**Section 240.110 Definitions**

"Act" means the Employee Classification Act [820 ILCS 185].

*"Construction" means any constructing, altering, reconstructing, repairing, rehabilitating, refinishing, refurbishing, remodeling, remediating, renovating, custom fabricating, maintenance, landscaping, improving, wrecking, painting, decorating, demolishing, and adding to or subtracting from any building, structure, highway, roadway, street, bridge, alley, sewer, ditch, sewage disposal plant, water works, parking facility, railroad, excavation or other structure, project, development, real property or improvement, or to do any part thereof, whether or not the performance of the work herein described involves the addition to, or fabrication into, any structure, project, development, real property or improvement herein described of any material or article of merchandise. Construction shall also include moving construction related materials on the job site to or from the job site.* [820 ILCS 185/5]

*"Contractor" means any individual, sole proprietor, partnership, firm, corporation, limited liability company, association or other legal entity permitted by law to do business within the State of Illinois who engages in construction as defined in the Act. Contractor includes a general contractor and a subcontractor.* [820 ILCS 185/5]

"Day" means calendar day.

*"Department" means the Department of Labor.* [820 ILCS 185/5]

*"Director" means the Director of the Department of Labor* or an authorized representative*.* [820 ILCS 185/5]

"Employee" means an individual who meets the definition of an "employee" in the Act and that individual shall be an employee for purposes of all applicable laws relating to wages and the payment of wages contained in 820 ILCS.

*"Employer" means any contractor that employs individuals deemed employees under Section 10 of the Act; however, "employer" does not include:*

*the State of Illinois or its officers, agencies, or political subdivisions; or*

*the federal government.* [820 ILCS 185/5]

*"Entity" means any contractor for which an individual is performing services and is not classified as an employee under Section 10 of* the *Act; however, "entity" does not include:*

*the State of Illinois or its officers, agencies, or political subdivisions; or*

*the federal government.* [820 ILCS 185/5]

"Individual performing services"does not include a bona fide corporation nor a limited liability company (LLC). In determining whether a corporation is bona fide for purposes of the Act, the Department shall consider, among other factors, whether:

the corporation is capitalized;

the corporation has issued corporate stock;

the corporation maintains a corporate bank account;

there is an intermingling of corporate and personal accounts or funds;

the corporation holds itself out as a corporation;

the corporation maintains corporate books and records, including corporate meeting minutes, and files corporate tax returns that are current and complete;

articles of incorporation have been filed and the corporation is in good standing, in the case of Illinois corporations, with the Illinois Secretary of State or, in the case of foreign corporations, as directed by the laws of that jurisdiction;

the corporation carries out its daily activities in a manner consistent with the operations of a corporate entity;

the corporation employs employees to carry out its corporate purposes and principal activities; and

the corporation carries appropriate workers' compensation insurance coverage for its employees and has registered with the Illinois Department of Employment Security for unemployment insurance coverage.

In determining whether an LLC is bona fide for purposes of the Act, the Department shall consider, among other factors, whether:

the LLC has assets;

the LLC maintains a company bank account;

there is an intermingling of company and personal accounts or funds;

the LLC holds itself out as an LLC;

the LLC makes necessary tax filings that are current and complete;

articles of organization have been filed and the LLC is in good standing, in the case of Illinois LLCs, with the Illinois Secretary of State or, in the case of foreign LLCs, as directed by the laws of that jurisdiction;

the LLC carries out its daily activities in a manner consistent with the operations of an LLC;

the LLC employs employees to carry out its purposes and principal activities;

the LLC carries appropriate workers' compensation insurance coverage for its employees and has registered with the Illinois Department of Employment Security for unemployment insurance coverage.

*"Interested party" means a person with an interest in compliance with the Act.* [820 ILCS 185/5]

*"Performing services" means the performance of any constructing, altering, reconstructing, repairing, rehabilitating, refinishing, refurbishing, remodeling, remediating, renovating, custom fabricating, maintenance, landscaping, improving, wrecking, painting, decorating, demolishing, and adding to or subtracting from any building, structure, highway, roadway, street, bridge, alley, sewer, ditch, sewage disposal plant, water works, parking facility, railroad, excavation or other structure, project, development, real property or improvement, or to do any part thereof, whether or not the performance of the work herein described involves the addition to, or fabrication into, any structure, project, development, real property or improvement herein described of any material or article of merchandise. Construction shall also include moving construction related materials on the job site to or from the job site.* [820 ILCS 185/5]

"Permitted by law to do business within the State of Illinois" means located, operating, transacting business, or performing services within the State of Illinois.

"Person" means any individual, partnership, corporation, LLC, association, governmental subdivision, or public or private organization of any character.

"Responsible bidder" has the meaning ascribed to that term in Section 30-22 of the Illinois Procurement Code [30 ILCS 500/30-22].

(Source: Amended at 38 Ill. Reg. 18500, effective August 21, 2014)