


Workers' Compensation Changes PC 1149

New Chapter 9

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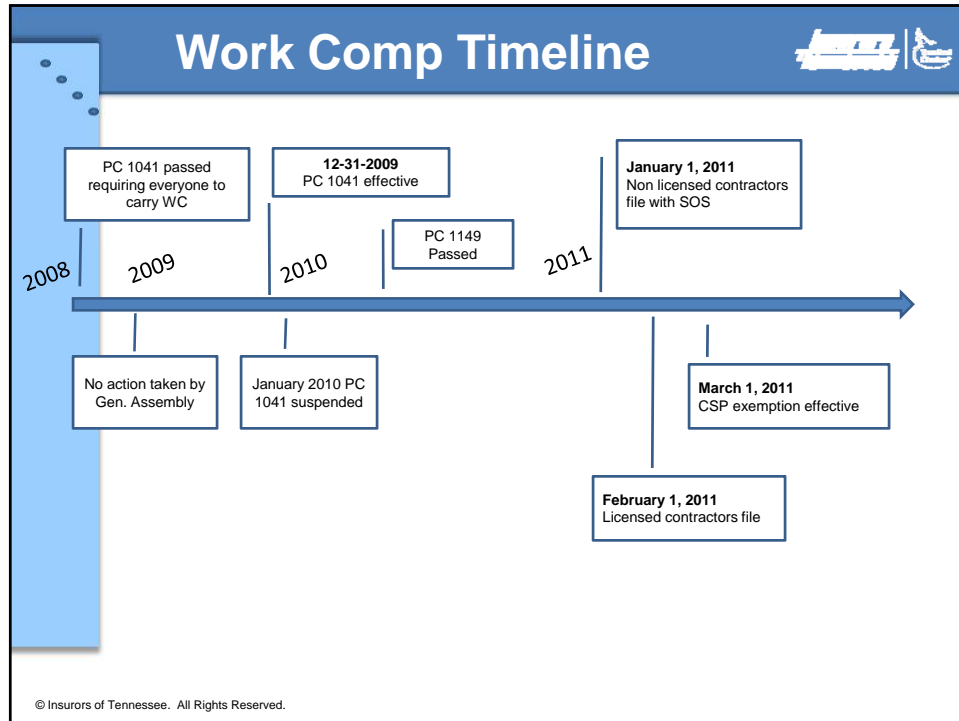
Introduction

Insurers of Tennessee

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Seven Factors

“...in order to determine whether an individual is an ‘employee’ or whether an individual is a ‘subcontractor’ or an ‘independent contractor’, the following factors shall be considered:

- (A) the right to control the conduct of the work;
- (B) the right of termination;
- (C) the method of payment;
- (D) the freedom to select and hire helpers;
- (E) the furnishing of tools and equipment;
- (F) self-scheduling of working hours; and
- (G) the freedom to offer services to other entities.”

T.C.A. § 50-6-102(11)

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PC 1149



All construction services providers shall be required to carry workers' compensation insurance.

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Definitions



Construction Services Provider – any person or entity engaged in the construction industry

Engaged in the construction industry – NCCI classifications


http://www.insurors.org/Content/NavigationMenu/PDF3/TN_Contracting_Codes.pdf

Sole proprietor – one person who owns a business and who owns all assets of the business

Registry – CSP workers' compensation exemption registry maintained by SOS

<http://tnbear.tn.gov/wc/>

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Definitions 

Good standing with Revenue – SOS will verify that the CSP is current on all fees and taxes due the state

Family-owned business – a business entity in which members of the same family of the applicant own at least ninety-five (95%) percent of the business

Members of the same family of the applicant – parents, children, siblings, grandparents, grandchildren, stepparents, stepchildren, stepsiblings, or spouses of such, and includes adoptions

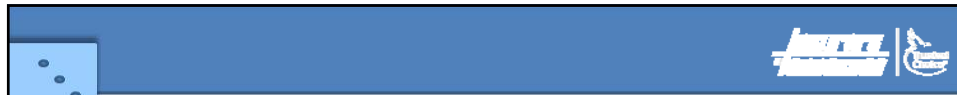
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Definitions 

Commercial Construction project –

- (A) any project larger than 4 family unit residences or over three (3) stories high
ie: Condominium with 5 units, or 2 units with 4 stories
- (B) construction of any project for public use valued at over \$750,000
- (C) does not include projects performed by or for public utilities
ie: electric, water, cable, telephone

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So who can be exempt or what do they do to become exempt?

Two code sections that must be referenced.

§50-6-902 and §50-6-903

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Exemptions

§50-6-902 states:

A CSP shall be exempt from WC if the CSP:

- 1) Is a CSP listed on the Registry (limited by §50-6-903)
- 2) Is a CSP on the Registry, and one of first three (3) on a commercial project
- 3) Is covered under WC policy maintained by the entity for whom the CSP is working (ie: general contractor)
- 4) Is a sole proprietor or partner working for the owner
- 5) Is a sole proprietor or partner working on his own property

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Exemptions



The following CSP's are not automatically exempt:

- 1) A CSP listed on the Registry (limited by §50-6-903)
- 2) A CSP on the Registry, and one of first three (3) on a commercial project
- 3) Is covered under WC policy maintained by the entity for whom the CSP is working (ie: general contractor)
- 4) Is a sole proprietor or partner working for the owner
- 5) Is a sole proprietor or partner working on his own property

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Exemption is not automatic.

So how do they become exempt?

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CSP exemptions

The following CSP's may request an exemption from the requirement that such person be covered by workers' compensation:

Officer of a corporation; provided that no more than three officers of one corporation shall be eligible for an exemption

- I-6 no longer applies to construction. Current officers with exemptions must file before March 1, 2011 in order to remain exempt.
- Must pick three – no more than 3 will be allowed to be exempt under new law.

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CSP exemptions

The following CSP's may request an exemption from the requirement that such person be covered by workers' compensation:

- Officer of a corporation; provided that no more than three officers of one corporation shall be eligible for an exemption;
- Member of a limited liability company, if such member owns at least 30 percent of the company;
- Partner in a limited partnership, limited liability partnership or a general partnership if such partner owns at least 30 percent of the partnership;

- no more than 3 eligible for exemption

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CSP exemptions



The following CSP's may request an exemption from the requirement that such person be covered by workers' compensation:

- Officer of a corporation; provided that no more than three officers of one corporation shall be eligible for an exemption;
- Member of a limited liability company, if such member owns at least 30 percent of the company;
- Partner in a limited partnership, limited liability partnership or a general partnership if such partner owns at least 30 percent of the partnership;
- A sole proprietor; or
- Up to three owners of family owned business entities.

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Fees



How much will it cost?

The exemption costs \$100 and is good for two years

If you are not licensed by the Board for Licensing Contractors, then you will pay an additional \$100 to register as a construction services provider, which is also good for two years

Example:

Corporation, 3 officers file, they will each have to pay the filing fee or fees, so if they are not licensed by the Board, the total for three exemptions is \$600.

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Workers' Compensation Exemption Registry

<http://tnbear.tn.gov/wc/>

Main Website Page:

The screenshot shows the Tennessee Department of State website. At the top, there is a navigation bar with links for Home, Corporations, UCC, Motor Vehicle Temporary Liens, Notary Commission, Trademarks, Summons, and More Services. Below this is a section for 'Online Services' with a search bar and a 'Go' button. The main heading is 'Workers' Compensation Exemption Registry Online'. Below the heading, there is a brief description of the registry and several links: 'Exemption Registry Search', 'File a new Exemption Registration', 'Exemption Registration Renewal', and 'Request a Copy of my Exemption Registration'. Each link has a corresponding description of the service.

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Workers' Compensation Exemption Registry

<http://tnbear.tn.gov/wc/>

Search Page:

The screenshot shows the search page for the Workers' Compensation Exemption Registry. The heading is 'Workers' Compensation Exemption Registry Search'. Below the heading, there is a brief instruction: 'Search for Workers' Compensation Exemption Registrations. If an Registration Control # is entered, the other search values will be ignored.' Below this is a search form with the following fields: 'Registration Control #', 'Applicant Last Name', 'Business Entity Name', 'Business Entity Control #', 'State License #', 'Status' (with a dropdown menu set to 'Active'), 'Filed or Amended Between' (with two date pickers), 'And' (with two date pickers), 'FEIN', and a 'Search' button. There are also radio buttons for 'Starts With' and 'Contains' next to the 'Applicant Last Name' and 'Business Entity Name' fields. A 'What's this?' link is next to the 'Business Entity Control #' field.

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Workers' Compensation Exemption Registry

New Registration Main Page:

The screenshot shows the Tennessee Department of State website for the Workers' Compensation Exemption Registry. At the top, there is a header with the state seal and the text 'Tennessee Department of State'. Below this is a navigation menu with links for Home, Corporations, UCC, Motor Vehicle Temporary Licenses, Notary Commission, Trademarks, Summons, and More Services. The main content area is titled 'Workers Compensation Exemption Registration' and includes sections for 'Who Can File Here', 'How You Can File Here', 'Start Now!', and 'What You'll Need to Register'. The 'Who Can File Here' section lists construction services providers. The 'How You Can File Here' section provides options for e-filing or printing and mailing. The 'Start Now!' section offers links for e-filing and printing. The 'What You'll Need to Register' section lists required information such as Business Entity Name, FEIN, and Business License Information.

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Workers' Compensation Exemption Registry

New Registration Main Page con't:

This screenshot continues the page from the previous one, showing the 'Have Questions?' and 'Registration Requirements' sections. The 'Have Questions?' section provides contact information for various departments: Business Services for exemption renewals, the Department of Revenue for certificates of good standing, the Department of Labor & Workforce Development for insurance issues, and the Board for Licensing Contractors for state licensing issues. The 'Registration Requirements' section lists the full requirements for filing, including the need for a business entity name, FEIN, and local business license information. It also notes that e-filing requires a credit or check card and that a convenience fee of \$5.50 is charged for online transactions.

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Filing Methods



Applications may be filed using one of the following methods:

E-file: The application is completed by going to <http://TNBEAR.TN.gov/WC/ExemptionRegInstr.aspx>


Print and Mail: The application is completed using an online tool by going to <http://TNBEAR.TN.gov/WC/ExemptionRegInstr.aspx> print and mail with the required filing fee.

Paper submission: The application is hand printed in ink or computer generated and mailed.

Walk-in: The application is hand printed in ink or computer generated and is delivered in person.

E-mail at: WorkersComp.ExemptionRegistry@tn.gov
Call: (615) 741-2286

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WORKERS' COMPENSATION EXEMPTION REGISTRATION APPLICATION FORM (09-422)		For Office Use Only
 <p>Business Services Division Tim Hargett, Secretary of State State of Tennessee 317 Ross L. Parks Ave., 4th Fl. Nashville, TN 37243 (615) 741-2286</p> <p>Filing Fee for Unlicensed Contractor \$700 Filing Fee for Licensed Contractor \$100</p>		
APPLICANT INFORMATION		
First: _____	Mi: _____	Last: _____
Date of Birth: _____ / _____ / _____	Last 4 digits of SSN: X X X X	
Phone: (____) _____-_____	Email: _____	
Physical Address: _____	City: _____	ST: _____ Zip: _____
Mailing Address: _____	City: _____	ST: _____ Zip: _____
QUALIFICATION (CHECK ONE)		
<input type="checkbox"/> Applicant is an officer of a corporation engaged in the construction industry.		
<input type="checkbox"/> Applicant is a member of a limited liability company (LLC) engaged in the construction industry and owns at least 30% of the company.		
<input type="checkbox"/> Applicant is a partner of a limited partnership (LP), limited liability partnership (LLP), or general partnership (GP) engaged in the construction industry and owns at least 30% of the partnership.		
<input type="checkbox"/> Applicant is a sole proprietor engaged in the construction industry.		
<input type="checkbox"/> Applicant and members of the same family of the applicant hold at least 95% ownership of the business.		
BUSINESS ENTITY		
Business Entity Name: _____		
SOS Control #: _____	Federal EIN (IRS) _____	
STATE BOARD FOR LICENSING CONTRACTORS INFORMATION (CHECK ONE)		
<input type="checkbox"/> I DO NOT have an active license issued by the State Board for Licensing Contractors.		
<input type="checkbox"/> I have an active license issued by the State Board for Licensing Contractors (complete details below).		
License #: _____	Exp. Date: _____	
LOCAL BUSINESS LICENSE INFORMATION		
County: _____	Issue Date: _____	
License #: _____	Exp. Date: _____	
City/Town: _____	Issue Date: _____	
License #: _____	Exp. Date: _____	
ATTESTATION		
<input type="checkbox"/> By checking this box, I attest that I meet all the requirements for the workers' compensation exemption under TCA §50-6-901 et seq. I understand that any false statement I make on the application is subject to the penalties of perjury set out in TCA §39-1-6-702.		
<input type="checkbox"/> By checking this box, I understand that I waive my right to sue under workers' compensation law if I am injured on a job and have utilized the workers' compensation exemption on that job.		
Applicant Signature: _____	Date: _____	

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EDA 1762

WORKERS' COMPENSATION EXEMPTION REGISTRATION APPLICATION FORM (ss-4322)

Business Services Division
 The Hargett, Secretary of State
 State of Tennessee
 117 Ross L. Park Ave., 6th Fl.
 Nashville, TN 37203
 (615) 741-2286

For Office Use Only

Filing Fee for Unlicensed Contractor \$700
 Filing Fee for Licensed Contractor \$100

APPLICANT INFORMATION

First: _____ MI: _____ Last: _____
 Date of Birth: ____/____/____ Last 4 digits of SSN: ____-____-____-____
 Phone: (____) _____-____-____ Email: _____
 Physical Address: _____ City: _____ ST: _____ Zip: _____
 Mailing Address: _____ City: _____ ST: _____ Zip: _____

QUALIFICATION (CHECK ONE)

Applicant is an officer of a corporation engaged in the construction industry.
 Applicant is a member of a limited liability company (LLC) engaged in the construction industry and owns at least 30% of the company.
 Applicant is a partner of a limited partnership (LP), limited liability partnership (LLP), or general partnership (GP) engaged in the construction industry and owns at least 30% of the partnership.
 Applicant is a sole proprietor engaged in the construction industry.
 Applicant and members of the same family of the applicant hold at least 95% ownership of the business.

BUSINESS ENTITY

Business Entity Name: _____
 SOS Control # _____ Federal EIN (IRS): _____

STATE BOARD FOR LICENSING CONTRACTORS INFORMATION (CHECK ONE)


BUSINESS ENTITY

Business Entity Name: _____
 SOS Control # _____ Federal EIN (IRS): _____

[504-6-901] et seq. I understand that any false statement I make on the application is subject to the penalties of perjury set out in TCA §39-16-702.
 By checking this box, I understand that I waive my right to sue under workers' compensation law if I am injured on a job and have utilized the workers' compensation exemption on that job.
 Applicant Signature: _____ Date: _____
 ss-4322 (3/11) RDA 1/02

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www.irs.gov



How does someone get an FEIN?

Contact the IRS at:

<http://www.irs.gov/businesses/small/index.html>

or by phone at 1-800-829-4933

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WORKERS' COMPENSATION EXEMPTION REGISTRATION APPLICATION FORM (ss-4323)

Business Services Division
Tye Hargett, Secretary of State
State of Tennessee

For Office Use Only

STATE BOARD FOR LICENSING CONTRACTORS INFORMATION (CHECK ONE)

I DO NOT have an active license issued by the State Board for Licensing Contractors.

I have an active license issued by the State Board for Licensing Contractors (complete details below).

License # _____ Exp. Date: _____

Applicant is a member of a limited liability company (LLC) engaged in the construction industry and owns at least 30% of the company.

Applicant is a partner of a limited partnership (LP), limited liability partnership (LLP), or general partnership (GP) engaged in the construction industry and owns at least 30% of the partnership.

Applicant is a sole proprietor engaged in the construction industry.

Applicant and members of the same family of the applicant hold at least 95% ownership of the business.

BUSINESS ENTITY

Business Entity Name: _____

SOS Control #: _____ Federal EIN (IRS): _____

STATE BOARD FOR LICENSING CONTRACTORS INFORMATION (CHECK ONE)

I DO NOT have an active license issued by the State Board for Licensing Contractors.

I have an active license issued by the State Board for Licensing Contractors (complete details below).

License #: _____ Exp. Date: _____

LOCAL BUSINESS LICENSE INFORMATION

County: _____ Issue Date: _____

License #: _____ Exp. Date: _____

City/Town: _____ Issue Date: _____

License #: _____ Exp. Date: _____

WORKERS' COMPENSATION EXEMPTION REGISTRATION APPLICATION FORM (ss-4323)

Business Services Division
Tye Hargett, Secretary of State
State of Tennessee
317 Ross L. Parks Ave., 4th Fl.
Nashville, TN 37243
(615) 741-2286

Filing Fee for Unlicensed Contractor \$700
Filing Fee for Licensed Contractor \$100

For Office Use Only

APPLICANT INFORMATION

First: _____ MI: _____ Last: _____

Date of Birth: ____/____/____ Last 4 digits of SSN: ____-____-____-____

Phone: (____) _____-____-____ Email: _____

ATTESTATION

By checking this box, I attest that I meet all the requirements for the workers' compensation exemption under TCA § 50-6-901 et seq. I understand that any false statement I make on the application is subject to the penalties of perjury set out in TCA § 39-16-702.

By checking this box, I understand that I waive my right to sue under workers' compensation law if I am injured on a job and have utilized the workers' compensation exemption on that job.

Applicant Signature: _____ Date: _____

License #: _____ Exp. Date: _____

LOCAL BUSINESS LICENSE INFORMATION

County: _____ Issue Date: _____

License #: _____ Exp. Date: _____

City/Town: _____ Issue Date: _____

License #: _____ Exp. Date: _____

ATTESTATION

By checking this box, I attest that I meet all the requirements for the workers' compensation exemption under TCA § 50-6-901 et seq. I understand that any false statement I make on the application is subject to the penalties of perjury set out in TCA § 39-16-702.

By checking this box, I understand that I waive my right to sue under workers' compensation law if I am injured on a job and have utilized the workers' compensation exemption on that job.

Applicant Signature: _____ Date: _____

ss-4323 (3/11) RDA 1762

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Recap/Questions



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Revocation of Exemption

Exemption may be revoked voluntarily or by the Secretary of State.

Secretary of State may revoke for following:

- ✓ If license suspended by contractor's board
- ✓ If violate requirement to carry WC on employees
- ✓ If no longer meet requirements

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Revocation of Exemption



Once revoked, must:

- ✓ Give notice to person for whom they are working
- ✓ Sign attestation form regarding any employment related injuries while exempt
- ✓ Obtain workers' compensation insurance

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Type of Project



I don't understand.

What is the difference between commercial and non-commercial jobs?

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Definitions



Commercial Construction project –

- (A) any project larger than 4 family unit residences or over three (3) stories high
ie: Condominium with 5 units, or 2 units with 4 stories
- (B) construction of any project for public use valued at over \$750,000
- (C) does not include projects performed by or for public utilities
ie: electric, water, cable, telephone

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Non-Commercial



On a non-commercial job site (as defined):

Any CSP who is on the exemption registry is exempt from the requirements of Worker's Compensation.

CSP still must provide WC insurance for employees

As long as CSP maintains the exemption on the Registry, he will be exempt while on all **non-commercial** jobs.

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Commercial

Only 3 direct laborers can be exempt on a commercial job site.

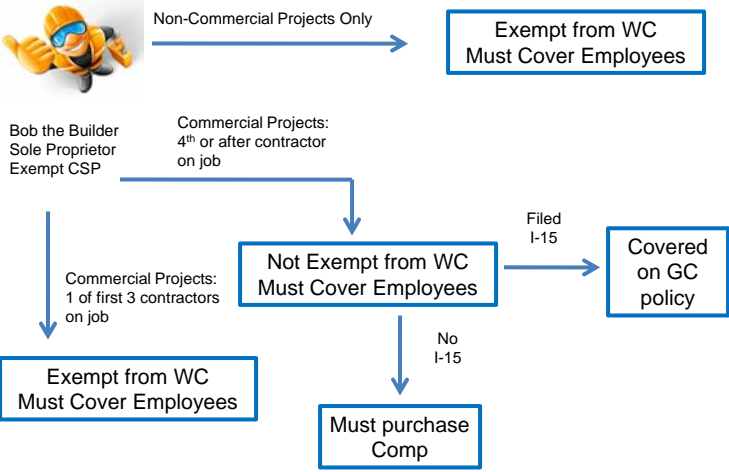
The priority for those 3 direct labor exemptions is on a “first come, first served” basis.

Any additional CSPs listed on the Registry are required to carry WC while on the commercial project.

Exception: Definition of “Direct Labor” excludes classifications 5604/5606

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Examples



```
graph TD; Bob[Bob the Builder  
Sole Proprietor  
Exempt CSP]; NonComm[Non-Commercial Projects Only]; Comm4[Commercial Projects:  
4th or after contractor  
on job]; Comm1[Commercial Projects:  
1 of first 3 contractors  
on job]; NotEx[Not Exempt from WC  
Must Cover Employees]; Exempt1[Exempt from WC  
Must Cover Employees]; Exempt2[Exempt from WC  
Must Cover Employees]; MustComp[Must purchase  
Comp]; Covered[Covered  
on GC  
policy]; Bob --> NonComm; NonComm --> Exempt1; Bob --> Comm4; Comm4 --> NotEx; Bob --> Comm1; Comm1 --> Exempt2; NotEx --> Filed[Filed I-15]; Filed --> Covered; NotEx --> NoI15[No I-15]; NoI15 --> MustComp;
```

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FAQ's



If my CSP is a subcontractor, can he be covered under the general contractor's policy?


Yes.

If the sub and the general agree to such, then the sub can be covered under the general's policy.

The general must file the I-15 form with the Department of Labor.

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FAQ's



Can my general contractor require everyone on the job site to be covered by a policy?

Yes, regardless of whether the subcontractors have valid exemptions, a General Contractor can still require everyone to be covered by a policy.

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FAQ's



If CSP maintains a valid exemption and gets hurt on a job site, what remedies do they have?

If the CSP is not covered by a WC policy, then the only remedy would be to seek recovery for negligence in court.

The contractor's CGL policy may provide a defense for such a claim.

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FAQ's



The exclusive remedy provisions of the WC law do not apply to anyone exempt from WC, nor do they apply to anyone contracting with an exempt person.

There are no limits or caps on liability for those who are exempt from WC.

WC provides for Limited Liability

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Basis of Premium

For Construction Industry, as of 3/1/11:

Executive Officer:
Minimum \$9,880
Maximum \$58,500

Partners, LLC Member, Sole Proprietors:
Minimum \$9,950
Maximum \$58,500

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Changes for Commercial Construction Policyholder

- Front End Requirements
- Premium Charges for Non-Exempt jobs
- Premium Audit Procedures

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Presentation Caveats

- The *following slides* depict contractors who have a *valid exemption* from the Secretary of State's office.
- "Gross Receipts" NCCI filing in process.
- Procedures are for Assigned Risk carriers
- Assigned Risk Policyholder Notice available at TN.gov/commerce/insurance.

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TWCIP - *Front end* requirements

- A policyholder notice will be sent out to all construction policyholders before March 1, 2011 explaining new documentation requirements
- Policyholders with 3/1/11 or later effective dates who contract on "commercial construction projects" (CCPs) to any degree must provide rating information within 30 days of the effective date.
- In-force policies with 180 days or more left in the policy term will be billed based upon 25% of their estimated net profit/earnings or corporate payroll, if no information is furnished.

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TWCIP - Front end requirements



- In-force policies with less than 180 days left in the policy term will be adjusted on audit.
- All contractors with policies over 180 days left on their policies and for new or renewal business 3/1/11 and after will be required to complete a Policyholder Verification Form which estimates premium based upon the new rating rules.
- CCP front end premium adjustments of over \$1,000 will be billed on *monthly* installments.

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Tennessee Workers Compensation Insurance Plan
 SC/DAC Name, Address, and Contact Information

Insured Name & Address: _____ Policy Number: _____
 Tax ID #: _____
 Aon Tracking #: _____
 Policy Period: From: XXX/XXX To: XXX/XXX
 Date of Mailing: XXX/XXX

VERIFICATION OF ESTIMATED CONTRACTOR REVENUE FORM

The purpose of this form is to ensure that the appropriate amount of estimated annual premium is charged on your above-referenced workers compensation insurance policy as a direct result of the Tennessee law changes that are found in Tennessee Public Chapter Number 1149. This new law requires all construction services providers to be covered on a workers compensation insurance policy.

However, if you are listed on the "Construction Services Provider Exemption Registry" (for individuals) maintained by the Tennessee Secretary of State (<http://tburca.state.tn.gov/twca>), and you have, therefore, received a General Exemption, you may be "exempt" from the workers compensation law under most circumstances. In order to receive a General Exemption (for individuals), you must meet one of the following guidelines:

- ◆ Be an Officer of a corporation, provided that no more than three officers of one corporation shall be eligible for the General Exemption.
- ◆ Be a member of a Limited Liability Company (LLC), provided such member owns at least 30% of the company.
- ◆ Be a partner in a limited partnership, limited liability partnership or a general partnership, provided such partner owns at least 30% of the partnership.
- ◆ Be a sole proprietor, or
- ◆ Be one of the three owners of a family-owned business entity.

You will only be subject to paying premium for work performed on "Commercial Construction Projects", as defined in §66-901. A Commercial Construction Project is defined as any project that involves the construction, erection, remodeling, repair, improvement, alteration or demolition of any structure EXCEPT the following:

- ◆ Any one (1) to four (4) family residence that does not exceed three (3) stories in height.
- ◆ Any building or structure for use and occupancy by the general public that does not exceed \$750,000 in total cost.
- ◆ Any project directly associated with the business of producing/providing electricity, natural gas, water, waste water services, telephone service, telecommunications service, cable service or internet service or any combination thereof, for sale to consumers in a particular area.

Therefore, in order to provide an accurate estimate of premium for your above-referenced policy, we will need to know what your anticipated gross receipts will be (as a percentage), split between work on Commercial Construction Projects and all other construction work during the above-referenced Policy Period. Please complete the information as requested below:

JOB TYPE	ESTIMATED % of GROSS RECEIPTS
Commercial Construction Projects	% _____
Other Construction Work	% _____
TOTAL CONSTRUCTION WORK	100%

Are any sole proprietors, partners, officers or LLC members in your company listed on the Secretary of State's Construction Services Provider Exemption Registry? Yes _____ No _____ If yes, please provide their name(s) and registration number(s): _____

I, _____ (printed name) certify that I am authorized to sign this document and that the above information provided on this form is true and correct.
 X _____ (signed) X _____ (dated)

DUE DATE: XXX/XXX
 Failure to return this signed and completed form will result in significant premium charges. If any additional premiums owed are over \$1,000.00, monthly installments will be made available for this billing.

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VERIFICATION OF ESTIMATED CONTRACTOR REVENUE FORM

The purpose of this form is to ensure that the appropriate amount of estimated annual premium is charged on your above-referenced workers compensation insurance policy as a direct result of the Tennessee law changes that are found in Tennessee Public Chapter Number 1149. **This new law requires all construction services providers to be covered on a workers compensation insurance policy.**

However, if you are listed on the "Construction Services Provider Exemption Registry" (for individuals) maintained by the Tennessee Secretary of State (<http://tnbear.tn.gov/wc/>), and you have, therefore, received a **General Exemption**, you may be "exempt" from the workers compensation law under most circumstances. In order to receive a General Exemption (for individuals), you must meet one of the following conditions:

- ❖ Be an Officer of a corporation; provided that no more than three officers of one corporation shall be eligible for the General Exemption;
- ❖ Be a member of a Limited Liability Company (LLC); provided such member owns at least 30% of the company;
- ❖ Be a partner in a limited partnership, limited liability partnership or a general partnership; provided such partner owns at least 30% of the partnership;
- ❖ Be a sole proprietor; or
- ❖ Be one of the three owners of a family-owned business entity.

You will only be subject to paying premium for work performed on "**Commercial Construction Projects**", as defined in 50-6-901. A Commercial Construction Project is defined as any project that involves the construction, erection, remodeling, repair, improvement, alternation or demolition of any structure EXCEPT the following:

- ❖ Any one (1) to four (4) family residence that does not exceed three (3) stories in height;
- ❖ Any building or structure for use and occupancy by the general public that does not exceed \$750,000 in total cost;
- ❖ Any project directly associated with the business of producing/providing electricity, natural gas, water, waste water services, telephone service, telecommunications service, cable service or internet service or any combination thereof, for sale to consumers in a particular area.

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VERIFICATION OF ESTIMATED CONTRACTOR REVENUE FORM

Therefore, in order to provide an accurate estimate of premium for your above-referenced policy, we will need to know what your anticipated gross receipts will be (as a percentage), split between work on Commercial Construction Projects and all other construction work during the above-referenced Policy Period. Please complete the information as requested below:

<u>JOB TYPE</u>	<u>ESTIMATED % of GROSS RECEIPTS</u>
Commercial Construction Projects	% _____
Other Construction Work	+ _____
TOTAL CONSTRUCTION WORK	= _____ 100%

Are any sole proprietors, partners, officers or LLC members in your company listed on the Secretary of State's Construction Services Provider Exemption Registry? Yes No If yes, please provide their name(s) and registration number(s) _____.

I, _____ (printed name) certify that I am authorized to sign this document and that the above information provided on this form is true and correct.

X _____ (signed) X _____ (dated)

DUE DATE: XX/XX/XXXX

Failure to return this signed and completed form will result in significant premium charges. If any additional premiums owed are over \$1,000.00, monthly installments will be made available for this billing.

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Premium Charges

- Premium charges are based on the proportion of total gross receipts attributable to CCPs.
- The policyholder is required to **verify** that the remaining “gross receipts” are related to “non-commercial” construction work.
- **Verification required** will be in the form of copies of:
 - contracts
 - building permits
 - general ledger information for all non CCP work
 - invoices

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Premium Charges

Net profit/earnings, or corporate payroll will be adjusted based upon the proportion of gross receipts attributable to non-exempt (i.e. not one of the three allowed) CCPs.

Minimum “payroll” for commercial construction service providers is:

- * \$9,950 for sole proprietors/partners
- * \$9,880 for executive officers of corporations

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Audit Procedures



- Record keeping requirements under PC 1149 are stringent!
- Business as usual for many folks won't cut it.
- It's up to contractors to validate their non-commercial exposure.
- Avoid premium disputes by keeping good records.

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Audit Procedures



- Commercial "Construction Services Providers" (even if only a negligible amount of exposure) will be required to submit a list of all jobs broken down between CCP work and non-commercial work.
- The listing will include the name of the general contractor, general's phone number, and gross receipts for each job.
- Copies of permits or contract, invoices and general ledger information will be required for all contractors to document their exposure.

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Audit Procedures

- All commercial jobs will require exemption letters from the general contractor on their letterhead, if applicable or be appropriately classified 5604 or 5606 “non-direct laborers”.
- If documentation is non-existent or poor, the premium audit may be returned as “non-responsive” thus effecting assigned risk plan eligibility.
- *No installments* will be offered for audit additional premiums.

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Voluntary Market Filing

Add the following to Rule 2-E-1-b:

(6) For the construction industry, payroll will be adjusted based on the proportion of the gross receipts attributable to nonexempt commercial construction projects as defined in the Tennessee Code. The allocation of chargeable payroll between nonexempt commercial construction projects and all other construction projects will be determined as follows:

$$\frac{\text{Gross receipts* for all nonexempt commercial construction projects}}{\text{Total gross receipts* for all projects}} \times \text{Payroll} = \text{Chargeable payroll}$$

* The gross amounts received by the policyholder during the policy period in connection with the business of construction.

Minimum payroll for executive officers in the construction industry as shown on the Miscellaneous Values in the state rate pages is to be modified by the gross receipts for all nonexempt commercial construction projects to total gross receipts for all projects ratio.

Voluntary Market Filing

The IRS tax forms reviewed for premium determination for partners and sole proprietors will be the most current available.

Tax forms more than two years from the effective date will not be accepted for premium determination.

If IRS tax forms within two years of the effective date are not provided, premium determination for each partner and sole proprietor will be based on the **maximum** payroll amount as shown on the Miscellaneous Values in the state rate pages used for partners and sole proprietors **in** the construction industry.

Full Term Rating Example: Sole Proprietor

\$45,000 Schedule C	
Gross Receipts:	\$100,000
Verifiable Non-CCP receipts:	50,000
Less Exempt CCP:	<u>4,500</u>
Chargeable receipts	45,500
CCP Portion of gross receipts: $45,500/100,000$	
$\$45,000 \times .455 = \$20,475$	
$\$15 \text{ Rate} \times \$20,475/100 =$	\$3,071
No IRS Tax form: $\\$15.00 \times 58,500/100 =$	\$8,775

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Enforcement/Penalties

The Department of Labor is the enforcement arm of the law.

Current Penalties/ Enforcement


Public Chapter 1149 provides for increased penalties for violations

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Wrap-Up

- **What is the role of the agent?**
 - Advise
 - Recommend good recordkeeping practices
 - Recommend necessary coverages
 - CGL
 - Umbrella
 - Workers' Compensation
 - Avoid acting on behalf of insureds
 - Document, document, document
- **Remember: the exemption is OPTIONAL**
- **Increased litigation**
 - Never seen CGL claim for work injury because of the exclusive remedy protection of the WC Act
 - Negligence standard higher
 - # of Defendants will be greater
 - \$\$ recovery greater, pain & suffering, loss of consortium, etc.

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Contact information 

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