of violations of this  
13 Act, the Attorney General may commence a civil action on  
14 behalf of the State in a court of competent jurisdiction. The  
15 Attorney General may receive injunctive relief, civil  
16 penalties, and any other relief deemed appropriate by the  
17 court.

18 (f) Nothing in this Act shall be construed to prevent any  
19 freelance worker from making complaint or prosecuting his or  
20 her own claim for compensation. Any freelance worker aggrieved  
21 by a violation of this Act or any rule adopted under this Act  
22 may file suit in circuit court of Illinois, in the county where  
23 the alleged violation occurred or where any freelance worker  
24 who is party to the action resides, without regard to  
25 exhaustion of any alternative administrative remedies provided  
26 in this Act. Actions may be brought by one or more freelance

1 workers for and on behalf of themselves and other freelance  
2 workers similarly situated.

3 (g) Nothing in this Act shall be construed to limit the  
4 authority of the State's attorney of any county to prosecute  
5 actions for violation of this Act or to enforce the provisions  
6 thereof independently and without specific direction of the  
7 Department.

8 Section 30. Civil enforcement.

9 (a) Any freelance worker not timely paid final  
10 compensation by a hiring party as required by Section 10 shall  
11 be entitled to recover through a claim filed with the  
12 Department or in a civil action, but not both, double the  
13 amount of any such underpayments, injunctive relief, and other  
14 such remedies as may be appropriate. In a civil action for  
15 violation of Section 10, such freelance worker shall also  
16 recover costs and all reasonable attorney's fees. Civil  
17 complaints alleging violation of Section 10 shall be filed  
18 within 3 years after the date the final compensation was due.

19 (b) Any freelance worker who was retained in violation of  
20 Section 15 despite the freelance worker's request for a  
21 written contract prior to commencing the contracted work as  
22 required by Section 15 shall be entitled to recover through a  
23 claim filed with the Department or in a civil action, but not  
24 both, statutory damages of \$500. However, a freelance worker  
25 who prevails on a claim alleging violation of Section 15 and on



1 one or more claims under other Sections shall be awarded  
2 statutory damages equal to the value of the underlying  
3 contract or \$500, whichever is greater, in addition to the  
4 other remedies provided. Civil complaints alleging violation  
5 of Section 15 shall be filed within 2 year after the date the  
6 final compensation was due.

7 (c) Any freelance worker who is threatened, intimidated,  
8 disciplined, harassed, denied a freelance opportunity, or  
9 penalized by a hiring party in violation of Section 20 of this  
10 Act shall be entitled to recover through a claim filed with the  
11 Department or in a civil action, but not both, statutory  
12 damages equal to the value of the underlying contract for each  
13 violation of Section 20. In a civil action for violation of  
14 Section 20, such freelance worker shall also recover costs and  
15 all reasonable attorney's fees.

16 Section 35. Criminal penalties. In addition to the other  
17 remedies provided in this Act, any hiring party or any agent of  
18 a hiring party, who, being able to pay final compensation and  
19 being under a duty to pay, wilfully refuses to pay as provided  
20 in this Act, or falsely denies the amount or validity thereof  
21 or that the same is due, with intent to secure for the hiring  
22 party or other person any underpayment of such indebtedness or  
23 with intent to annoy, harass, oppress, hinder, delay, or  
24 defraud the freelance worker to whom such indebtedness is due,  
25 upon conviction, is guilty of:

1           (1) for unpaid final compensation in the amount of  
2           \$5,000 or less, a Class B misdemeanor; or

3           (2) for unpaid final compensation in the amount of  
4           more than \$5,000, a Class A misdemeanor.

5           Each day during which any violation of this Act continues  
6           shall constitute a separate and distinct offense.

7           Any hiring party or any agent of a hiring party who  
8           violates this Act a subsequent time within 2 years of a prior  
9           criminal conviction under this Section is guilty, upon  
10          conviction, of a Class 4 felony.

11          Section 40. Public policy and intent.

12          (a) Except as otherwise provided by law, any provision of  
13          a contract purporting to waive rights under this Act is void as  
14          against public policy.

15          (b) The provisions of this Act are intended to supplement,  
16          and do not diminish or replace, any other basis of liability,  
17          remedy, or requirement established by statute or common law.

18          (c) Failure to comply with this Section does not render  
19          any contract between a hiring party and a freelance worker  
20          void in total, voidable, or otherwise impair any obligation,  
21          claim, or right related to the contract, nor does it  
22          constitute a defense to any action or proceeding to enforce,  
23          or for breach of, such contract.

24          (d) No provision of this Act relating to freelance workers  
25          shall be construed as providing a determination about the

1 legal classification of any such worker as an employee or  
2 independent contractor.

3 Section 45. Public awareness. Subject to appropriation,  
4 the Department may conduct a public awareness campaign, that  
5 shall include making information available on its website,  
6 otherwise informing hiring parties of the provisions of this  
7 Act, and establishing a means for assistance by a natural  
8 person through phone or email.

9 Section 50. Reports. One year after the effective date of  
10 this Act, and by November 1 every 5 years thereafter, the  
11 Department shall submit to the General Assembly and publish on  
12 its website a report regarding the effectiveness of this Act  
13 at improving freelance contracting and payment practices. The  
14 report shall include, but is not limited to:

15 (1) the number of complaints received;

16 (2) the value of the contracts disaggregated into  
17 ranges of \$500 and by the Section of this Act the  
18 associated hiring party is alleged to have violated;

19 (3) the numbers of responses and non-responses  
20 received by the Department disaggregated by contract value  
21 into ranges of \$500 and by the Section of this Act the  
22 associated hiring party is alleged to have violated;

23 (d) the number of freelance workers that pursue their  
24 claims of violation of this Act through civil action or an

1 alternative dispute resolution process, and a summary of  
2 the outcomes, if known;

3 (4) the general sector or occupation of the freelance  
4 workers submitting claims pursuant to this Act;

5 (5) the counties where violations of this Act are  
6 alleged to have occurred, including the number of  
7 violations from each county;

8 (6) to the extent available, demographic data of the  
9 freelance workers who allege violations of this Act; and

10 (7) legislative recommendations, including  
11 consideration of whether certain occupations should be  
12 exempted from the scope of the definition of freelance  
13 worker.

14 Section 55. Coordination.

15 (a) The Department is authorized to coordinate enforcement  
16 efforts with other agencies and combine claims under this Act  
17 with claims under other Acts.

18 (b) The Department is authorized to enter into agreements  
19 with other states to collect unpaid compensation from  
20 out-of-state hiring entities and to perform reciprocal  
21 services for such states in the State of Illinois.

22 Section 60. Rulemaking. The Director, or his authorized  
23 representatives, shall administer and enforce the provisions  
24 of this Act. In order to accomplish the objectives of this Act

1 and to carry out the duties prescribed by this Act, the  
2 Director, or his authorized representative, shall adopt rules  
3 necessary to administer and enforce the provisions of this  
4 Act, including the procedures that shall be followed for  
5 hearings under Section 25. The adoption, amendment, or  
6 rescission of rules shall be in conformity with the  
7 requirements of the Illinois Administrative Procedure Act.

8 Section 99. Effective date. This Act takes effect July 1,  
9 2024."