



Sen. James A. DeLeo

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09300HB4241sam003

LRB093 20358 RXD 50704 a

1 AMENDMENT TO HOUSE BILL 4241

2 AMENDMENT NO. _____. Amend House Bill 4241, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 1. Short title. This Act may be cited as the
6 Displaced Building Service Workers Protection Act.

7 Section 5. Definitions. In this Act:

8 "Building service" means work performed in connection with
9 the care or maintenance of an existing building and includes,
10 but is not limited to, work performed by a watchman, security
11 officer, door staff, building cleaner, maintenance technician,
12 handyman, janitor, elevator operator, window cleaner, building
13 engineer and groundskeeper.

14 "Building service contract" means a contract let to any
15 covered employer for the furnishing of building services and
16 includes any subcontract for such services.

17 "Building service contractor" means any person who enters
18 into a building service contract.

19 "Building service employee" means any person employed as a
20 building service employee by a covered employer who has been
21 regularly assigned to a building on a full or part-time basis
22 for at least 25 working days immediately preceding any
23 transition in employment subject to this Section except for (i)
24 persons who are managerial, supervisory, or confidential

1 employees, provided that this exemption shall not apply to
2 building engineers for existing properties, (ii) persons
3 earning in excess of \$25 per hour from a covered employer, and
4 (iii) persons regularly scheduled to work fewer than 6 hours
5 per week at a building.

6 "State of Illinois" means any city, township,
7 administration, department, division, bureau, board or
8 commission, or a corporation, institution, or agency of
9 government, the expenses of which are paid in whole or in part
10 from the State treasury.

11 "Covered employer" means any person who owns or manages
12 real property, either on its own behalf or for another person,
13 or any person who contracts or subcontracts with an owner or
14 manager of real property within the State of Illinois for real
15 estate, including, but not limited to, housing cooperatives,
16 condominium associations, building managing agents, and any
17 building service contractor provided, however, that the
18 requirements of this Act shall not apply to (i) residential
19 buildings under 50 units, (ii) commercial office,
20 institutional, or retail buildings of less than 75,000 square
21 feet or retail stores or distribution centers, or manufacturing
22 and assembly or warehousing and logistic facilities, or
23 churches, synagogues, mosques, or places of worship, or
24 elementary or secondary schools, (iii) any building in which
25 the State of Illinois or any governmental entity, the head or
26 majority of members of which are appointed by one or more
27 officers of the State of Illinois, occupies 50% or more of the
28 rentable square footage, (iv) any building that is owned or
29 operated by a hospital or hospital affiliate as defined in the
30 Hospital Licensing Act, or (v) any building that is owned or
31 operated by a public utility, public utility affiliate, or
32 telecommunications carrier as defined in the Public Utilities
33 Act or independent electric generators.

34 "Person" means any individual, proprietorship,

1 partnership, joint venture, corporation, limited liability
2 company, trust, association, or other entity that may employ
3 persons or enter into service contracts, but shall not include
4 the City of Chicago, the State of Illinois, and the federal
5 government or any other entity, or any individual or entity
6 managing real property for a governmental entity.

7 "Successor employer" means a covered employer that (i) has
8 been awarded a building service contract to provide, in whole
9 or in part, building services that are substantially similar to
10 those provided under a service contract that has recently been
11 terminated, or (ii) has purchased or acquired control of
12 property in which building service employees were employed.

13 Section 10. Protection for building service employees.

14 (a) No less than 15 calendar days before terminating any
15 building service contract, any covered employer shall request
16 the terminated contractor to provide the successor employer and
17 any collective bargaining representative of any of the affected
18 employees a full and accurate list containing the name,
19 address, date of hire, and employment occupation
20 classification of each building service employee employed on
21 the notice date at the site or sites covered by the terminated
22 contract.

23 (b) No less than 15 calendar days before transferring a
24 controlling interest in any covered building in which building
25 service employees are employed, any covered employer shall
26 provide to the successor employer and any collective bargaining
27 representative of any of the affected employees a full and
28 accurate list containing the name, address, date of hire, and
29 employment occupation classification of each building service
30 employee currently employed at the site or sites covered by the
31 transfer of controlling interest.

32 (c) Any covered employer shall provide to the successor
33 employer and any collective bargaining representative of any of

1 the affected employees a full and accurate list containing the
2 name, address, date of hire, and employment occupation
3 classification of each building service employee currently
4 employed at the site or sites covered by the terminated
5 building service contract no more than 7 calendar days after
6 notice that its building service contract has been terminated.

7 (d) When providing the notice required under this Section,
8 each covered employer shall ensure that a notice to building
9 service employees is posted setting forth the rights provided
10 under this Section and which includes a copy of the list
11 provided under the proceeding Sections, and that such notice is
12 also provided to the employees' collective bargaining
13 representative, if any. The notice and list shall be posted in
14 the same location and manner that other statutorily required
15 notices to employees are posted at the affected site or sites.

16 (e) A successor employer shall retain for a transition
17 employment period of 25 working days at the affected site or
18 sites those building service employees of the terminated
19 building service contractor and its subcontractors, or other
20 covered employer, employed at the site or sites covered by the
21 terminated building service contract or owned or operated by
22 the former covered employer.

23 (f) If at any time the successor employer determines that
24 fewer building service employees are required to perform
25 building services at the affected building than had been
26 performing such services under the former employer, the
27 successor employer shall retain the predecessor building
28 service employees by seniority within job classification;
29 provided that during a transition period of 25 working days,
30 the successor employer shall maintain a preferential hiring
31 list of those building service employees not retained at the
32 building who shall be given a right of first refusal to any
33 jobs within their classification that becomes available during
34 that period.

1 (g) Except as provided in subsection (f), during such
2 period of 25 working days, the successor contractor's
3 management of the business and the direction of its personnel,
4 including the right to hire, discipline and discharge employees
5 for just cause is vested exclusively in the contractor. The
6 contractor may require employees to submit to a criminal
7 background check by the Illinois State Police and the Federal
8 Bureau of Investigation.

9 (h) At the end of the transition period of 25 working days,
10 the successor employer shall use his or her own existing
11 practices and forms to perform a written performance evaluation
12 for each employee retained pursuant to this Section. If the
13 employee's performance during such period of 25 working days is
14 satisfactory, the successor contractor shall offer the
15 employee continued employment under the terms and conditions
16 established by the successor employer or as required by law.

17 Section 15. Violation.

18 (a) A building service employee who has been discharged or
19 not retained in violation of this Act may bring an action in
20 court against a successor contractor and covered employer for
21 violation of any obligation imposed pursuant to this Act.

22 (b) The court shall have the authority to order injunctive
23 relief to prevent or remedy a violation of any obligation
24 imposed pursuant to this Act.

25 (c) If the court finds that by reason of a violation of any
26 obligation imposed pursuant to subsection (b), a building
27 service employee has been discharged in violation of this
28 Section, it shall award:

29 (1) Back pay for each day during which the violation
30 continues, which shall be calculated at a rate of
31 compensation not less than the higher of (i) the average
32 regular rate of pay received by the employee during the
33 last 3 years of the employee's employment in the same

1 occupation classification; or (ii) the final regular rate
2 received by the employee.

3 (2) Costs of benefits the successor employer would have
4 incurred for the employee under the successor contractor's
5 or employer's benefit plans.

6 (3) The building service employee's reasonable
7 attorney's fees and costs.

8 (d) In any such action, the court shall have the authority
9 to order the terminated contractor or former employer to
10 provide the successor employer with the information required
11 pursuant to Section 10(c) of this Act.

12 Section 20. Exemptions. The provisions of this Act do not
13 apply:

14 (1) To any successor employer that, on or before, the
15 effective date of the transfer of control from a
16 predecessor covered employer to the successor employer to
17 the commencement of services by a successor building
18 service contractor, agrees to assume, or to be bound by,
19 the collective bargaining agreement of the predecessor
20 covered building service employees, provided that the
21 collective bargaining agreement provides terms and
22 conditions for the discharge or laying off of employees.

23 (2) Where there is no existing collective bargaining
24 agreement as described in subdivision (1), to any successor
25 employer that agrees, on or before the effective date of
26 the transfer of control from a predecessor covered employer
27 to the successor employer or the commencement of services
28 by a successor building service contractor, to enter into a
29 new collective bargaining agreement covering its building
30 service employees, provided that the collective bargaining
31 agreement provides terms and conditions for the discharged
32 or laying off of employees.

33 (3) To any successor employer whose building service

1 employees will be accredited to a bargaining unit with a
2 pre-existing collective bargaining agreement, provided
3 that the collective bargaining agreement provides terms
4 and conditions for the discharged or laying off of
5 employees.

6 (4) To any covered employer that obtains a written
7 commitment from a successor employer that the successor
8 employer's building service employees will be covered by a
9 collective bargaining agreement falling within subdivision
10 (1), (2), or (3).

11 Section 99. Effective date. This Act takes effect upon
12 becoming law."