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ATTENTION CONSTRUCTION INDUSTRY: LEGISLATURE GRANTS GRACE PERIOD FOR GETTING LICENSES CHANGED

If you have been reading the past several editions of this newsletter, you know that **ALL CONSTRUCTION EXEMPTIONS FROM WORKERS' COMPENSATION WILL EXPIRE on January 1, 2004, regardless of whether the business is a sole proprietorship, partnership or corporation.** Under the new workers' compensation law that was recently passed by the Florida Legislature and approved by Governor Jeb Bush, all persons working in the construction industry will be required to have workers' compensation coverage, except for up to 3 officers of a corporation who each own at least 10% of the corporation's stock. Sole proprietors and partners in the construction industry will no longer be allowed to exempt themselves after January 1, 2004.

If you are in the construction industry, currently exempt from workers' compensation and wish to continue to be exempt after January 1, 2004, you must meet the following criteria:

- Your business must be a corporation, registered with the state Division of Corporations.
- You must be listed as a corporate officer of that corporation in the official documents filed with the state Division of Corporations.
- You must provide copies of stock certificates issued by that corporation showing that you own at least 10% of the stock issued by the corporation.

- You must file some paperwork with the state Division of Workers' Compensation. It is called a "Re-Issuance of Notice of Election to be Exempt." You can print these forms from the Division of Workers' Compensation's web site at www.fldfs.com/wc. Click on Exemption Re-Issuance Application Package. If you do not have access to the Internet and you are a FUBA member or insured, you can call the FUBA offices at 850-681-6265, and we will fax or mail the forms to you.
- You must file these forms with the state no later than **November 30, 2003**, in order to receive your re-issued exemption before January 1st.
- You need to file these forms along with all other necessary information at the state Division of Workers' Compensation district office nearest you. You can file by mail or in person. A list of all the district offices is included in the Exemption Re-Issuance Application Package.

If you are contractor licensed by the Florida Department of Business & Professional Regulation (DBPR), changing your business from a sole proprietorship or partnership affects your contractor's license. If you decide to incorporate to be eligible for a new workers' compensation exemption, you will need to (1) file for a change of status of your license and (2) qualify your business (also known as a QB license) with the Construction Industry Licensing Board (under DBPR) in order to remain a properly licensed contractor. Your license must reflect the correct business name, and it is a violation of Florida law to perform construction contracting in a name that does not appear on your license. If you are operating as a corporation, you must also apply for a

qualified business license (“QBL”). The fee for a change of status application is \$50. The qualified business license application fee is \$59. If you are currently a sole proprietor or partner and you change your business to a corporation, you will need both of these.

Because these forms take a while to process and DBPR expects to get quite a few of them, the Legislature has granted a grace period for contractors to have these forms approved. You have until July 1, 2004, to get your change in status and qualified business license approved by DBPR. However, we suggest that you do not delay and go ahead and file this paperwork now. It can be quite confusing.

Please note: This grace period does not apply to filing for your new workers’ compensation exemption. If you wish to remain exempt after January 1st, you must still incorporate and file the exemption re-issuance package with the Division of Workers’ Compensation by November 30, 2003, to guarantee your exemption will be approved by January 1st. This new grace period simply allows you an additional 6 months to get DBPR’s approval on your change of status and your QBL.

The change of status application and the qualified business license application are available from the DBPR by calling 850-487-1395. Or, you can visit the DBPR online at www.myflorida.com/dbpr. Click on Professions and Professional Boards. Then click on Professions Form Center. If you are a FUBA member or insured, you can call the FUBA offices and we will send you the forms.

WHAT IS A QUALIFIED BUSINESS LICENSE AND WHY DO I NEED ONE?

If you are a licensed contractor in the State of Florida and you are operating as a business organization, such as a partnership, corporation, or other legal entity (i.e., anything except a sole proprietorship), you must apply for a qualified business license (QBL). This requirement is found in section 489.119(2), Florida Statutes, and failing to obtain this license means you are technically operating illegally. You could be subject to possible disciplinary action, including a fine of \$500 to

\$1,000, along with possible suspension or revocation of your license for repeated violations.

Not having a QBL also could prevent you from getting paid for your work. If you do not obtain a QBL, your company could be considered unlicensed in the state, making your contracts unenforceable pursuant to section 489.128, Florida Statutes. This could allow your customers to avoid paying you, even though you performed the work satisfactorily.

Please note: Although this requirement has been around for at least 8 years, a lot of contractors are not aware they need a QBL. This QBL requirement applies to **all** licensed contractors, except those operating as sole proprietors. If you do not have a QBL, we urge you to apply for one today. The application is available from the DBPR by calling 850-487-1395. Or, you can visit the DBPR online at www.myflorida.com/dbpr. Click on Professions and Professional Boards. Then click on Professions Form Center. If you are a FUBA member or insured, you can call the FUBA offices and we will send you the forms.

LEGISLATURE ALLOWS OWNERS OF LLC’S TO BE EXEMPT FROM WORKERS’ COMP

Under the new workers’ comp law (Senate Bill 50-A) from this summer that changes who is eligible for a workers’ compensation exemption in the construction industry, owners of limited liability companies (LLC’s) were not going to be able to be exempt because they are not considered corporate officers. Under Senate Bill 50-A, only corporate officers can exempt themselves from workers’ compensation. Because this provision would inadvertently prevent thousands of LLC’s in the construction industry from keeping their owners’ exemptions, last week the Florida Legislature approved Senate Bill 14-E, which allows LLC’s to exempt up to 3 owners who each own at least 10% of the LLC’s stock. In applying for an exemption, LLC owners will be treated just like officers of a corporation. If you have any questions about this new bill, please call the FUBA offices at 1-800-262-4483 and ask for Karen or Lance.