

ATTENTION CONTRACTORS: DO YOU USE SUBCONTRACTORS? DO YOU VERIFY THEIR WORKERS' COMPENSATION EXEMPTIONS ARE VALID?

Florida's workers' compensation law provides that contractors are liable for paying workers' comp on any subcontractors they hire, **unless** the subcontractor:

- has his own workers' comp policy, which is not expired; **or**
- has a valid exemption and meets all 9 of the criteria to be considered an independent contractor.

It is the contractor's responsibility to verify that the sub has either purchased workers' comp (proven by getting a copy of their Certificate of Insurance) or received an exemption (proven by getting a copy of their exemption certificate). **If you fail to document either a valid workers' comp policy or a valid exemption for each of your subs, your insurance carrier will assess you for the value of the sub's workers' compensation premiums.**

Getting the correct workers' compensation information from each of your subs is vital. However, you cannot simply trust that the sub's Certificate of Insurance ("COI") or exemption is still valid.

How to Verify a Sub's Insurance Policy:

Insurance policies expire every year, and they are frequently canceled mid-year when the sub does not make payments. Just because a sub shows you a COI at the time you hire him does not mean that the COI is going to stay current and valid throughout your construction project. The best way to protect yourself is to call the insurance carrier listed on your sub's COI every month to make sure the sub is still in good standing and that the policy is still valid.

How to Verify a Sub's Exemption: Construction exemptions from workers' comp expire every 2 years, in the month of the holder's birthday. Just because someone has a valid exemption today does not mean that exemption will still be valid next month or 3 months from now. To check a sub's exemption, you can log on to the Division of Workers' Compensation's compliance database. It lists everyone with a current and valid exemption on file with the state. Simply go to the Department of Financial Services' home page (it used to be called the Department of Insurance) at www.fldfs.com. Click on "Workers' Comp," then click on "Proof of Coverage Database." You can search for exemption holders a number of ways, including employer name, federal ID number, and exemption holder's name or social security number.

If you do not have access to a computer, you can call the Division of Workers' Compensation's Division of Compliance to get the same information. Their number is 850-488-2333.

Either way, you will be able to find out if the sub has a valid exemption and when the exemption expires.

Please remember, exemptions are personal to the exemption holder. A sub who has a valid exemption and who has employees still creates a liability for you, the contractor. A subcontractor's exemption has no bearing on your responsibility for any uninsured employees of the exempt sub. By Florida law, a contractor is ultimately responsible for providing workers' comp for any employees of a subcontractor, even if the general contractor is not providing comp for the subcontractor.

If you find out that a sub on your job site has employees, insist immediately that the sub and his/her employees not return to your job site until the sub has purchased workers' comp insurance for his employees. (The sub himself can remain exempt.) Otherwise, your insurance carrier will assess you for the value of the sub's employees' payroll and add it to your workers' comp bill at the end of the policy period.

PROPOSED LEGISLATION IMPORTANT TO SMALL BUSINESSES

The 2003 Session of the Florida Legislature convened on Tuesday, March 4th and will last for at least 60 days. The following bills have been filed for consideration during the Session. If you have any questions about them, please call the FUBA offices. We will continue to track these and other business-related bills as they move through the Legislature and will keep you informed of their progress.

Taxes:

- **House Bill 137** (by Representative Bev Kilmer, R-Marianna) is the “Happy Shopper” Act which exempts certain school supplies and items of clothing from sales tax for 9 days leading up to the start of school in August.
- **House Bill 211** (by Representative Tim Ryan, D-Dania Beach) amends the state Constitution to create a legislative committee to review all exemptions from the state sales tax, including services which are not currently taxed.
- **Senate Bill 1560** (by Senator Dennis Jones, R-Seminole) requests the United States Congress to vote for the immediate and permanent repeal of the estate tax.
- **Senate Bill 1540** (by Senator Rod Smith, D-Gainesville) would provide tax credits or sales tax rebates to small businesses that provide health insurance to their employees.

Employment Issues:

- **Senate Bill 302** (by Senator Debbie Wasserman Schultz, D-Pembroke Pines) would allow workers to collect unemployment benefits when they leave work for the birth or adoption of a child.
- **Senate Bill 1004** (by Senator Mandy Dawson, D-Ft. Lauderdale) would create the Equal Pay Commission Act to study whether women and men receive equal pay for equal work in Florida.

- **Senate Bill 470** (by Senator Debbie Wasserman Schultz) would extend the time people can receive unemployment benefits and would increase the weekly unemployment benefit amount.
- **Senate Bill 54** (by Senator Lee Constantine, R-Altamonte Springs) would prohibit a city or county from establishing a local minimum wage.

Miscellaneous Regulation:

- **Senate Bill 742** (by Senator Alex Diaz de la Portilla, R-Miami) will enact the recently-approved constitutional amendment banning smoking in restaurants.

Insurance: Numerous bills have been filed dealing with the 2 most important issues for the Session – workers’ compensation and medical liability insurance. These areas are in a crisis situation right now, with workers’ compensation and health insurance for small businesses becoming more and more scarce. We will keep you updated on these two very important issues to small businesses as the Session progresses.

FUBA’S LEGISLATIVE ACTION TEAM NEEDS YOUR INPUT

During each legislative Session, FUBA sends out updates to our members who are interested in keeping up with actions taken by the Florida Legislature on business-related bills. In addition, we occasionally ask these members to give us their input on various issues so that we can relay that information to lawmakers voting on those issues.

To be a member of our Legislative Action Team, all you need is an e-mail address and an opinion. To sign up, please send us an email at fuba@fuba.org. Please include your name, your business name, and your city.