

CONTRACTORS AND WORKERS' COMPENSATION:

How does SB 50A affect the workers' compensation exemptions process?

Effective January 1, 2004, for persons engaged in the construction industry only, up to three officers of a corporation who own at least 10% of the stock of the corporation or, up to three members of a limited liability company who own at least 10% of the limited liability company will be eligible for an exemption.

If you currently hold an exemption as a sole proprietor or a partner of a partnership engaged in the construction industry, your exemption will not be valid on or after January 1, 2004. If you wish to continue to be exempt after January 1, 2004, you must complete and return the "RE-ISSUANCE OF NOTICE OF ELECTION TO BE EXEMPT" form. See Form under [Rules & Forms](#), DWC-250 X. To meet the eligibility requirements to file for, and receive a construction industry exemption, your business must become a corporation, or a limited liability company, registered with the Division of Corporations, Department of State and if a corporation, you must be listed as an officer of such corporation.

You also must provide evidence of at least 10% ownership in the company. If you hold a current exemption in the construction industry, your exemption will not be valid after January 1, 2004, unless you complete and return a Re-Issuance Of Notice Of Election To Be Exempt form, and your exemption is re-issued. Up to three corporate officers, each owning at least 10% of the corporation or LLC, may elect to be exempt. This will not effect business owners and corporate officers of non-construction industries. See [Rule Chapter 69L-6.012, Florida Administrative Code](#).

Definitions

"Construction industry" means for-profit activities involving any building, clearing, filling, excavation, or substantial improvement in the size or use of any structure or the appearance of any land. However, "construction" does not mean a homeowner's act of construction or the result of a construction upon his or her own premises, provided such premises are not intended to be sold, resold, or leased by the owner within 1 year after the commencement of construction. The division may, by rule, establish standard industrial classification codes and definitions thereof which meet the criteria of the term "construction industry" as set forth in this section.

"Corporate officer" or "officer of a corporation" means any person who fills an office provided for in the corporate charter or articles of incorporation filed with the Division of Corporations of the Department of State or as permitted or required by chapter 607. As to persons engaged in the construction industry, the term "officer of a corporation" includes a member owning at least 10 percent of a limited liability company created and approved under chapter 608.

"Employee" means any person who receives remuneration from an employer for the performance of any work or service while engaged in any employment under any appointment or contract for hire or apprenticeship, express or implied, oral or written, whether lawfully or unlawfully employed, and includes, but is not limited to, aliens and minors.

(b) "Employee" includes any person who is an officer of a corporation and who performs services for remuneration for such corporation within this state, whether or not such services are continuous.

1. Any officer of a corporation may elect to be exempt from this chapter by filing written notice of the election with the department as provided in s. 440.05.

2. As to officers of a corporation who are engaged in the construction industry, no more than three officers of a corporation or of any group of affiliated corporations may elect to be exempt from this chapter by filing written notice of the election with the department as provided in s. 440.05.