



Frequently Asked Questions

Workers' Compensation for Commercial Construction Services Providers (CSP)

1. What is a CSP?

A "Construction services provider" is any person or entity engaged in the construction industry.

2. Why are some CSP's just now being charged premium for their commercial exposures? Has the law changed?

The CSP law has not changed. The National Council on Compensation Insurance (NCCI) issued a rule clarification that became effective January 1, 2021, that was intended to remind the commercial construction industry of the existing law regarding limited exemptions for workers' compensation policies on commercial construction projects.

3. How are commercial projects defined in the CSP law?

"Commercial Projects" are defined in Tenn. Code Ann. § 50-6-901(3) as follows:

"Commercial construction project" means any construction project that is **NOT**:

(A) The construction, erection, remodeling, repair, improvement, alteration or demolition of one (1), two (2), three (3) or four (4) family unit residences not exceeding three (3) stories in height or accessory use structures in connection with the residences;

(B) The construction, erection, remodeling, repair, improvement, alteration or demolition of any building or structure for use and occupancy by the general public which, pursuant to Tenn. Code Ann. § 62-6-112(f)(2), a small commercial building contractor is authorized to bid on and contract for; or

(C) Performed by any person, municipality, county, metropolitan government, cooperative, board, commission, district, or any entity created or authorized by public act, private act or general law to provide 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 any particular service area.” (Note: as of January 1, 2021, the total “contract” cost exceeds one million five hundred thousand dollars (\$1,500,000)).

4. Will all CSP’s on a commercial construction project be impacted by this rule change?

No. All “direct labor” will be impacted on commercial projects, even when the CSP has a valid exemption on the exemption registry. Direct labor includes all contracting classifications, except 5604 and 5606, both supervisor and executive supervisor classification codes (Tenn. Code Ann. § 50-6-901(7)).

5. Are there any exceptions to “direct labor” coverage requirements and corresponding premium charges?

There is only one exception to this rule. The general contractor can designate, in writing, three (3) direct labor CSP exemptions per commercial project. The direct labor CSP (referring to an individual owner or officer) must have a valid exemption on the Workers’ Compensation Exemption Registry.

6. How will insurance companies handle premium audits when both residential and commercial work is being performed by the CSP?

When a CSP is engaged in both non-commercial and commercial work, the allocation of chargeable payroll between nonexempt commercial construction projects and all other construction projects will be determined based on the ratio of the gross receipts for all nonexempt commercial projects to the total gross receipts for all projects. Gross receipts refer to the gross amounts received by the employer during the policy period in connection with the construction industry.

7. Now that I’m having to pay premium on my commercial project work, how do I obtain benefits for my on-the-job injuries and illnesses?

Contact your workers’ compensation insurance carrier about how to handle your claim.

8. What if I have additional questions concerning the commercial CSP law impacting benefits and premium?

Contact Jessica Thomas with the Tennessee Department of Commerce and Insurance at Jessica.Thomas@tn.gov with rating and classification questions. For questions concerning

compliance matters, contact Claudia Byers with the Tennessee Bureau of Workers' Compensation at Claudia.Byers@tn.gov.

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