

1 AN ACT concerning finance.

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

4 Section 5. The State Prompt Payment Act is amended by  
5 changing Sections 3-2 and 7 as follows:

6 (30 ILCS 540/3-2) (from Ch. 127, par. 132.403-2)

7 Sec. 3-2. Beginning July 1, 1993, in any instance where a  
8 State official or agency is late in payment of a vendor's bill  
9 or invoice for goods or services furnished to the State, as  
10 defined in Section 1, properly approved in accordance with  
11 rules promulgated under Section 3-3, the State official or  
12 agency shall pay interest to the vendor in accordance with the  
13 following:

14 (1) Any bill approved for payment under this Section  
15 must be paid or the payment issued to the payee within 60  
16 days of receipt of a proper bill or invoice. If payment is  
17 not issued to the payee within this 60 day period, an  
18 interest penalty of 1.0% of any amount approved and unpaid  
19 shall be added for each month or fraction thereof after the  
20 end of this 60 day period, until final payment is made.

21 (1.1) A State agency shall review in a timely manner  
22 each bill or invoice after its receipt. If the State agency  
23 determines that the bill or invoice contains a defect  
24 making it unable to process the payment request, the agency  
25 shall notify the vendor requesting payment as soon as  
26 possible after discovering the defect pursuant to rules  
27 promulgated under Section 3-3; provided, however, that the  
28 notice for construction related bills or invoices must be  
29 given not later than 30 days after the bill or invoice was  
30 first submitted. The notice shall identify the defect and  
31 any additional information necessary to correct the  
32 defect. If one or more items on a construction related bill

1 or invoice are disapproved, but not the entire bill or  
2 invoice, then the portion that is not disapproved shall be  
3 paid.

4 (2) Where a State official or agency is late in payment  
5 of a vendor's bill or invoice properly approved in  
6 accordance with this Act, and different late payment terms  
7 are not reduced to writing as a contractual agreement, the  
8 State official or agency shall automatically pay interest  
9 penalties required by this Section amounting to \$50 or more  
10 to the appropriate vendor. Each agency shall be responsible  
11 for determining whether an interest penalty is owed and for  
12 paying the interest to the vendor. For interest of at least  
13 \$5 but less than \$50, the vendor must initiate a written  
14 request for the interest penalty when such interest is due  
15 and payable. The Department of Central Management Services  
16 and the State Comptroller shall jointly promulgate rules  
17 establishing the conditions under which interest of less  
18 than \$5 may be claimed and paid. In the event an individual  
19 has paid a vendor for services in advance, the provisions  
20 of this Section shall apply until payment is made to that  
21 individual.

22 (Source: P.A. 92-384, eff. 7-1-02.)

23 (30 ILCS 540/7) (from Ch. 127, par. 132.407)

24 Sec. 7. Payments to subcontractors and material suppliers.

25 (a) When a State official or agency responsible for  
26 administering a contract submits a voucher to the Comptroller  
27 for payment to a contractor, that State official or agency  
28 shall promptly make available electronically the voucher  
29 number, the date of the voucher, and the amount of the voucher.  
30 The State official or agency responsible for administering the  
31 contract shall provide subcontractors and material suppliers,  
32 known to the State official or agency, with instructions on how  
33 to access the electronic information. When a contractor  
34 receives any payment, the contractor shall pay each  
35 subcontractor and material supplier in proportion to the work

1 completed by each subcontractor and material supplier their  
2 application, plus interest received under this Act, less any  
3 retention. If the contractor receives less than the full  
4 payment due under the public construction contract, the  
5 contractor shall be obligated to disburse on a pro rata basis  
6 those funds received, plus interest received under this Act,  
7 with the contractor, subcontractors and material suppliers  
8 each receiving a prorated portion based on the amount of  
9 payment. When, however, the public owner does not release the  
10 full payment due under the contract because there are specific  
11 areas of work or materials the contractor is rejecting or  
12 because the contractor has otherwise determined such areas are  
13 not suitable for payment, then those specific subcontractors or  
14 suppliers involved shall not be paid for that portion of work  
15 rejected or deemed not suitable for payment and all other  
16 subcontractors and suppliers shall be paid in full, plus  
17 interest received under this Act.

18 (b) If the contractor, without reasonable cause, fails to  
19 make full payment of amounts due under subsection (a) to his  
20 subcontractors and material suppliers within 15 days after  
21 receipt of payment under the public construction contract, the  
22 contractor shall pay to his subcontractors and material  
23 suppliers, in addition to the payment due them, interest in the  
24 amount of 2% per month, calculated from the expiration of the  
25 15-day period until fully paid. This subsection shall also  
26 apply to any payments made by subcontractors and material  
27 suppliers to their subcontractors and material suppliers and to  
28 all payments made to lower tier subcontractors and material  
29 suppliers throughout the contracting chain.

30 (1) If a contractor, without reasonable cause, fails to  
31 make payment in full as provided in subsection (a) within  
32 15 days after receipt of payment under the public  
33 construction contract, any subcontractor or material  
34 supplier to whom payments are owed may file a written  
35 notice with the State official or agency setting forth the  
36 amount owed by the contractor and the contractor's failure

1 to timely pay the amount owed.

2 (2) The State official or agency, within 15 days after  
3 receipt of a subcontractor's or material supplier's  
4 written notice of the failure to receive payment from the  
5 contractor, shall hold a hearing convened by an  
6 administrative law judge to determine whether the  
7 contractor withheld payment, without reasonable cause,  
8 from the subcontractors and material suppliers and what  
9 amount, if any, is due to the subcontractors and material  
10 suppliers. The State official or agency shall provide  
11 appropriate notice to the parties of the date, time, and  
12 location of the hearing. Each contractor, subcontractor,  
13 and material supplier has the right to be represented by  
14 counsel at the hearing and to cross-examine witnesses and  
15 challenge documents.

16 (3) If there is a finding by the administrative law  
17 judge that the contractor failed to make payment in full,  
18 without reasonable cause, as provided in subsection (a),  
19 then the administrative law judge shall, in writing, direct  
20 the contractor to pay the amount owed to the subcontractors  
21 and material suppliers plus interest within 15 days after  
22 the finding.

23 (4) If a contractor fails to make full payment within  
24 15 days after the administrative law judge's finding, then  
25 the contractor shall be barred from entering into a State  
26 public construction contract for a period of one year  
27 beginning on the date of the administrative law judge's  
28 finding.

29 (Source: P.A. 94-672, eff. 1-1-06.)

30 Section 10. The Local Government Prompt Payment Act is  
31 amended by changing Sections 3 and 9 as follows:

32 (50 ILCS 505/3) (from Ch. 85, par. 5603)

33 Sec. 3. The appropriate local governmental official or  
34 agency receiving goods or services must approve or disapprove a

1 bill from a vendor or contractor for goods or services  
2 furnished the local governmental agency within 30 days after  
3 the receipt of such bill or within 30 days after the date on  
4 which the goods or services were received, whichever is later.  
5 If one or more items on a construction related bill or invoice  
6 are disapproved, but not the entire bill or invoice, then the  
7 portion that is not disapproved shall be paid. When safety or  
8 quality assurance testing of goods by the local governmental  
9 agency is necessary before the approval or disapproval of a  
10 bill and such testing cannot be completed within 30 days after  
11 receipt of the goods, approval or disapproval of the bill must  
12 be made immediately upon completion of the testing or within 60  
13 days after receipt of the goods, whichever occurs first.  
14 Written notice shall be mailed to the vendor or contractor  
15 immediately if a bill is disapproved.

16 (Source: P.A. 87-773.)

17 (50 ILCS 505/9) (from Ch. 85, par. 5609)

18 Sec. 9. Payments to subcontractors and material suppliers;  
19 failure to make timely payments; additional amount due. When a  
20 contractor receives any payment, the contractor shall pay each  
21 subcontractor and material supplier in proportion to the work  
22 completed by each subcontractor and material supplier their  
23 application less any retention. If the contractor receives less  
24 than the full payment due under the public construction  
25 contract, the contractor shall be obligated to disburse on a  
26 pro rata basis those funds received, with the contractor,  
27 subcontractors and material suppliers each receiving a  
28 prorated portion based on the amount of payment. All interest  
29 payments received pursuant to Section 4 also shall be disbursed  
30 to subcontractors and material suppliers to whom payment has  
31 been delayed, on a pro rata basis. When, however, the public  
32 owner does not release the full payment due under the contract  
33 because there are specific areas of work or materials the  
34 contractor is rejecting or because the contractor has otherwise  
35 determined such areas are not suitable for payment, then those

1 specific subcontractors or suppliers involved shall not be paid  
2 for that portion of the work rejected or deemed not suitable  
3 for payment and all other subcontractors and suppliers shall be  
4 paid in full.

5 If the contractor, without reasonable cause, fails to make  
6 any payment to his subcontractors and material suppliers within  
7 15 days after receipt of payment under the public construction  
8 contract, the contractor shall pay to his subcontractors and  
9 material suppliers, in addition to the payment due them,  
10 interest in the amount of 2% per month, calculated from the  
11 expiration of the 15-day period until fully paid. This Section  
12 ~~subsection~~ shall also apply to any payments made by  
13 subcontractors and material suppliers to their subcontractors  
14 and material suppliers and to all payments made to lower tier  
15 subcontractors and material suppliers throughout the  
16 contracting chain.

17 (Source: P.A. 87-773.)

18 Section 99. Effective date. This Act takes effect July 1,  
19 2007.