

1 AN ACT in relation to highways.

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

4 Section 5. The Illinois Highway Code is amended by
5 adding Section 4-104 as follows:

6 (605 ILCS 5/4-104 new)

7 Sec. 4-104. Subcontractors' trust agreements. At the
8 request of the subcontractor and with the approval of the
9 Department, the retainage of the subcontract may be deposited
10 under a trust agreement with an Illinois financial
11 institution, whose deposits are insured by an agency or
12 instrumentality of the federal government, of the
13 subcontractor's choice and subject to the approval of the
14 Department. The subcontractor shall receive any interest on
15 the amount deposited.

16 Upon application by the subcontractor, a trust agreement
17 by the financial institution and the Department must contain,
18 at a minimum, the following provisions:

19 (1) The amount to be deposited subject to the trust.

20 (2) The terms and conditions of payment in case of
21 default of the subcontractor.

22 (3) The termination of the trust agreement upon
23 completion of the subcontract.

24 The subcontractor is responsible for obtaining the
25 written consent of the financial institution trustee. Any
26 costs or service fees must be borne by the subcontractor. The
27 trust agreement may, at the discretion of the Department and
28 upon request of the subcontractor, become operative at the
29 time of the first partial payment in accordance with existing
30 statutes and Department procedures.

31 This Section applies to all subcontracts in effect on and

1 after the effective date of this amendatory Act of the 92nd
2 General Assembly.

3 Section 99. Effective date. This Act takes effect upon
4 becoming law.