

AN ACT concerning employment.

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

Section 5. The Illinois Wage Payment and Collection Act is amended by changing Section 13.5 as follows:

(820 ILCS 115/13.5)

Sec. 13.5. Primary contractor responsibility for wage claims in construction industry.

(a) For all contracts entered into on or after July 1, 2022, a primary contractor making or taking a contract in the State for the erection, construction, alteration, or repair of a building, structure, or other private work in the State where the aggregate costs of the project exceed \$20,000 shall assume, and is liable for, any debt owed to a claimant under this Section by a subcontractor at any tier acting under, by, or for the primary contractor for the wage claimant's performance of labor included in the subject of the contract between the primary contractor and the owner. This Section does not apply to work performed by a contractor of the federal government, the State, a special district, a city, a county, or any political subdivision of the State.

(b) As used in this Section:

"Construction" means building, altering, repairing,

improving, or demolishing any structure or building or making improvements of any kind to real property.

"Primary contractor" means a contractor that has a direct contractual relationship with a property owner. "Primary contractor" may have the same meaning as a "general contractor", "prime contractor", or "construction manager". A property owner who acts as a primary contractor related to the erection, construction, alteration, or repair of his or her primary residence shall be exempt from liability under this Section.

"Private work" means any erection, construction, alteration, or repair of a building, structure, or other work.

"Subcontractor" means a contractor that has a contractual relationship with the primary contractor or with another subcontractor at any tier, who furnishes any goods or services in connection with the contract between the primary contractor and the property owner, but does not include contractors who solely provide goods and transport of such goods related to the contract.

(c) The primary contractor's liability under this Section shall extend only to any unpaid wages or fringe or other benefit payments or contributions, including interest owed, penalties assessed by the Department, and reasonable attorney's fees, but shall not extend to liquidated damages.

(d) A primary contractor or any other person shall not evade or commit any act that negates the requirements of this

Section. Except as otherwise provided in a contract between the primary contractor and the subcontractor, the subcontractor shall indemnify the primary contractor for any wages, fringe or other benefit payments or contributions, damages, interest, penalties, or attorney's fees owed as a result of the subcontractor's failure to pay wages or fringe or other benefit payments or contributions as provided in this Section, unless the subcontractor's failure to pay was due to the primary contractor's failure to pay moneys due to the subcontractor in accordance with the terms of their contractual relationship.

(e) Nothing in this Section shall supersede or modify the obligations and liability that any primary contractor, subcontractor, or property owner may bear as an employer under this Act or any other applicable law. The obligations and remedies provided in this Section shall be in addition to any obligations and remedies otherwise provided by law. Nothing in this Section shall be construed to impose liability on a primary contractor for anything other than unpaid wages, fringe or other benefit payments or contributions, penalties assessed by the Department, interest owed, and reasonable attorney's fees.

(f) Claims brought pursuant to this Section shall be done so in accordance with this Act. Nothing in this Section shall be construed to provide a third party with the right to file a complaint with the Department alleging violation of this

Section.

(g) The following shall be exempt from liability under this Section:

(1) primary contractors who are parties to a collective bargaining agreement on the project where the work is being performed; and

(2) primary contractors making or taking a contract in the State for the alteration or repair of an existing single-family dwelling or to a single residential unit in an existing multi-unit structure.

(h) Prior to the commencement of any civil action, a claimant or a representative of a claimant shall provide written notice to the employer and to the primary contractor detailing the nature and basis for the claim. Failure of the employer or the primary contractor to resolve the claim within 10 days after receipt of this notice, or during any agreed upon period extending this deadline, may result in the filing of a civil action to enforce the provisions of this Act.

(i) Claims brought pursuant to this Section shall be filed with the Department of Labor or filed with the circuit court within 3 years after the wages, final compensation, or wage supplements were due. This subsection does not apply to any other claims under this Act or any other applicable law against a primary contractor, subcontractor, or homeowner as an employer.

(j) Every primary contractor and subcontractor shall post

and keep posted, in one or more conspicuous places accessible to all laborers, workers, and mechanics at a job site that is subject to the requirements of this Section, a notice, to be made available by the Director of Labor, summarizing the requirements of this Section and information pertaining to the filing of a complaint. The Director of Labor shall provide copies of summaries and rules to primary contractors and subcontractors upon request without charge. One copy of the notice at a job site shall satisfy the notice requirement for the primary contractor and all subcontractors. Any primary contractor or subcontractor who fails to provide notice as required by this Section shall be subject to a civil penalty, not to exceed \$250, payable to the Department of Labor.

(Source: P.A. 102-1065, eff. 6-10-22; 102-1076, eff. 6-10-22.)

Section 99. Effective date. This Act takes effect July 1, 2023.