

## Division of Workers' Compensation



## Key Coverage and Exemption Eligibility Requirements

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FLORIDA DEPARTMENT OF FINANCIAL SERVICES

## Key Coverage Requirements

- Non-construction industry employers with four or more full-time or part-time employees must provide coverage for all employees.
- Construction industry employers with one or more full-time or part-time employees must provide coverage for all employees.
- Construction industry employers must ensure any subcontractor has workers' compensation coverage or a valid exemption for the corporate officer or member of the Limited Liability Company, however there must be workers' compensation coverage for all employees of the subcontractors.
- Farmers with six or more regular employees and/or 12 or more seasonal employees who work for more than 30 days must provide coverage for all employees.

## Tips To Assure Proper Coverage Is In Place

- Any change in employees' job duties or an increase in payroll must be reported to the insurance carrier.
- An employer who secures coverage through an employee leasing company must secure coverage for each and every employee; promptly advise the employee leasing company of any change in job duties; and promptly advise the employee leasing company of any personnel not included in the employee leasing arrangement.

## Requirements For Out-of-State Employers

- An out-of-state employer engaged in work in Florida must immediately notify his or her insurance carrier that it has employees working in Florida.
- An out-of-state employer who has employees working in Florida must have a Florida workers' compensation insurance policy or an endorsement must be added to the out-of-state policy that lists Florida in section 3.A. of the policy.
- A Florida contractor working in this state who contracts with an out-of-state subcontractor must require proof of a Florida workers' compensation policy or an endorsement to the out-of-state employer's policy that lists Florida in section 3.A. of the policy. Otherwise, the Florida contractor's policy must include the out-of-state subcontractor and their employees per Chapter 440.10(1)(g), Florida Statutes.

Extraterritorial Reciprocity: Out-of-state employers whose home jurisdiction has in its statute an "extraterritorial reciprocity" clause allowing temporary employees from another jurisdiction (including Florida) to work under the "home state's" workers' compensation policy is permitted to work in Florida using the workers' compensation policy from their "home state", as long as the work is temporary in nature. Temporary is defined as no more than 10 consecutive days with a maximum of 25 total days in a calendar year. [For a list of the current jurisdictions who have an extraterritorial reciprocity statute, contact the Division of Workers' Compensation at 850.413.1609].



## Where to Find Coverage

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Contact a Florida-licensed insurance agent. You can also contact the following insurance agent associations:

- Florida Association of Insurance Agents at [www.faia.com](http://www.faia.com)
- Latin American Association of Insurance Agents at [www.laiaa.com/](http://www.laiaa.com/)
- If you cannot obtain coverage through the standard workers' compensation market and have been denied coverage by two carriers, your insurance agent may make application to the Florida Workers' Compensation Joint Underwriting Association (FWCJUA). The FWCJUA can be reached at 941-378-7400 or [www.fwcjua.com](http://www.fwcjua.com).

You may also consider entering into an employee leasing arrangement with a professional employer organization (PEO) that has secured Florida workers' compensation coverage on behalf of its clients.

## Key Exemption Eligibility Information

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An officer of a corporation who elects to be exempt may not recover workers' compensation benefits. Further, the corporation must be registered with the Florida Department of State, Division of Corporations. Eligibility requirements and required documentation are detailed in Chapter 440.05 Florida Statutes and are outlined below:

- **A state driver license number or Florida ID number is required to obtain or renew a Certificate of Election to be Exempt.**

### Construction Industry Applicant

- **Corporation:**
  - The corporation must be registered and listed as active with the Florida Department of State, Division of Corporations.
  - The applicant must be listed as an officer of the corporation in the records of the Florida Department of State.
  - The applicant must evidence a minimum 10 percent ownership of the corporation.
  - No more than three officers of a corporation or of any group of affiliated corporations (including LLCs) may elect to be exempt.
  - A \$50.00 fee is required.
  - Construction exemptions are valid for a period of 2 years unless a request for revocation is filed prior to expiration, or until revoked by the Division for cause.
  - The effective and expiration dates are listed on the Certificate of Election to be Exempt.
- **Limited Liability Company (LLC):**
  - The LLC must be registered and listed as active with the Florida Department of State, Division of Corporations.
  - The applicant must evidence a minimum 10 percent ownership of the LLC.

- No more than three officers of an LLC or of any group of affiliated LLCs (including corporations) may elect to be exempt.
- A \$50.00 fee is required.
- Construction exemptions are valid for a period of 2 years unless a request for revocation is filed prior to expiration, or until revoked by the Division for cause.
- The effective and expiration dates are listed on the Certificate of Election to be Exempt.

#### **Non Construction Industry Applicant**

- **Corporation:**

- The corporation must be registered and listed as active with the Florida Department of State, Division of Corporations.
- The applicant must be listed as an officer of the corporation in the records of the Florida Department of State.
- There is no limit to the number of corporate officers eligible to obtain an exemption.
- There is no fee.
- Non Construction exemptions effective 01/01/2013 and after are valid for a period of 2 years unless a request for revocation is filed prior to expiration, or until revoked by the Division for cause.
- The effective and expiration dates are listed on the Certificate of Election to be Exempt.

- **Limited Liability Company (LLC):**

- The LLC must be registered and listed as active with the Florida Department of State, Division of Corporations.
- The applicant must evidence a minimum 10 percent ownership of the LLC.
- No more than 10 members of an LLC may elect to be exempt.
- There is no fee.
- Non Construction exemptions are valid for a period of 2 years unless a request for revocation is filed prior to expiration, or until revoked by the Division for cause.
- The effective and expiration dates are listed on the Certificate of Election to be Exempt.

**Out-of-state contractors that are corporations or limited liability companies can qualify as foreign corporations or foreign limited liability companies by filing specific forms and documentation with the Florida Division of Corporations. For more information, call (850) 245-6051 or log on to [www.sunbiz.org](http://www.sunbiz.org).**

## **How to Apply for an Exemption**

Please use the Notice of Election to Be Exempt system to electronically submit an exemption application and payment, if required, to the Division of Workers' Compensation.

To access the Notice of Election to be Exempt online application system, go to the Division of Workers' Compensation website at [www.myfloridacfo.com/Division/wc/](http://www.myfloridacfo.com/Division/wc/).

## **Enforcement Provisions (Chapter 440.107, Florida Statutes)**

The Florida Department of Financial Services, Division of Workers' Compensation is responsible for enforcing employer compliance with the coverage requirements of the workers' compensation law.

Compliance investigators conduct on-site inspections. A Stop-Work Order, requiring the employer to cease all business operations, will be issued to any employer that is required to secure Florida Workers' Compensation coverage but fails to do so. In addition, a statutory penalty equal to 2 times the amount the employer would have paid in premium within the preceding 2 year period shall be assessed.

A Stop-Work Order may also be issued if an employer understates or conceals payroll, misrepresents or conceals employee duties, or otherwise attempts to avoid paying workers' compensation premiums. Such actions could also result in criminal charges and penalties.

In order for the Division to release a Stop-Work Order, employers are required to provide evidence of compliance and make a minimum down payment of \$1000 on the penalty and agree to enter into a Periodic Payment Plan.

#### **It is against the law to:**

- Work in violation of a Stop-Work Order.
- Make a false statement for the purpose of obtaining coverage or to reduce workers' compensation premiums.
- Fail to report an injury to your insurance carrier.
- Discharge or threaten to discharge an employee for filing or attempting to file a workers' compensation claim.
- Deduct workers' compensation premiums from employees' pay.
- Misclassify an employee as an independent contractor.

Rewards of up to \$25,000 may be paid to persons providing information to the Department of Financial services leading to the arrest and conviction of persons committing insurance fraud, including employers who illegally fail to obtain workers' compensation coverage. Persons may report suspected fraud to the department at 800-378-0445 or online at <http://www.myfloridacfo.com/division/Fraud/default.htm>. A person is not subject to civil liability for furnishing such information, if such person acts without malice, fraud, or bad faith.

## Important Information

The Division's Web Address:

[www.MyFloridaCFO.com/Division/WC](http://www.MyFloridaCFO.com/Division/WC)

### Proof of Coverage Database:

Available on the Division's website, provides information regarding Workers' Compensation coverage and exemptions.



### Construction Policy Tracking Database:

Available on the Division's website in the Employer section or under the Database menu; provides information regarding changes to Workers' Compensation coverage. The registrant receives automatic notification of any changes to the status of the specified policy and, or exemption.



### To Report Non-compliance:

On the Division's website, click the "Report Suspected Workers' Comp Non-Compliance" icon.



### Employee Assistance Office

Assists injured workers.

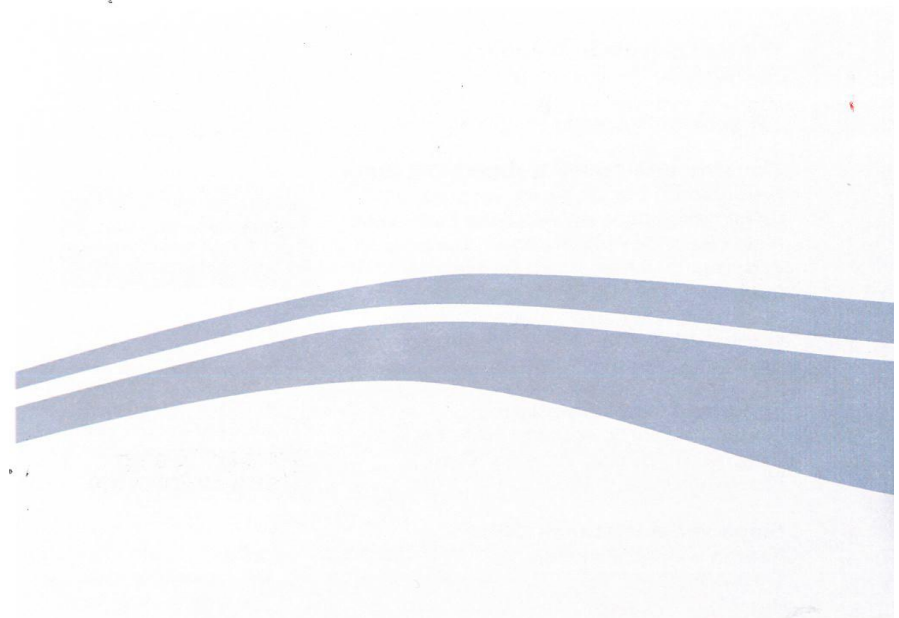
1-800-342-1741

### Bureau of Compliance Customer Service

1-850-413-1609

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*(Disclaimer: this brochure contains general information relating to Florida Workers' Compensation and is not intended to be a substitute for the law.)*



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