

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. This
8 Section applies to subcontractors' retainage amounts expected
9 to be equal to or greater than \$20,000. Upon the
10 contractor's receipt of the first partial or progress payment
11 from the Department, at the request of the subcontractor and
12 with the approval of the contractor, the retainage of the
13 subcontract shall be deposited under a trust agreement with
14 an Illinois financial institution, whose deposits are insured
15 by an agency or instrumentality of the federal government, of
16 the subcontractor's choice and subject to the approval of the
17 contractor. The subcontractor shall receive any interest on
18 the amount deposited.

19 Upon application by the subcontractor, a trust agreement
20 by the financial institution and the contractor must contain,
21 at a minimum, the following provisions:

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

23 (2) The terms and conditions of payment in case of
24 default of the subcontractor.

25 (3) The termination of the trust agreement upon
26 completion of the subcontract.

27 The subcontractor is responsible for obtaining the
28 written consent of the financial institution trustee. Any
29 costs or service fees must be borne by the subcontractor. The
30 trust agreement may, at the discretion of the contractor and
31 upon request of the subcontractor, become operative at the

1 time of the first partial payment in accordance with existing
2 statutes and Department procedures. Subcontractors' trust
3 agreements are voluntary and supersede any prohibition
4 regarding retainage that may be adopted by any transportation
5 agency.

6 This Section applies to all subcontracts in effect on and
7 after the effective date of this amendatory Act of the 92nd
8 General Assembly.

9 Section 99. Effective date. This Act takes effect upon
10 becoming law.