

KEY INFORMATION RELATING TO THE WORKERS' COMPENSATION EXEMPTION

COVERAGE REQUIREMENTS

Construction industry: An employer engaged in the construction industry employing one or more part or full time employees must secure Florida workers' compensation coverage. Employee includes the sole proprietor, the partner(s), corporate officers, and limited liability company members. Corporate officers, which for a construction employer only, include members of a limited liability company, are eligible to elect to be exempt from the provisions of Chapter 440.

Non-construction industry: An employer engaged in the non-construction industry employing 4 or more part or full time employees must secure Florida workers' compensation coverage. Employee includes corporate officers. Corporate officers are eligible to elect to be exempt from the provisions of Chapter 440. A non-construction LLC member is not eligible for an exemption.

GENERAL EXEMPTION INFORMATION

Corporations are separate legal entities that must be incorporated with the Florida Department of State, Division of Corporations (DOC). The DOC may be contacted via their website www.sunbiz.org or via telephone (850) 245-6052. *Fictitious Name Registrations* are filed with the DOC. A fictitious name is required to be registered with the DOC if an individual operates a business under any name other than their legal name or a properly registered corporate name, partnership, or limited liability company. The registration of a fictitious name is not the same as the incorporation of a business entity. If a corporation's fictitious name is listed on the DWC 250 and the fictitious name is not registered, the Certificate of Election to be Exempt will be issued in the corporate name only. Once the Division issues the exemption, the exempted individual is no longer considered an employee. The exempted individual may not recover workers' compensation benefits should they sustain a work related injury.

General Criteria for obtaining an exemption:

- Exemptions are effective when issued by the Department. The issue date of the Certificate of Election to be Exempt is the date it is approved and saved to the Coverage and Compliance Automated System database of the Department (CCAS), or 30 days after the date the DWC 250 is received by the department, whichever is earlier. The effective date of a "renewed" exemption may vary. For a detailed explanation of effective date calculations see Rule 69L-6.012 which can be accessed via the Division's website at <http://www.myfloridacfo.com/WC/> and by clicking on "Rules and Forms."
- Expiration Date:
 - Non-construction exemptions do not expire; they are valid until a revocation is filed or until revoked by the Department.
 - Construction exemptions are valid for a period of 2 years or until a revocation is filed or until revoked by the Department. The original effective and expiration date are listed on the certificate of election to be exempt, which is mailed to the exempted individual.
- A Revocation of Election to be Exempt, Form DWC-250-R (available at www.myfloridacfo.com/wc) is used to revoke an existing exemption. An exemption can be revoked at any time and should be revoked when the individual is no longer listed as an officer on the annual report filed with the DOC. **ALL officers with active construction industry exemptions will be counted in the three officer maximum limitation.** A revocation shall only be filed by the same person named on the Certificate of Election to be Exempt or by a corporate officer of the business named on the Certificate of Election to be Exempt and listed as a corporate officer with the DOC.
- A non-construction LLC member is not eligible for an exemption. It is up to the individual and the workers' compensation insurance carrier (if one exists) to determine if the individual meets the definition of employee as listed in 440.02 (15) Florida Statutes. An exemption **will not** be issued to a member of a non-construction LLC.
- Certificates of election to be exempt shall apply only to the corporate officer named on the notice of election to be exempt and apply only within the scope of the business or trade listed on the notice of election to be exempt.
- If the scope of business or trade listed on the DWC 250 is a profession licensed by the Department of Business and Professional Regulation (DBPR) than the applicant must list all certified or registered licenses required to be obtained by either the applicant or the corporation. Certified or registered licenses refer to any licenses that are issued by DBPR as required by Chapter 489, Florida Statutes.

- [Qualified Business License Requirement](#) -- If you are a contractor licensed under Chapter 489, Florida Statutes, and you are operating as a business organization, including a partnership, corporation or other legal entity, you must apply for a qualified business license (also known as a certificate of authority) with the Construction Industry Licensing Board.
- If you are a contractor and need further information about state licensing requirements, please call DBPR at (850) 487-1395 or visit their website www.myflorida.com/dbpr.
- Applicants for a construction industry exemption must evidence a minimum of 10% ownership in the business by attaching, for a corporation, a stock certificate, or for an LLC, a statement of ownership or a certificate of units of membership. If the business has issued certificates, those may be submitted. The applicant may choose to complete the appropriate stock certificate template or statement of ownership template available on our website, www.myfloridacfo.com/wc and clicking on the appropriate icons.
- Construction industry renewal notification: **The Department of Financial Services, Division of Workers' Compensation will mail a renewal notification letter** to each exemption holder approximately 70 days prior to the exemption's expiration date. The mailing will include the letter, a blank DWC 250 and instructions. Since this information is mailed to the address on record, it is imperative that any change of address information is submitted to the division in a timely manner.

DENIAL OF EXEMPTION

The Department shall deny any Notice of Election to be Exempt filed by a corporate officer who is not eligible to obtain an exemption. Once eligibility criteria are met a new Notice of Election to be Exempt must be filed by the corporate officer, and if the corporate officer is engaged in the construction industry, another \$50.00 fee must be submitted. Reasons for denial:

- Applicant not listed as an officer
- Applicant is a non-construction LLC
- Corporation or LLC is Inactive with the DOC
- Corporation is not registered with the DOC
- Company is registered as a Limited Partnership
- Company has an active Stop Work Order
- Affiliated Corporation(s) or LLC(s) have 3 active exemptions on file – applies to construction industry entities only

EMPLOYER COMPLIANCE AND PENALTIES FOR FAILURE TO SECURE COVERAGE

- Under Florida law, the Division of Workers' Compensation has the authority to enter and inspect any place of business at any time to request, copy and examine business records, and issue stop-work orders.
- A stop-work order may be issued for one or more of the following reasons: failure to secure workers' compensation coverage; materially understating or concealing payroll; materially misrepresenting or concealing employee duties to avoid proper classification for premium calculations; materially misrepresenting or concealing information for the computation and application of an experience modification factor; and failure to produce required business records within five days. A penalty will also be assessed against the employer. The penalty is 1.5 times the amount the employer would have paid in workers' compensation premium for the preceding three years.
- A stop-work order remains in effect until the employer has complied with coverage requirements and paid any assessed penalties in full or entered into a periodic payment agreement with the Division.

ON-LINE DATABASES

The following databases may be of assistance to employers. The databases can be accessed via the Division's website at <http://www.myfloridacfo.com/WC/> and by clicking on "Databases."

- **Proof of Coverage Database** - allows the user to view an employer's coverage and exemption information.
- **Construction Policy Tracking Database** - allows a contractor to track and monitor changes to their subcontractors' policies. After registering, a contractor will receive automatic e-mails from the Division regarding the issuance, cancellation, or reinstatement of the policies for any subcontractors selected to be tracked.
- **Compliance Stop-Work Order Database** - allows user to view information on employers who have received a stop-work order based upon a determination that the employer has failed to secure the payment of workers' compensation. The database includes the following information for each stop-work order: the employer's name, the date of the stop-work order, the reason the stop-work order was issued to the employer, and the release date of the stop-work order.