



# issues

OUR BUSINESS IS SMALL BUSINESS

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## **CONTRACTORS: YOU ARE LIABLE FOR UNINSURED WORKERS ON YOUR JOB SITE – DO YOU KNOW HOW TO PROTECT YOURSELF?**

If you are in the construction industry, Florida law makes **you** responsible for the subcontractors you hire. If you hire a sub who does not have workers' comp insurance, your insurance company will have to pay for any on-the-job injuries for that sub and any workers that sub brings onto the job site. Your insurance carrier will then assess you the appropriate premium for all of those uninsured workers. Further, you can jeopardize your workers' comp insurance policy if your insurance carrier gets stuck paying for injuries to an uninsured worker hired by one of your subs.

First, some basics:

- **Everyone** on a construction job site in Florida has to be either (1) covered by a workers' comp policy or (2) an officer of a company who has received a valid exemption from workers' comp from the State of Florida. This includes people who are just brought onto the job site for a short time "just to help out."
- 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 helper onto your job site (it could be his brother-in-law, his regular assistance, or a total stranger), that helper becomes **your**

responsibility just by stepping onto the job site, even if you had no idea the sub had a helper. You will have to pay the appropriate premium on all wages that helper is paid by your sub for the job, and your insurance company will be on the hook if that helper gets injured on the job site. Exempt subs can bring you a lot of trouble!

- Even if you only use subcontractors who have their own workers' comp insurance policies, there are still some things to watch out for. You cannot assume that a Certificate of Insurance from a sub showing that he has a workers' comp policy is always valid. His insurance may get cancelled if he doesn't pay his monthly premiums or for some other reason. If this happens while he is still working for you, guess who is liable for any injuries to his employees and has to pay workers' comp premium for that subcontractor? You.

So, what can you do to protect yourself?

- If you hire a subcontractor who has a workers' comp insurance policy:
  - The first step is to get a Certificate of Insurance that shows a workers' comp policy number and the carrier who issued it.
  - Then, you should re-check that the insurance policy is still valid at least every month. You can call the insurance company listed on the Certificate, or the insurance agent for your sub, and request proof that the policy is valid.

## **TAX FILING REMINDER FOR CORPORATIONS**

Corporations must file their federal income tax returns for calendar year 2009 by March 16<sup>th</sup>. (Form 1120 or 1120-A) and pay any tax due. For an automatic 6-month extension of time to file the return, file Form 7004, Application for Automatic 6-Month Extension of Time to File Certain Business Income Tax, Information, and Other Returns, and deposit what you estimate the corporation owes. Remember: extensions only apply to the filing of your return; the tax is still due.

- Or, you can check yourself by using the State of Florida's workers' comp database. To make this process easier, the state has a Construction Policy Tracking Database that lets you enter in all your subs, and the system will alert you if one of your subs' insurance is cancelled or lapses so that you can immediately stop using that sub. This database can be found at [www.fldfs.com/wc](http://www.fldfs.com/wc). Click on "Databases on the left-hand side of the screen. Or, visit our website at [www.fuba.org](http://www.fuba.org) for a link directly to the database.
- If you hire a sub with a valid exemption from workers' comp (and you're sure he has no employees or helpers of any kind!):
  - You should first ask for a copy of the sub's exemption.
  - You can then verify this exemption by using the State's Proof of Coverage Database. This database will show you when the exemption was issued and when it expires, so you will know when you should check again. For this database, go to [www.fldfs.com/wc](http://www.fldfs.com/wc) and click on "Databases" on the left side of the screen. Or, visit our website at [www.fuba.org](http://www.fuba.org) for a direct link to this database.
  - If you don't have access to a computer, you can call the Florida Division of Workers' Comp at 850-488-2333 to check exemptions.

- **S Corporations:** By March 16<sup>th</sup>, an S Corporation must file a 2008 calendar year income tax return (Form 1120S) and pay any tax due. Provide each shareholder with a copy of Schedule K-1 (Form 1120S), Shareholder's Share of Income, Deductions, Credits, etc, or a substitute Schedule K-1. For an automatic 6-month extension of time to file the return, file Form 7004 and deposit what you estimate the corporation owes.
- **S Corporation election:** If a corporation wishes to make the "S Corporation" election and have its profits taxed individually to the owners, it must file Form 2553, Election by a Small Business Corporation. If this form is filed by March 16<sup>th</sup>, the election will be effective beginning with calendar year 2009. If the form is filed after March 17<sup>th</sup>, the S election will begin in 2010. If the corporation does not file Form 2553, it will remain a C Corporation, which means the corporation's profits will be taxed as a corporation using the corporate tax rates.

If you have any questions about subcontractors, exemptions, or workers' comp in general, please call the FUBA offices and ask for Karen or Lance.