



A Contractor's Guide to Workers' Compensation

What kinds of businesses are classified as “construction”? The Florida Division of Workers' Compensation publishes the list of class codes 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, you must have either 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 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, but it also means you can't receive workers' comp benefits if you are hurt on the job. 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 insurance, 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? 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.

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.

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 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.

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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 Proof of Coverage database 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 their policy expires. For your subs with exemptions, you will be able to see proof of their exemption and when it is set to expire.

The Florida Construction Policy Tracking Database will track your subs' policies and/or exemptions to make sure they stay current. The database will send you an email if a subcontractor has their policy cancelled or if their exemption expires so that you can stop using that sub until they get a new workers' comp policy or renew their exemption.

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 "employee leasing" and why should I avoid subs who use it? When a business owner signs up for "employee leasing" (provided through a professional employer organization or "PEO"), the employees of that business are no longer employees of the business. They are now employees of the PEO, because the business is "leasing" its employees from the PEO. The business itself doesn't have any employees because the PEO is now the employer. The PEO provides workers' compensation for these employees, but only for those employees officially accepted by the PEO as employees.

If you use a sub who leases its employees from a PEO and that sub hires a worker and forgets to tell the PEO about it, that worker isn't covered by workers' comp insurance. Only the workers officially accepted by the PEO (not just hired by your sub) have workers' comp coverage. Which means **YOU** will be responsible if that worker is hurt on the job, and you will owe your insurance company more premium.

You can avoid this extra premium by not using subs who lease their employees from a PEO. But if you do have to use a sub who is with a PEO, one thing you can do to protect yourself is to ask the subcontractor for a list of names of their employees that are also listed as employees of the PEO. Only these workers are covered by the PEO's workers' comp policy, so you should only allow those workers onto your job.

Another danger with PEOs is that they can cancel your sub's workers' comp insurance with little advance notice. PEOs are not subject to the same cancellation provisions that insurance companies are. If this happens, your insurance company will charge you premium for all the sub's payroll while the sub worked for you and did not have workers' comp coverage, and your insurance company will be on the hook for all on-the-job accidents. For these reasons, many contractors will not hire subcontractors who use a PEO.

Why is it important that my company files its 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 to maintain "active" status. Companies not filing an Annual Report are dissolved by the state, which means their owners no longer qualify for an exemption from workers' comp and their payroll will be subject to premium charges.

Llame nuestra oficina al 888-262-4483 para pedir una copia en español.



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