



Rep. Will Guzzardi

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10300HB1122ham003

LRB103 04895 SPS 59346 a

1 AMENDMENT TO HOUSE BILL 1122

2 AMENDMENT NO. _____. Amend House Bill 1122, AS AMENDED,
3 by replacing everything after the enacting clause with the
4 following:

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

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

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

10 "Department" means the Department of Labor.

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

13 "Freelance worker" means a natural person who is hired or
14 retained as an independent contractor by a contracting entity
15 to provide products or services in Illinois or for a
16 contracting entity located in Illinois in exchange for an

1 amount equal to or greater than \$500, either in a single
2 contract or when aggregated with all contracts for products or
3 services between the same contracting entity and the freelance
4 worker during the immediately preceding 120 days. "Freelance
5 worker" does not include an individual performing construction
6 services, an individual performing services as an employee
7 under Section 10 of the Employee Classification Act, or an
8 employee as defined in Section 2 of the Illinois Wage Payment
9 and Collection Act.

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

12 (1) the United States government;

13 (2) the State of Illinois;

14 (3) a unit of local government, including school
15 districts; or

16 (4) any foreign government.

17 "Natural person" means an individual human being.

18 "Person" means any natural person, individual,
19 corporation, business enterprise or other legal entity, either
20 public or private, and any legal successor, representative,
21 agent or agency of that individual, corporation, business
22 enterprise, or legal entity.

23 Section 10. Payment of compensation for freelance workers.

24 (a) Except as otherwise provided by law, a freelance
25 worker shall be paid the contracted compensation amount on or

1 before the date the compensation is due under the terms of the
2 contract. If the contract does not specify when the hiring
3 party must pay the contracted compensation or the mechanism by
4 which the date will be determined, compensation shall be due
5 no later than 30 days after the completion of the freelance
6 worker's services under the contract.

7 (b) Once a freelance worker has commenced preparation of
8 the product or performance of the services under the contract,
9 the contracting entity shall not require as a condition of
10 timely payment that the freelance worker accept less
11 compensation than the amount of the contracted compensation.

12 Section 15. Contract for products and services of
13 freelance workers.

14 (a) Whenever a contracting entity retains a freelance
15 worker, the contract for such products or services shall be
16 reduced to writing. The contracting entity shall furnish a
17 copy of the written contract, either physically or
18 electronically, to the freelance worker.

19 (b) The written contract for the product and service of a
20 freelance worker shall include, at a minimum, the following
21 information:

22 (1) the name and contact information of both the
23 contracting entity and the freelance worker, including the
24 mailing address of the contracting entity;

25 (2) an itemization of all products and services to be

1 provided by the freelance worker, the value of the
2 products and services to be provided under the terms of
3 the contract, and the rate and method of compensation;

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

8 (4) the date by which a freelance worker must submit a
9 list of products or services rendered under such contract
10 to the contracting entity, if such a list is required in
11 order to meet any internal processing deadlines of the
12 contracting entity for the purposes of compensation being
13 timely rendered by the agreed-upon date as stipulated in
14 paragraph (3).

15 (c) The contracting entity shall retain the contract for
16 the service of a freelance worker for no less than 2 years and
17 shall make such contract available to the Department upon
18 request.

19 (d) The Department shall make available model contracts on
20 its website for use by the general public at no cost. Such
21 model contracts shall be made available in English and in the 8
22 languages most commonly spoken by limited English proficient
23 individuals in the State.

24 Section 20. Nondiscrimination. No contracting entity shall
25 threaten, intimidate, discipline, harass, deny a freelance

1 opportunity to, or take any other action that penalizes a
2 freelance worker for, or is reasonably likely to deter a
3 freelance worker from, exercising or attempting to exercise
4 any right guaranteed by this Act, or from obtaining any future
5 work opportunity because the freelance worker has done so.

6 Section 25. Complaint procedure.

7 (a) A freelance worker may file a complaint with the
8 Department alleging a violation of the Act by submitting a
9 completed form, provided by the Department, and by submitting
10 copies of all supporting documentation. The Department is
11 authorized to request or require any information the Director
12 deems relevant to the complaint or to its reporting
13 requirements under Section 50, including, but not limited to:

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

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

18 (3) at the discretion of the freelance worker, the
19 demographic data of the freelance worker submitting a
20 claim under this Act.

21 (b) Complaints alleging violation of Section 10, 15, or 20
22 shall be filed within 2 years after the date the final
23 compensation was due. Complaints shall be reviewed by the
24 Department to determine whether there is cause for the
25 Department to initiate the process of facilitating the

1 exchange of information between the parties. The Department is
2 not required to initiate an information facilitation process
3 if either party to the contract has initiated a civil action in
4 a court of competent jurisdiction alleging a violation of this
5 chapter or a breach of contract arising out of the contract
6 that is the subject of the complaint filed under this Act,
7 unless such civil action has been dismissed without prejudice
8 to future claims; or either party to the contract has filed a
9 claim or complaint before any administrative agency under any
10 local, State, or federal law alleging a breach of contract
11 that is the subject of the complaint filed under this Act,
12 unless the administrative claim or complaint has been
13 withdrawn or dismissed without prejudice to future claims.
14 Failure of a contracting entity to keep adequate records or
15 provide written contract as required by this Act shall not
16 operate as a bar to a freelance worker filing a complaint.

17 (c) Each freelance worker who files a completed complaint
18 alleging a violation of this Act or a rule adopted thereunder
19 shall be provided with a written description of the
20 anticipated processing of the complaint, including
21 notification to the contracting entity and the contracting
22 entity's opportunity to respond.

23 (d) The Department shall, within 20 days of receiving a
24 complaint alleging a violation of this Act, initiate the
25 information facilitation process by sending the contracting
26 entity named in the complaint a written notice of the

1 complaint, or by notifying the freelance worker that the
2 Department lacks jurisdiction to initiate such process. When
3 the Department initiates this process, the notice of complaint
4 shall: (i) inform the contracting entity that a complaint has
5 been filed alleging a violation of this Act; (ii) detail the
6 civil remedies available to a freelance worker for violations
7 of this Act by a contracting entity; (iii) include a copy of
8 the complaint; and (iv) state that failure to respond to the
9 complaint by the deadline established in paragraph (1) of
10 subsection (e) creates a rebuttable presumption in any civil
11 action commenced in accordance with this Act that the
12 contracting entity committed the violations alleged in the
13 complaint. The Department shall send such notice by certified
14 mail.

15 (e) Response.

16 (1) Within 20 days of receiving the notice of
17 complaint, the contracting entity identified in the
18 complaint shall send the Director one of the following:

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

22 (B) For a complaint under Section 10, a written
23 statement that the freelance worker has not been paid
24 in full and the reasons for the failure to provide such
25 payment.

26 (C) For a complaint under Section 15 or 20, a

1 defense against the alleged violation.

2 (2) If the contracting entity identified in the
3 complaint does not respond to the notice within 20 days,
4 such failure to respond creates a rebuttable presumption
5 in any civil action commenced in accordance with this Act
6 that the contracting entity committed the violations
7 alleged in the complaint. Within 20 days of receiving a
8 written response, the Director shall send the freelance
9 worker a copy of:

10 (A) the contracting entity's response;

11 (B) any enclosures submitted with the response;

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

15 (D) any other information about the status of the
16 complaint.

17 (3) If the director receives no response to the notice
18 of complaint within the time provided by subsection (a),
19 the Director shall mail a notice of non-response to both
20 the freelance worker and the contracting entity by regular
21 mail and shall include with such notice proof that the
22 Director previously mailed the notice of complaint to the
23 contracting entity by certified mail. Upon satisfying the
24 requirements of this paragraph, the Director may close the
25 case.

26 (f) Attorney General powers.

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

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

9 (A) require an individual or entity to file a
10 statement or report in writing under oath or
11 otherwise, as to all information the Attorney General
12 may consider necessary;

13 (B) examine under oath any person alleged to have
14 participated in or with knowledge of the alleged
15 violation; or

16 (C) issue subpoenas or conduct hearings in aid of
17 any investigation.

18 (3) Service by the Attorney General of any notice
19 requiring a person or entity to file a statement or
20 report, or of a subpoena upon any person or entity, shall
21 be made:

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

26 (B) by mailing by certified mail a duly executed

1 copy thereof to the person to be served at the person's
2 last known abode or principal place of business within
3 this State or, if a person is not a natural person, in
4 the manner provided in the Code of Civil Procedure
5 when a complaint is filed.

6 The Attorney General may compel compliance with
7 investigative demands under this Section through an order
8 by any court of competent jurisdiction.

9 (4) (A) In an action brought under this Act, the
10 Attorney General may obtain, as a remedy, monetary damages
11 to the State, restitution, and equitable relief, including
12 any permanent or preliminary injunction, temporary
13 restraining order, or other order, including an order
14 enjoining the defendant from engaging in a violation, or
15 order any action as may be appropriate. In addition, the
16 Attorney General may request and the court may impose a
17 civil penalty not to exceed \$5,000 for each violation or
18 \$10,000 for each repeat violation within a 5-year period.
19 For purposes of this Section, each violation of this Act
20 for each person who was subject to an agreement in
21 violation of this Act shall constitute a separate and
22 distinct violation.

23 (B) A civil penalty imposed under this subsection
24 shall be deposited into the Attorney General Court Ordered
25 and Voluntary Compliance Payment Projects Fund. Moneys in
26 the Fund shall be used, subject to appropriation, for the

1 performance of any function pertaining to the exercise of
2 the duties of the Attorney General, including, but not
3 limited to, enforcement of any law of this State and
4 conducting public education programs; however, any moneys
5 in the Fund that are required by the court or by an
6 agreement to be used for a particular purpose shall be
7 used for that purpose.

8 (g) Nothing in this Act shall be construed to prevent any
9 freelance worker from making complaint or prosecuting his or
10 her own claim for compensation. Any freelance worker aggrieved
11 by a violation of this Act or any rule adopted under this Act
12 may file suit in circuit court of Illinois, in the county where
13 the alleged violation occurred or where any freelance worker
14 who is party to the action resides, without regard to
15 exhaustion of any alternative administrative remedies provided
16 in this Act. Actions may be brought by one or more freelance
17 workers for and on behalf of themselves and other freelance
18 workers similarly situated.

19 (h) Nothing in this Act shall be construed to limit the
20 authority of the State's Attorney of any county to prosecute
21 actions for violation of this Act or to enforce the provisions
22 thereof independently and without specific direction of the
23 Department.

24 Section 30. Civil enforcement.

25 (a) Any freelance worker not timely paid final

1 compensation by a contracting entity as required by Section 10
2 shall be entitled to recover through civil action double the
3 amount of any such underpayments, injunctive relief, and other
4 such remedies as may be appropriate. In a civil action for
5 violation of Section 10, such freelance worker shall also be
6 entitled to recover costs and all reasonable attorney's fees.
7 A civil complaint alleging violation of Section 10 shall be
8 filed within 2 years after the date the final compensation was
9 due.

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

22 (c) Any freelance worker who is threatened, intimidated,
23 disciplined, harassed, denied a freelance opportunity, or
24 penalized by a contracting entity in violation of Section 20
25 shall be entitled to recover through a civil action statutory
26 damages equal to the value of the underlying contract for each

1 violation of Section 20. In a civil action for violation of
2 Section 20, such freelance worker shall also recover costs and
3 all reasonable attorney's fees.

4 Section 35. Public policy and intent.

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

7 (b) Except as otherwise provided by law, any provision of
8 a contract purporting to waive rights under this Act is void as
9 against public policy.

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

13 (d) Failure to comply with this Section does not render
14 any contract between a contracting entity and a freelance
15 worker void in total, voidable, or otherwise impair any
16 obligation, claim, or right related to the contract, nor does
17 it constitute a defense to any action or proceeding to
18 enforce, or for breach of, such contract.

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

23 Section 40. Public awareness. Subject to appropriation,
24 the Department may conduct a public awareness campaign

1 regarding this Act that, at a minimum, includes making
2 information available on its website, otherwise informing
3 contracting entities of the provisions of this Act, and
4 establishing a means for assistance by a natural person
5 through phone or email.

6 Section 45. Reports. One year after the effective date of
7 this Act, and by November 1 every 5 years thereafter, the
8 Department shall submit to the General Assembly and publish on
9 its website a report regarding freelance contracting and
10 payment practices. The report shall include, but is not
11 limited to:

12 (1) the number of complaints received by the
13 Department under this Act;

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

17 (3) the numbers of responses and non-responses
18 received from contracting entities by the Department
19 disaggregated by contract value into ranges of \$500 and by
20 the Section of this Act the associated contracting entity
21 is alleged to have violated;

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

24 (5) the counties where violations of this Act are
25 alleged to have occurred, if in Illinois, including the

1 number of violations from each county, identified by the
2 county where the work was performed;

3 (6) to the extent available, demographic data of the
4 freelance workers who have alleged violations of this Act;
5 and

6 (7) legislative recommendations as the Director deems
7 appropriate, which may include consideration of whether
8 certain occupations should be exempted from the scope of
9 the definition of freelance worker.

10 Section 50. Coordination. The Department is authorized to
11 coordinate efforts under this Act with other agencies and
12 combine complaints under this Act with claims under other
13 Acts.

14 Section 55. Rulemaking. The Director, or the Director's
15 authorized representatives, shall administer the provisions of
16 this Act. In order to accomplish the objectives of this Act and
17 to carry out the duties prescribed by this Act, the Director,
18 or the Director's authorized representative, may adopt rules
19 necessary to administer and enforce the provisions of this
20 Act.

21 Section 99. Effective date. This Act takes effect July 1,
22 2024."