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A CONTRACTOR'S GUIDE TO WORKERS' COMPENSATION IN FLORIDA

In Florida, companies involved in the construction industry are subject to some different rules and regulations than other companies when it comes to workers' compensation coverage. As a service to our members who are in the construction industry, FUBA has put together the following list of common questions and answers. For more information, you can call the FUBA offices at **800-262-4483** and ask for Karen or Lance.

What kinds of businesses are classified as "construction"? The state Division of Workers' Compensation publishes the official list of which class codes are considered to be in the construction industry. You can find this list in our Forms Library available 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** have a workers' comp policy to cover your employee(s). Every person 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 a business owner from having to buy workers' comp

insurance on yourself, which means you do not have to pay workers' comp premiums, but you are not eligible to receive workers' comp benefits if you are hurt on the job. Exemptions are valid only for the individual and company name listed on the exemption. In the construction industry, only officers owning 10% or more 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 your local insurance agent. To apply for an exemption from workers' comp coverage, go to the Division of Workers' Compensation's website at **MyFloridaCFO.com/wc** and click on the box that says "Apply for an Exemption." 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 discover that your sub is out of compliance with workers' comp requirements (i.e., their exemption has expired or their policy has been cancelled by their insurance company), you should insist that they correct the problem before you allow them back on the jobsite. If you allow someone to work on the jobsite without the proper coverage 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, you need to be extra careful. If that exempt sub brings even one helper onto your jobsite (it could be his brother-in-law, his regular assistant, or a total stranger), that helper 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 helper gets injured on the jobsite.

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 first ask him for 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 and make sure it's current and has the proper business name on it. It should also have the expiration date on it (exemptions expire every 2 years).

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

The best way to protect yourself is to independently verify the information you get from your subs by using free databases available from 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, as well as 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, how much payroll is being reported for the policy, 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. If you sign up, 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/wc and click on "Databases." Then click on either "Proof of Coverage Database" or "Construction Policy Tracking Database."

LOOKING FOR A WAY TO PROTECT YOURSELF AND YOUR BUSINESS AGAINST SCAMS?

The Florida Department of Agriculture's Consumer Services Division is the state clearinghouse for consumer complaints, information and protection. To help protect consumers from scammers, the Division maintains the "Little Black Book of Scams" that lists common scams in Florida and ways to protect yourself against them. The "Little Black Book of Scams" covers such areas as:

- Government Scams
- Service/Contractor Scams
- Tax Scams
- Internet Scams
- Money Transfer Requests/Check Scams

The Division of Consumer Services also has information on Tech Support Phone Scams, Unclaimed Property Scams, and Fake Debt Collector Calls.

To access this information, go to the Division's website at FreshFromFlorida.com and click on the "Divisions and Offices" tab, then click on "Consumer Services" in the drop-down menu.