

The employer's guide to Florida workers' comp insurance

1. Is workers' comp insurance required in Florida?

The short answer: Yes.

But in Florida, whether or not you need workers' comp depends on how many employees you have and whether your business is in the construction, "non-construction," or agricultural industries. If construction industry, you are required to carry WC with just one employee. If non-construction, you are required once you have 4 or more employees. It does not matter if they are full or part time.

Here's how workers' comp works in Florida in each industry

The construction industry: If your Florida business is in the construction industry and has at least one employee, you must have workers' comp.

There's a bit of a catch, though: in the construction industry, owners, corporate officers, partners, and sole proprietors are considered employees, too. That means you'll need to get workers' comp insurance coverage as soon as you start your construction business—and definitely before you begin any projects. (Certain company officers can apply for exemption by [filling out a form.](#))

So, how do you know if your business falls in the construction category?

Some owners of LLC or Inc with no employees will often file an officer exemption in lieu of obtaining a workers' comp policy. Some general contractors or hiring companies will accept this while others will require proof of insurance.

It's fairly straightforward. According to Florida law, a company is a construction business if it's involved in building, clearing, excavation, or any kind of major updates to a building (or any kind of land). So if your business makes money doing any of those—congratulations, you're considered a construction company.

A non-construction industry: Don't do any kind of construction? In that case, your business needs workers' comp if you have 4 or more employees. (And it doesn't matter whether they're part-time or full-time—if you employ them, they count.)

And here's another change: If your business falls in the non-construction category, sole proprietors and partners are automatically exempt from coverage. They won't count towards the total number of employees. (Corporate officers still count, though—learn more about how to exclude them below.)

The agricultural industry

If you're in agriculture, you'll need workers' comp if you have 6 or more full or part-time employees—or if you have 12 or more seasonal workers (any hired help who works more than 30 days in a season, but no more than 45 days in a calendar year).

What counts as "agricultural?" Basically, any labor performed on a farm—or for one or more farmers—counts as work at an agricultural business. This includes obvious jobs such as harvesting and machinery operation as well as timekeepers, checkers, and other supervisory roles. ([Here's a complete list of occupations in the agricultural industry.](#))

TL;DR for agricultural businesses? If you hire at least 6 regular employees—or if you simply hire a bunch of temporary workers for a 6-week harvest—you'll likely need workers' comp.

Do I need workers' comp for Florida subcontractors?

In general, you won't need workers' comp for hiring subcontractors.

But—and this is important—you will need proof that a given subcontractor has purchased their own workers' comp. If a subcontracted worker gets hurt on your project—and doesn't have their own workers' comp policy—you'll be the one responsible for payment of benefits.

So, how can you make sure the people you're hiring have workers' comp? You'll need at least one of the following:

1. **A copy of the Information Page of the subcontractor's workers' comp insurance policy.**
2. **A screen capture from the Division of Workers' Compensation confirming coverage.**
3. **A certificate of insurance and written documentation obtained from the insurance carrier confirming that the subcontractor has workers' comp.**
4. **If your subcontractor is a corporate officer, they can supply you with a Certificate of Election to Be Exempt.**

For more info on all that's included in the documents listed above, go [here](#).

Do I need workers' comp for independent contractors in Florida?

No. You generally don't need to buy workers' comp insurance for independent contractors—as long as their employment is casual and not associated with the main functions of your business. (For example, if you hire someone to trim the trees outside your office every month, you likely won't need to cover them with workers' comp.)

Be careful, though. If there's evidence that the independent contractor was more like a part-time or full-time employee, you could run into trouble. (And a Florida employer can be fined \$5,000 per instance for falsely representing an employee as an "independent contractor." Ouch.)

Not sure how to tell the difference between an independent contractor and an employee? Here are a couple of example scenarios.

Let's say you're a cafe owner who's been hiring someone to clean your restaurant for a few hours per night. They clean when the restaurant is closed—sometime between midnight and 6 am, whenever they have time. You pay the worker as a contractor and mail them a 1099 at the end of the year. Will you need workers' comp coverage for that worker? Probably not, because they're not performing a core business task, and they have full control over their schedule.

But what if your cafe gets busy and you decide to hire that worker for the same hours every day? What if you begin to dictate their schedule and tell them exactly what to do? In this case, consider covering that contractor with workers' comp. If they get injured, they'll have a good case that they should be considered a regular employee. After all, they're working regular hours, and you control their schedule.

In the end, it's better to be on the safe side and get workers' comp coverage for any independent contractors who do significant work for your business.

I'm an out-of-state employer. Do I need workers' comp in Florida?

Maybe. It depends on your work industry.

If you have a construction business in another state but have one or more employees working in Florida, you must purchase a Florida workers' comp policy. You'll also need a policy if you run a non-construction business with 4 or more Florida workers.

There's a small exception, though. Suppose you're sending workers to Florida temporarily, and you come from a state with an Extraterritorial Reciprocity policy. In that case, you don't need to purchase a workers' comp policy just for Florida.

2. What happens if I don't get workers' comp in Florida?

Some not-great things might happen—here's a quick summary:

1. **Your business might be issued a stop-order by the [Florida Division of Workers' compensation](#).**
2. **You could be charged with a felony.**
3. **You might have to pay 2 times the amount you would have paid in premiums per year. For up to 2 years.**
4. **You could be sued and charged a civil penalty in addition to the double-premium penalty. Court and investigative costs would get put on your tab, too.**
5. **A lien could be put on your property.**
6. **Also, when you do finally purchase workers' comp—and you'll need to if you want to stay in business—the cost will be much higher than if you'd just kept uninterrupted coverage in the first place.**

Let's look at this in a bit more detail:

Here's what can happen if you don't purchase workers' compensation for your Florida business

You could be charged with a felony (and your business could be shut down).

If you go without workers' comp for your business, you could be charged with a second-degree felony. And that means the Florida Department of Workers' Compensation could issue a stop-order against your business.

If that happens, every company worksite would be forced to halt all business, and you'd have to stop all projects and services—statewide. (Note that besides cutting into your revenue, a stop-order can cost you your reputation with clients and employees. No one likes to be left in the lurch.)

Don't think that you can ignore a stop-order, either. If you try, you'll be charged \$1,000 for each day your business continues to operate under the order. You won't be able to walk away from the charges either. In fact, if you try to cut your losses and start another company, the stop order will follow you—it'll prevent any new business endeavor in the State of Florida.

It doesn't seem like a good gamble, does it? Seriously, while you're thinking about it, ask your independent insurance agent to get you a quote.

You could be sued.

In addition to any criminal penalties, an injured employee could sue you for what would have been covered by workers' comp. You could be on the hook for medical expenses, rehab costs, replacement of lost wages, and court and investigative costs. In general, paying a settlement for a case like this costs much more than simply getting a workers' comp policy to begin with.

You could face thousands of dollars in fines.

Brace yourself. This can get expensive.

First off, the state might ask you to pay a hefty financial penalty. This fine could be up to double what you would have paid in premiums had you purchased workers' comp to begin with.

Keep in mind: this would be in addition to any other penalties the state might attach. For example, suppose the State of Florida decides that you tried to pass off employees as independent contractors to avoid paying workers' comp. In that case, you'll have to pay up to \$5,000 per misrepresented employee. (The state can also demand other penalties that could amount to tens of thousands of dollars, even if you were without workers' comp for just one day.)

A lien could be placed on your property.

Until your penalties are paid, a lien is automatically placed on any personal or business property you may have. A public notice for the lien will be filed in whichever counties your property is registered—you won't be able to hide.

Your workers' comp bill will be higher.

Ultimately, you'll need to purchase workers' comp sooner or later. And, when you do, potential insurers will discover your coverage gap. Then they'll either quote you a higher rate or refuse to insure altogether (which means you might be forced to obtain coverage at a pricey state fund).

Going without workers' comp coverage isn't worth the risk

Skipping workers' comp is no joke. When you consider the risk of lawsuits and penalties—and the potential loss of your business—it makes more sense to purchase your workers' comp from the get-go.

Also, workers' comp protects the people who make your business possible in the first place. Keeping those people covered with workers' comp is just the right thing to do.

3. I'm a business owner in Florida. Do I need to purchase workers' comp for myself?

You're all set to purchase workers' comp, but you need some help figuring out whether you're allowed to exclude any of your officers or upper leadership from coverage.

We're here for you. Here's how exemption works in the State of Florida.

First, your employees are covered.

When you purchase workers' comp for your business, all full-time and part-time employees will be covered. It's required. According to Florida law, there is no way for regular employees to waive workers' compensation coverage legally.

Is your business a corporation?

If so, your corporate officers are automatically included in your workers' comp policy. Depending on your industry, though, they may be able to apply for an exemption. Let's look at how exemptions work in construction and non-construction industries:

Construction industry

Suppose your construction business is structured as a corporation. In that case, a corporate officer may apply for an exemption if they're listed as an officer of the corporation in Florida records and

own at least 10% of your corporation's stock. (And—important!—you can exempt only 3 corporate officers per corporation.)

Think your corporate officers are eligible? If so, they can fill out this [form](#). (Note: In the construction industry, there is a \$50 filing charge per form.)

Non-construction industry

Don't run a construction business? The rules are a little bit simpler. Any of your corporate officers may file for an exemption as long as they're listed as officers with the Florida Department of State. There's no limit to the number of corporate officers who can be exempted—and there's also no fee for applying. (You can find the form [here](#).)

Is your business a sole proprietorship?

Again, the rules depend on which industry you're in.

In the construction industry, sole proprietors must have workers' comp and can't apply for exemption. Sole proprietors in the non-construction industry, however, are automatically exempt from the workers' comp requirement.

Want workers' comp anyway? Contact your insurance agent for a quote. (Note that not every insurance company offers coverage for sole proprietors.)

What about a partnership?

The rules are the same as for sole proprietors. If you're in the construction industry, your partners are considered employees and must have workers' comp—they can't apply for exemption. Partners in the non-construction industry, however, are automatically exempt from the workers' comp requirement.

Is your business a Limited Liability Company?

Members of a Florida LLC may apply for an exemption. The only catch is that each LLC member must make a statement claiming at least 10 percent of the company's stock (and no more than 10 may apply for an exemption).

4. How do I get workers' comp in Florida?

The traditional way: Find an insurance agent, fill out many paper forms, provide payroll information and other supporting documents—then wait for a quote. This process can take up to a few weeks, so don't procrastinate.

5. What is the cost of workers' comp in Florida?

It depends on what kind of business you run and the size of your payroll. The bigger your payroll, the more you'll spend on workers' comp. Your rate will also change based on your industry. A tech company, for example, is going to pay a lot less for workers' comp than a construction company would—even if their payrolls are identical.

That aside, the average cost for Florida workers' comp is about \$1.66 per \$100 of payroll.

6. What are the workers' compensation insurance limits in Florida?

Part one is workers' comp which has no stated limits which covers medical and lost wages. Part 2 is Employer's Liability with a choice of limits:

Standard limits are:

\$100,000 – Each Accident *(Can be increased to \$500,000 or 1M for a small % of premium)*

\$500,000 – Disease-Policy Limit *(Can be increased to \$500,000 or 1M for a small % of premium)*

\$100,000 – Disease-Each Employee *(Can be increased to \$500,000 or 1M for a small % of premium)*

7. So, what does workers' comp cover in Florida?

In brief: Workers' comp covers medical treatment and costs for work-related illnesses and injuries.

Basically, suppose your employee has some kind of medical issue as a direct result of employment. In that case, workers' comp insurance will step in to ensure they have the funds they need to recover and join the workforce again. It will also pay out wage loss benefits (and death benefits, should the worst happen).

That's the short version. Now, let's look at the details of what Florida workers' comp insurance covers.

Medical expenses

In general, if one of your employees gets injured on the job, workers' comp steps in to take care of medical bills and other associated costs.

For example, workers' comp may cover expenses for a back injury from a sudden accident or the cost of treating carpal tunnel syndrome if your employee has been injured because of a repetitive motion at work. Pre-existing conditions aggravated by workplace duties—assuming the major cause of the disability is the workplace injury—could also be covered, as could diseases and infections resulting from the initial injury. Even travel costs to and from appointments and physical therapy would likely fall under workers' comp coverage.

Basically, workers' comp will cover most expenses associated with a work-related illness or personal injury.

On the other hand, Florida workers' comp would probably not cover medical expenses for an injury that results from ignoring safety regulations and workplace rules, nor would it cover an employee if they were injured because of being intoxicated or under the influence of illegal substances on the job. Also, Florida law is pretty clear that workers' comp does not cover "pain and suffering" or stress-related conditions, making heart attacks a bit of a gray area. (But, hey, it's good practice not to stress your employees out.)

Lost wages

If a workplace injury is severe enough to cause an employee to miss work, workers' comp can help bridge the financial gap. Normally, the wage replacement benefits will end up being around two-thirds of the worker's regular wage (but will not exceed Florida's average weekly wage of \$971 per week, as of 2020).

Here are the different kinds of wage replacement benefits in Florida:

1. Temporary Total Disability Benefits (TTB)

This is given to an employee who can't immediately return to work and hasn't yet reached MMI. The benefit is equal to about two-thirds of the employee's wage before their injury. (MMI means "maximum medical improvement"—it just means that a doctor has determined that the employee has healed as best as they can and that there's not likely to be further improvement.)

2. Temporary Partial Disability Benefits (TPB)

This is given to an employee who can return to work but hasn't reached MMI (see above) yet, isn't able to work to their fullest capacity, and is earning "less than 80 percent of the pre-injury wage." If you subtract the post-injury wage from 80 percent of the pre-injury wage, then multiply that again by 80 percent, that's how much the benefit should cover.

That's a lot of math. Let's work through a simple example.

Imagine an employee made \$500 per week before the injury, but after the injury, they can only do very light work—thus earning only \$300 per week. This is a temporary situation, sure, but your employee is still eligible for workers' compensation benefits since their pay has been diminished by the accident. First, you'd find 80% of the pre-injury wage—so, \$400—and then subtract their post-injury wage. $\$400 - \$300 = \$100$. Then, multiply that number by 80%, and...your injured worker would get an additional \$80 per week from workers' comp.

This benefit lasts up to 104 weeks or until a doctor declares MMI—whichever comes first.

3. Permanent Impairment Benefits (PIB)

A worker will get this benefit if they show signs of significant psychological, physical, and functional loss—even after MMI is decided. A doctor must give an overall percentage of bodily damage, then a benefit will be calculated accordingly.

Note: This benefit will be reduced by half if the employee ever returns to work at or above their pre-injury wage.

4. Permanent Total Disability Benefits (PTB)

A worker receives this benefit when they are completely and totally disabled from their workplace injury (for example, if an employee became paralyzed by sustaining a neck injury). In these cases, the employee will be paid 66.67 percent of what they earned before their injury— maybe indefinitely.

Death benefits

Should the worst happen, workers' comp can help pay for funeral expenses and other costs associated with the death. It will also pay out dependency benefits to the employee's family. Read more about dependency benefits in [section 440.16](#).

8. What should I do if my Florida employee is injured and needs workers' comp?

Unfortunately, accidents can happen even in the safest of workplaces. But we're here to help. Here's what steps you need to take right after the incident—and in the days or weeks following.

Here's what to do immediately after a workplace accident

Make sure your employee gets medical attention.

This is your first priority. Call 911 immediately for serious and life-threatening injuries, and arrange transportation to the nearest Urgent Care for less-severe injuries. Seriously, take care of your people before you do anything else.

Let your insurance company know.

Call your insurance carrier and let them know what has happened. The insurance rep may just fill out the First Report of Injury Form for you and send you copies within 3 business days. But, if they don't, you'll need to fill out the form yourself.

Document the injury.

Fill out the **First Report of Injury form**, then give your insurance carrier and your employee a copy ASAP. (Insurance companies prefer that the injured employee sign the form, but if they can't sign, you can write "not available" in their signature box.)

Keep in mind that if you don't report the injury within 7 days, you could be charged as much as \$2,000 per incident. So don't procrastinate—submit that form as soon as possible. (If you're a Huckleberry customer, you can also find this form online in your customer portal.)

Covered the big stuff? Let's look at some other things you need to know

Who is responsible for relaying information between the insurance carrier and employee?

That would be you—the employer. It's important to promptly relay information from the insurance carrier to the employee (and vice versa).

Once the initial form is turned in, the insurance company will decide whether the workers' comp claim is eligible for benefits. If they decide it is, they will choose a medical practitioner to take on the employee's diagnosis and medical care and give the option for one change of medical practitioner (within 5 days of the employee's written request).

You, the employer, must get a list of the employee's work limitations (if applicable) from the doctor's office and report them to the insurance company.

Then, if the doctor determines that your employee can return to work at a limited capacity, you'll need to inform the insurance company of what sort of restrictions you're accommodating, and whether the employee is earning the same wages they were before.

We can't emphasize this enough: Keep in touch with your insurance adjuster regularly while they're making these decisions and observations.

Also: take note that you must keep all records of the injury for at least 2.5 years.

Who fills out the Wage Statement Form?

Once again, this falls on you.

Suppose your employee misses over 7 days of work due to injury or is seriously impaired and won't be back to work soon. In that case, you must fill out a **Wage Statement Form** and send it to your insurance carrier within 2 weeks of the injury.

Who is responsible for filing the Fraud Statement Form?

The employee is responsible—but you should make sure they receive it and fill it out.

Your insurance carrier will send a Fraud Statement Form, which your employee will need to fill out and submit before any benefits can be paid.

What if my employee's Florida workers' compensation claim isn't valid?

If you sense something's off about your employee's injury, the best practice is to contact your insurance carrier to discuss your concerns. If you and your insurer agree to pursue the matter, you'll notify the Bureau of Workers' Compensation Insurance Fraud of the Division of **Investigative and Forensic Services** by calling 1-800-378-0445.

Can I choose a doctor for my employee?

No. Your insurance carrier will choose the doctor. (And if your employee doesn't like the doctor? They can request a change—in writing.)

What happens if a Florida employee dies on the job?

Worst-case scenario—someone dies on the job. Here's what to do.

First, contact the Division of Workers' Compensation at 1-800-219-8953 to tell them of the incident and the death. (Regulations state that you should do this within 24 hours. We recommend doing it as soon as possible.)

Next, fill out the **Report of Injury or Illness form** and send it to the Division and your insurance carrier.

Finally, give your insurance company a follow-up call. They'll be able to tell you the appropriate next steps.

Any other information I should be passing along?

Yes. You should have already posted workers' comp information in a conspicuous place. This information includes the **Broken Arm poster**—which you should have received from your insurance company—as well as your insurance company's name and phone numbers, an anti-fraud statement, and the expiration date of your policy.

Posting this information is required by Florida workers' compensation law—if you haven't posted it, get that done now.

Have more questions? Your insurance company has done all of this before

Know that your insurance company is there to walk you through incidences of workplace injury. If you have any questions, give them a call. They'll make sure you're getting the guidance you need.