

Practice Update

Illinois Amendment Makes General Contractors Liable for Subcontractors' Wages

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On June 10, 2022, Illinois Governor J. B. Pritzker signed into law amendments to the Illinois Wage Payment and Collection Act, making general contractors liable for the wages and benefits of their subcontractors' employees, in the event a subcontractor fails to pay such wages or benefits.

For all private construction contracts entered into on or after July 1, 2022 where the aggregate costs of the project exceed \$20,000, a general contractor will be liable for unpaid wages, fringe or other benefit payments or contributions, and reasonable attorney's fees, of any wage claimant employed by any of the general contractor's subcontractors at any tier. Under the law, subcontractors (at any tier) are obligated to indemnify the general contractor for any such costs, unless the subcontractor's failure to pay the employee was due to the general contractor's failure to make payment to the subcontractor in accordance with the subcontract agreement.

The new law does not apply to federal, state, or local government contracts. Moreover, general contractors who are parties to a collective bargaining agreement on the project where the work is being performed are exempt from the new amendments. The amendment also exempts general contractors performing an alteration or repair to an existing

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single-family dwelling or single residential unit in an existing multi-unit structure.

The amendments provide a private civil right of action in favor of a wage claimant against a general contractor.

These new amendments create additional financial and compliance risks for general contractors (and project owners). Under the new law, general contractors may become liable for double payment if a subcontractor fails to make the required payments. General contractors may now want to require that subcontractors provide certified payrolls whereas they previously would not have required this. General contractors may consider expressly providing in their subcontracts for a right of indemnity to the extent they become liable for payment of such costs. Project owners may also consider including prime contract provisions prohibiting reimbursement of such costs from the owner, even if they are paid by the general contractor.

Akerman construction, real estate, and labor & employment attorneys can assist with understanding and navigating these amendments to Illinois law.

This information is intended to inform firm clients and friends about legal developments, including recent decisions of various courts and administrative bodies. Nothing in this Practice Update should be construed as legal advice or a legal opinion, and readers should not act upon the information contained in this Practice Update without seeking the advice of legal counsel. Prior results do not guarantee a similar outcome.