

# Illinois's Freelance Worker Protection Act Took Effect July 1, 2024

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On August 4, 2023, Illinois became the first state to adopt statutory protections for freelance workers when Governor JB Pritzker signed the [Freelance Worker Protection Act](#) (the "Act"). The Act took effect on July 1, 2024. Employers should be aware of the Act's provisions to ensure compliance, and the trend of other states (such as [New York](#)) and local governments to adopt and enforce similar protections.

## Who Is Subject to the Act?

The Act applies to agreements which take effect on or after July 1, 2024 between "freelance workers" and "contracting entities," provided the amount in exchange for the freelance worker's services is at least \$500 over a 120-day period.

Under the Act, a "freelance worker" is a "natural person" hired or retained as an independent contractor (1) by a contracting entity to provide products or services in Illinois; or (2) by a contracting entity located in Illinois. The Act specifically excludes from the definition of "freelance worker" any workers performing construction services, individuals who are "employees" as defined by the Illinois Wage Payment and Collection Act, and governmental entities (including school districts). Additionally, after the Act took effect, the Illinois Department of Labor's [frequently asked questions \(FAQs\)](#) page provided that sole proprietors under Section 10 of the Employee Classification Act (ECA) are also not covered by the Act. However, that clarification was later removed from the FAQs.

A "contracting entity" under the Act is "any person who retains a freelance worker to provide any service." A "person" is "any natural person, individual, corporation, business enterprise or other legal entity, either public or private," and their successors, agents or representatives. Of note, foreign governments, the U.S. government, the state of Illinois and local units of government (including school districts) are not contracting entities under the Act.

## What Are the Act's Key Substantive Protections?

### (1) Written Agreement Requirement.

The Act requires that covered contracts for products or services must be in writing, and that the *contracting entity* provide a physical or electronic copy of the contract to the freelance worker. Covered contracts must include certain types of particular information, such as the name and contact information of both parties (including the contracting entity's mailing address); an itemized list of all products and services to be provided, and their value; the rate and method of compensation; and the payment date or mechanism by which such date will be determined. The contracting entity must also retain a copy of the contract for a two-year period.

### (2) Timing of Payment.

Under the Act, contracting entities must pay the freelance worker by the deadline set in the parties' written agreement or, if no date or mechanism by which the payment date will be determined is specified, within 30 days of when the freelance worker completes all applicable obligations under the agreement. The Act expressly prohibits the contracting entity from

conditioning timely payment on the freelance worker's acceptance of less compensation than contracted once the freelancer has begun the work covered by the contract.

### (3) Prohibition on Discrimination and Retaliation.

A contracting entity violates the Act if it engages in any discriminatory, harassing or retaliatory conduct towards a freelance worker for exercising or attempting to exercise rights under the Act. Prohibited conduct includes threatening, intimidating, disciplining or harassing the worker; or barring the worker from future work opportunities.

### Can Freelance Workers Pursue Claims for Violations of the Act?

Freelance workers may pursue claims for violations of the Act on behalf of themselves or a group of freelance workers by commencing a civil action in court, or filing a complaint with the IDOL, within two years of the date the final compensation for the freelance worker's services was due.

A worker is not required to exhaust administrative remedies before filing a civil action in court. Additionally, a contracting entity's failure to timely respond to an IDOL complaint creates a rebuttable presumption in a civil action that the entity committed the actions as alleged.

### What Are the Potential Penalties for Violating the Act?

Potential penalties depend on the nature of the violation and may include, for example, double the amount of any underpayment to the freelance worker, civil monetary penalties, injunctive relief, and attorney's fees and costs.

### What Else Should I Know?

- Contracting entities should evaluate whether any workers (or potential workers) may fall within the Act's definition of "freelance worker," and take affirmative steps to comply with the Act.
- Although often similar, freelance worker laws vary across jurisdictions. For example, New York State's "[Freelance Isn't Free Act](#)," which takes effect on August 28, 2024, has a higher \$800 threshold; excludes from its definition of "freelance worker" sales representatives, attorneys, licensed medical professionals and other workers; and applies to individuals who may be retained through a separate corporation or LLC, provided the organization is composed of no more than one natural person. Companies should be mindful of the potential impact different laws may have on their independent contractor relationships, particularly if template documents or payment procedures are used across different jurisdictions.
- Given the recent uptick in related claims involving employee classification, companies should continue to carefully evaluate whether their independent contractors are properly classified.

If you have any questions about the topics discussed in this article, please contact **James P. Looby** at [jlooby@vedderprice.com](mailto:jlooby@vedderprice.com) or any Vedder Price attorney with whom you have worked.

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