



Minnesota Workers' Compensation
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August 1, 2012

ALL ASSOCIATION MEMBERS

Circular Letter 12-1618

RE: Communications on the New Construction Contractor Registration Pilot Project

Attached are two documents from the Minnesota Department of Labor & Industry on the new construction contractor registration pilot project.

Please refer to the attached information for details on this pilot project.



Building Construction Contractor Registration

In 2012, Minn. Stat. § 181.723 as amended (Minn. Laws, chapter 295) creates a two-year pilot project for the registration of construction contractors. This new registration is free and simple and is required of any contractor that is not already licensed or registered with the Department of Labor and Industry (DLI). The law enables state agencies to more effectively investigate employee misclassification in the building construction industry, which will protect workers and level the playing field for legitimate construction businesses. To summarize the pilot project:

- **Contractor Registration begins July 15, 2012 at www.dli.mn.gov/register.**
- Building construction contractors, including independent contractors and business entities, will be required to be registered with the Department of Labor and Industry by September 15, 2012.
- The registration requirement does not apply to workers and businesses that are already licensed, registered or certified with DLI, nor does it apply to employees.
- No fee will be charged for initial registration.
- Registration will be done online and requires information about the business and its owners and officers. This information is critical to enforcement activities of DLI, DEED, and Revenue and is the same information currently required for licensed residential building contractors, electrical contractors, and plumbing contractors.
- General contractors will be able to verify that subcontractors are registered on the searchable Department of Labor and Industry Contractor Look-Up web site.
- The law provides for penalties for failure to register, hiring unregistered contractors, misclassifying employees and coercing others to form a business entity. The penalty for failing to register will be forgiven if registration is achieved within 30 days.
- The pilot project replaces the Independent Contractor Exemption Certificate program (ICEC).

The purposes of the pilot project are to identify all building construction providers in the state and to help ensure that workers are being appropriately classified as employees or independent contractors. To determine the effectiveness of the pilot project, the state will gather and analyze information about participation in the registration program, as well as worker misclassification complaints, investigations, enforcement actions, and recovery. The goal of the program is that individuals and businesses that hold themselves out as construction contractors are in compliance with Minnesota laws, and that all construction workers are properly classified.

For more information about contractor registration, please contact DLI at (651) 284-5074 or dli.register@state.mn.us.

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Construction Contractor Registration
Minn. Stat. § 181.723 as amended (Minn. Session Laws, chapter 295)
Frequently Asked Questions

Background: A law enacted in 2012 replaces the Independent Contractor Exemption Certificate (ICEC) program with a simplified two-year pilot project for registration of construction contractors.¹

Contractor registration will be done online. There is no cost to register. Registration information will be maintained on the Minnesota Department of Labor and Industry's (DLI) website.

Penalties may be assessed for failure to register, hiring unregistered contractors, misclassifying workers and coercing others to form a business entity. The penalty for failing to register will be forgiven if registration is achieved within 30 days. Registration is required as of Sept. 15, 2012.

Who must register?

An individual or business entity providing public- or private-sector commercial or residential building construction or improvement services in Minnesota on or after Sept. 15, 2012 must register with DLI.²

Who is not required to register?

- A person who, at the time the person is performing the construction services, holds a current license, certificate, or registration under chapter 299M or 326B:
 - Electrical contractors, technology system contractors, elevator contractors, satellite system contractors, electricians, installers, linemen, elevator constructors, power limited technicians, satellite system installers, registered electrical employers, registered unlicensed elevator constructors, and registered unlicensed individuals (electrician, maintenance electrician, and power limited technician).
 - Plumbing contractors, water conditioning contractors and installers, plumbers, medical gas installers, registered plumbing employers, registered plumbing apprentices, certified backflow prevention testers, and registered unlicensed individuals (plumbing).
 - High pressure piping business contractors, contracting and journeyman HPP pipefitters, registered apprentice pipefitters, registered unlicensed individual pipefitters.
 - Boiler and hobby boiler operators and engineers.

¹ The law also establishes a framework, including the longstanding nine-factor test, within which individual construction workers may be determined to be employees or independent contractors.

² For purposes of this law, "building construction and improvement services" do not include the manufacture, supply, or sale of products, materials, or merchandise; landscaping services for the maintenance or removal of existing plants, shrubs, trees, and other vegetation, whether or not the services are provided as part of a contract for the building construction or improvement services; and all other landscaping services, unless the other landscaping services are provided as part of a contract for the building construction or improvement services.

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- Residential building contractors, residential remodelers, and residential roofers
 - Certificate of exemption – builders; certificate of exemption – remodelers; certification of exemption – roofers.
 - Fire protection system contractors and installers and potable water piping system contractors and installers, licensed or certified under Minn. Stat. chapter 299M.
- A person who has been issued an ICEC that expires after Sept. 15, 2012. However, once the ICEC expires the person must register with DLI before performing building construction services (unless a different exemption applies).
 - A person who has given a bond to the state under section 326B.197 or 326B.46:
 - for gas, heating, ventilation, cooling, air conditioning, fuel burning, or refrigeration work (mechanical contractor bond) or
 - for plumbing, sewer or water service installation, or subsurface sewage treatment work.
 - An employee of the person performing the construction services, if the person was in compliance with laws related to employment of the individual at the time the construction services were performed.
 - A person who is exempt from the residential building contractor license requirement because their gross receipts do not exceed \$15,000 under section 326B.805, subdivision 6, clause (5) and holds a valid certificate exemption issued by DLI.
 - An architect or professional engineer engaging in professional practice as defined in section 326.02, subdivisions 2 and 3.
 - A school district or technical college governed under chapter 136F.
 - A person providing construction services on a volunteer basis, including but not limited to Habitat for Humanity and Builders Outreach Foundation, and their individual volunteers when engaged in activities on their behalf.

What information is required for registration?

For all providers of construction services in Minnesota not otherwise licensed, certified or registered with the DLI, the following information must be provided for all applicants in an electronic registration application:³

- (1) the business's legal name; and assumed name filed with the Minnesota Secretary of State, if any;

³ See other exceptions at <https://www.revisor.mn.gov/bin/bldbill.php?bill=S1653.3.html&session=ls87>

- (2) designated business address; and physical address;
- (3) telephone number;
- (4) email address;
- (5) Minnesota tax identification number, if one is required or has been issued
- (6) federal employer identification number, if one is required or has been issued;
- (7) evidence of the active status of the applicant's business filings with the secretary of state, if one is required or has been issued;
- (8) whether the applicant has any employees at the time the application is filed;
- (9) the names of all other persons with an ownership interest in the business entity and the percentage of the interest owned by each person, except that the names of shareholders with less than ten percent ownership in a publicly traded corporation need not be provided;
- (10) information documenting compliance with workers' compensation
- (11) information documenting compliance with unemployment insurance laws
- (12) a certification that the person signing the application has: reviewed it; determined that the information provided is true and accurate; and determined that the person signing is authorized to sign and file the application as an agent of the applicant; and
- (13) a signed authorization for the Department of Labor and Industry to verify the information provided.

An individual applicant, sole proprietor, or an individual who owns 25 percent or more of a business entity applicant, must also provide:

- (14) the individual's full legal name and title at applicant's business;
- (15) the individual's business address and telephone number;
- (16) the percentage of the applicant's business owned by the individual; and
- (17) the individual's Social Security number.

Other information

A registered person must notify the commissioner within 15 days after there is a change in any of the information submitted with the registration. This notification must be provided electronically in the manner prescribed by the commissioner.

However, if the business entity structure, legal form of the business entity, or business ownership has changed, the person must submit a new registration application and registration fee, if any, for the new business entity.

The registered person must remain registered while providing construction services for another person. The provisions of sections 326B.091 and 326B.094 to 326B.097 apply to this section.

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