



A Contractor's Guide to Workers' Compensation

In Florida, businesses involved in the construction industry are subject to additional rules and regulations than other businesses for workers' compensation purposes. As a service to our members who are in the construction industry, FUBA Workers' Comp has put together this list of common questions and answers.

What kinds of businesses are classified as "construction"? The Florida Division of Workers' Compensation publishes the official list of which class codes the state considers to be in the construction industry. You can find this list in the Resources & Documents section at FUBAWorkersComp.com. Click on "Construction Codes List."

What are the workers' comp requirements for a business in the construction industry? If you are in the construction industry, Florida law requires you to have an active workers' comp policy OR a valid exemption from workers' comp. If you have an exemption on yourself as an owner of the company and you have even one employee, you **must** also have a workers' comp policy to cover those employee(s). **Everyone working on a construction site in Florida must be covered by a workers' comp policy or have a valid exemption, including individuals you may bring onto the jobsite for a short time "just to help out."**

What's an exemption and how does it work? An exemption excludes you as the business owner from having to buy workers' comp insurance for yourself, which also means you are not eligible to receive workers' comp benefits if you are hurt on the job. Exemptions are valid only for the person and the company name listed on the exemption. In the construction industry, only individuals who own 10% of a corporation or limited liability company are eligible to receive an exemption. Non-owner employees are not eligible for an exemption.

How can I obtain workers' comp or an exemption? To inquire about workers' comp coverage, contact an insurance agent in your area or call FUBA Workers' Comp at 888-262-4483 for referral to one of our approved agents. To apply for an exemption from workers' comp coverage, go to the Division of Workers' Compensation's website at MyFloridaCFO.com/division/wc/Employer/Exemptions. Construction-industry exemptions cost \$50 and must be renewed every 2 years.

What if I hire a subcontractor? Under Florida law, **you** are responsible for making sure all of your subs either have their own workers' comp policy or have a valid exemption from workers' comp. If you allow someone to work without the proper insurance or a valid exemption, your insurance company will charge you premium for them and your insurance may be cancelled. You also expose yourself to potential fines from the state Division of Workers' Compensation.

If your company has a workers' comp policy and you sub out work to someone with an exemption from workers' comp, you need to be extra careful. If that exempt sub brings even one worker onto your jobsite (it could be his brother-in-law, his regular assistant, or a total stranger), that worker becomes **your** responsibility just by stepping on the jobsite. You will have to pay the workers' comp premium on all wages that helper is paid by your sub for the job, and your insurance carrier will probably be held responsible if that worker gets injured on the jobsite.

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How do I make sure the sub I hire has a valid workers' comp policy or a valid exemption from workers' comp? If your sub has a workers' comp policy, you should request a Certificate of Insurance (COI) that will show the name of the insurance company issuing the policy, along with the policy number and the policy period. You should read the COI carefully to make sure it shows workers' comp coverage and not another line of insurance, like general liability. If your sub has an exemption, you should ask for a copy of his exemption certificate and make sure it's current and has the proper business name on it.

However, you should not rely only on COIs or exemption cards from your subs. Insurance policies can be cancelled at any time if the premiums aren't paid, and exemptions expire every 2 years. If this happens to one of your subs while they are working for you, you will be at risk.

The best way to protect yourself is to independently verify the information you get from your subs by using two free databases maintained by the State of Florida. The first database is the Proof of Coverage database; it lists all businesses in Florida who have a workers' comp insurance policy, and all individuals who have an exemption. You can search by employer name, Federal Employer Identification Number (FEIN), policy number or the exemption holder's social security number. You will be able to see the policy information for your subcontractor, including when the policy expires, and the governing class code being reported for the policy. For your subs with exemptions, you will be able to see proof of their exemption and when it is set to expire.

The second database is the Florida Construction Policy Tracking Database. By entering the information for all your subcontractors, you can track your subs' policies and/or exemptions to make sure they stay current. The database will send you an email if a policy is cancelled or if an exemption expires so that you can stop using that sub until they get the proper coverage.

To access these databases, go to MyFloridaCFO.com/division/wc and click on the box that says "Employers." Then under the heading "Databases," click on either the "Proof of Coverage Database" or the "Construction Policy Tracking" database links.

What is a PEO and why is it dangerous? If you hire a subcontractor who uses a professional employer organization (a "PEO" and also called employee leasing), you could be exposing yourself (and your insurance carrier) to unintended risk and extra premium expenses. With a PEO, only the workers formally accepted by the PEO have workers' comp coverage. So, if your subcontractor who uses a PEO hires a worker and forgets to tell the PEO about it, that worker doesn't have workers' comp insurance. Which means **YOU** will be responsible if that worker is hurt on the job, meaning you will owe your insurance company more premium.

Also, the PEO can cancel your sub's workers' comp insurance at any time and without much notice because PEOs are not subject to the same cancellation provisions that insurance companies are. If this happens, you will be billed for premium for all that payroll and your insurance company will be on the hook for all on-the-job accidents. For these reasons, many larger general contractors will not hire subcontractors who use a PEO.

Why is it important that I file my company's Annual Report with the State of Florida every year? Corporations and LLC's must file an Annual Report with the State of Florida before May 1st every year. Companies that do not file their Annual Report are administratively dissolved by the state, and their owners can have their workers' comp exemptions taken away. Go to the Secretary of State's website at Sunbiz.org for more information.

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