

**STATE & MUNICIPAL  
AGENCY  
REQUIREMENTS  
UNDER  
GENERAL MUNICIPAL LAW §125,  
& WCL §57 & §220  
FOR  
WORKERS' COMPENSATION  
AND  
DISABILITY BENEFITS**



DAVID A. PATERSON  
GOVERNOR

STATE OF NEW YORK  
WORKERS' COMPENSATION BOARD  
20 PARK STREET  
ALBANY, NY 12207



ZACHARY S. WEISS  
CHAIR

December 1, 2008

To all Code Enforcement Officials, Building Departments, and Municipal Entities:

Effective January 18, 1999, Section 125 of the General Municipal Law requires that any individual applying for a building permit must prove to the building department that he/she is in compliance with the mandatory coverage provisions of the Workers' Compensation Law before the building permit is issued.

### General Background

Under Section 57 of the Workers' Compensation Law, businesses listed as the general contractors on building permits are required to submit proof of compliance with the mandatory coverage provisions of the Workers' Compensation Law to the building department before a building permit is issued. Section 125 of the General Municipal Law is specifically targeted at ensuring that all applicants who list themselves as the general contractors on the building permit are in compliance with the mandatory coverage provisions of the Workers' Compensation Law.

For homeowner applicants, the instruction manual includes a link to form BP-1 (9/07) Affidavit of Exemption to Show Specific Proof of Workers' Compensation Coverage for a 1, 2, 3 or 4 Family, Owner-occupied Residence. The law requires homeowners to provide proof of workers' compensation compliance when applying for a building permit. If the homeowner qualifies for an exemption, the homeowner must either complete this form and file it with the local building department; or the homeowner must complete Form CE-200 and file it with the local building department.

### Implementing Section 125 of the General Municipal Law

- General contractors and Business Owners  
Businesses listed as the general contractors on building permits, must prove that they are in compliance with the mandatory coverage requirements and also Section 57 of the Workers' Compensation Law (WCL) by producing ONE of the following forms indicating that they are:
  - Insured (Form C-105.2 or U-26.3 – the business's insurance carrier will send this form to the building department upon the business's request) All private carriers and their licensed insurance agents are authorized to issue the form C-105.2 as their Certificate of NYS Workers' Comp Insurance. The State Insurance Fund uses the U-26.3 form as its Certificate of NYS Workers' Compensation Insurance.
  - self-insured (Form SI-12 – Certificate of Workers' Compensation Self-Insurance (the business calls the Board's Self-Insurance Office at 518-402-0247), **OR** Form GSI-105.2 – Certificate of Participation in Workers' Compensation Group Self-Insurance) ( the business's Group Self-Insurance Administrator will send this form to the government entity upon request).
  - exempt (Form CE-200 - {Form CE-200 is available on the Board's website, [www.web.state.ny.us](http://www.web.state.ny.us), under the heading "Forms." Paper applicants for this form are available by writing or visiting any Customer Service Center at any District Office of the Workers' Compensation Board.}

Any residence that is not a 1, 2, 3, or 4 Family, Owner-occupied Residence is considered a business (income or potential income property) and must prove compliance by filing one of the above forms. (**Please note: ACORD forms are NOT acceptable proof of workers' compensation coverage!**)

Owner-occupied Residences

Homeowners of a 1, 2, 3, or 4 Family, Owner-occupied Residence, must file form Bp-1(9/07) when applying for a building permit when they are:

- listed as the general contractor on the building permit, and the homeowner:
  - is performing all the work for which the building permit was issued him/herself,
  - is not hiring, paying or compensating in any way, the individual(s) that is (are) performing all the work for which the building permit was issued or helping the homeowner perform such work, or
  - has a homeowner's insurance policy that is currently in effect and covers the property for which the building permit was issued AND the homeowner is hiring or paying individuals a total of less than 40 hours per week (aggregate hours for all paid individuals on the jobsite) for the work for which the building permit was issued.
  
- If the homeowner of a 1, 2, 3, 4 Family, Owner-occupied Residence is hiring or paying individuals a total of 40 hours or MORE in any week (aggregate hours for all paid individuals on the jobsite) for the work for which the building permit was issued, then the homeowner may NOT file the "affidavit of Exemption" form, BP-1 (9/07), but must either:
  - acquire appropriate workers' compensation coverage and provide, to the government entity issuing the building permit, appropriate proof of that coverage, on forms C-105.2 or U-26.3, **OR**
  - have the general contractor performing the work provide appropriate proof of workers' compensation coverage, or proof of exemption from that coverage, to the government entity issuing the building permit.

**Background on Coordinating the Implementation of Section 125 of the General Municipal Law with Existing Statutes**

To ensure that homeowners are not required to have duplicate workers' compensation coverage, the implementation form attempts to coordinate compliance with Section 125 of the Municipal Law with coverage provided under Section 3420(j) of the Insurance Law, which is the homeowner's policy's workers' compensation insurance rider.

As of March 1, 1985, New York State Insurance Law § 3420(j) provides that every policy of comprehensive personal liability insurance (i.e., homeowner's insurance) on a 1, 2, 3, or 4 Family owner-occupied dwelling (including condominiums) will also provide workers' compensation benefits. This section was added to protect the homeowner from unexpected liability when the Board determines that a person, whom the homeowner did not believe required coverage, is found to be entitled to benefits. To receive benefits under this policy, the employee must be found by the Board to have been injured in employment of the policyholder and employed for less than 40 hours a week in and about the owner's 1, 2, 3, 4 family residence in this State.

Form BP-1 (9/07) is available on the Board's website [www.web.state.ny.us](http://www.web.state.ny.us), under the heading "Forms." Please make as many copies of the BP-1 (9/07) as you require. The BP-1 form reflects the minimum standard to be applied statewide. If a municipality wishes to collect a copy of the certificate of insurance from a building permit applicant's homeowner's insurance policy or obtain a copy of the information page from the building permit applicant's homeowner's insurance policy, the municipality could make that a local requirement which would be in addition to the State requirements.

If you have any questions regarding the BP-1 form, Section 125 of the General Municipal Law or Section 57 of the Workers' Compensation Law, please contact Steve Carbone of the New York State Workers' Compensation Board at (518) 486-6307.

Thank you for your office's cooperation in enforcing Section 125 of the General Municipal Law and Section 57 of the Workers' Compensation Law.

Sincerely,

Peter Michels  
Director of Compliance

December 1, 2008

**WORKERS' COMPENSATION REQUIREMENTS UNDER WORKERS; COMPENSATION LAW §57**

To comply with coverage provisions of the Workers' Compensation Law ("WCL"), businesses must:

- A) be legally exempt from obtaining workers' compensation insurance coverage; or
- B) obtain such coverage from insurance carriers; or
- C) be a Board-approved self-insured employer or participate in an authorized group self-insurance plan.

To assist State and municipal entities in enforcing WCL Section 57, businesses requesting permits or seeking to enter into contracts **MUST provide ONE** of the following forms to the government entity issuing the permit of entering into a contract:

- A) CE-200 Certificate of Attestations For New York Entities With No Employees And Certain Out Of State Entities, That New York State Workers' Compensation And/Or Disability Benefits Insurance Coverage Is Not Required;

*Starting December 1, 2008, Form CE-200 can be filled out electronically on the Board's website [www.web.state.ny.us](http://www.web.state.ny.us), under the heading "Forms." Applicants filing electronically are able to print a finished Form CE-200 immediately upon completion of the electronic application. Applicants without access to a computer may obtain a paper application for the CE-200 by writing or visiting the Customer Service Center at any District Office of the Workers' Compensation Board. Applicants using the manual process may wait up to four weeks before receiving a CE-200. Once the applicant receives the CE-200, the applicant can then submit that CE-200 to the government agency from which he/she is getting the permit, license or contract. **OR***

- B) C-105.2 – Certificate of Workers' Compensation Insurance (the business's insurance carrier will send this form to the government entity upon request) PLEASE **NOTE:** The State Insurance Fund provides its own version of this form, the U-26.3; **OR**

- C) SI-12 – Certificate of Workers' Compensation Self-Insurance (the business calls the Board's Self-Insurance Office at 518-402-0247), **OR** GSI-105.2 – Certificate of Participation in Worker's Compensation Group Self-Insurance (the business's Group Self-Insurance Administrator will send this form to the government entity upon request).

**DISABILITY BENEFITS REQUIREMENTS UNDER WORKERS' COMPENSATION LAW §220(8)**

To comply with coverage provision of the WCL regarding disability benefits, businesses may:

- A) be legally exempt from obtaining disability benefits insurance coverage; or
- B) obtain such coverage from insurance carriers; or
- C) be a Board-approved self-insured employer.

Accordingly, to assist State and municipal entities in enforcing WCL Section 220(8), businesses requesting permits or seeking to enter into contracts **MUST provide ONE** of the following forms to the entity issuing the permit or entering into a contract:

- A) CE-200 Certificate of Attestations For New York Entities With No Employees And Certain Out Of State Entities, That New York State Workers' Compensation And/Or Disability Benefits Insurance Coverage Is Not Required;

*Starting December 1, 2008, Form CE-200 can be filled out electronically on the Board's website [www.web.state.ny.us](http://www.web.state.ny.us), under the heading "Forms." Applicants filing electronically are able to print a finished Form CE-200 immediately upon completion of the electronic application. Applicants without access to a computer may obtain a paper application for the CE-200 by writing or visiting the Customer Service Center at any District Office of the Workers' Compensation Board. Applicants using the manual process may wait up to four weeks before receiving a CE-200. Once the applicant receives the CE-200, the applicant can then submit that CE-200 to the government agency from which he/she is getting the permit, license or contract. **OR***

- B) DB-120.1 – Certificate of Disability Benefits Insurance (the business's insurance carrier will send this form to the government entity upon request); **OR**
- C) DB-155 – Certificate of Disability Benefits Self-Insurance (the business calls the Board's Self-Insurance Office at 518-402-0247).

Please not that **for building permits ONLY**, certain homeowners 1, 2, 3, or 4 family owner-occupied residences serving as their own General Contractor may be eligible to file Form BP-1. (The homeowner obtains this form from either the Building Department or on the Board's website, [www.web.state.ny.us](http://www.web.state.ny.us), under the heading "Forms.")

## **WORKERS' COMPENSATION LAW**

### **§57. Restriction on issue of permits and the entering into contracts unless compensation is secured.**

1. The head of a state or municipal department, board, commission, or office authorized or required by law to issue any permit for or in connection with any work involving the employment of employees in a hazardous employment defined by this chapter, and notwithstanding any general or special statute requiring or authorizing the issue of such permits, shall not issue such permit unless proof duly subscribed by an insurance carrier is produced in a form satisfactory to the chair, that compensation for all employees has been secured as provided by this chapter. Nothing herein, however, shall be construed as creating any liability on the part of such state or municipal department, board, commission or office to pay any compensation to any such employee if so employed.

2. The head of a state or municipal department, board, commission or office authorized or required by law to enter into any contract for or in connection with any work involving the employment of employees in a hazardous employment defined by this chapter, notwithstanding any general or special statute requiring or authorizing any such contract, shall not enter into any such contract unless proof duly subscribed by an insurance carriers is produced in a form satisfactory to the chair, that compensation for all employees has been secured as provided y this chapter.

## **WORKERS' COMPENSTAION LAW (Disability Benefits)**

### **§220. Subd. 8**

(a) The head of a state or municipal department, board, commission or office authorized or required by law to issue any permit for or in connection with any work involving the employment of employees in employment as defined in this article, and not withstanding any general or special statute requiring or authorizing the issue of such permits, shall not issue such permit unless proof duly subscribed by an insurance carrier is produced in a form satisfactory to the chair, that the payment of disability benefits for all employees has been secured as provided by this article. Nothing herein, however, shall be construed as creating any liability on the part of such state or municipal department, boar, commission or office to pay any disability benefits to any such employee if so employed.

(b) The head of a state or municipal department, board, commission or office authorized or required by law to enter into any contract for or in connection with any work involving the employment of employees in employment as defined in the article, and notwithstanding any general or special statute requiring or authorizing any such contract, shall not enter into any such contract unless proof duly subscribed by an insurance carrier is produced in a form satisfactory to the chair, that the payment of disability benefits for all employees has been secured as provided by this article.

## Identifying an Independent Contractor

To be considered an independent contractor, and thus not an employee, an individual must meet and maintain **All ten** of the following conditions:

1. Obtain a Federal Employer Identification Number from the Federal Internal Revenue Service (IRS) or have filed business or self-employment income tax returns with the IRS based on work or service performed the previous calendar year;
2. Maintain a separate business establishment from the hiring business;
3. Perform work that is different than the primary work of the hiring business and perform work for other businesses;
4. Operate under a specific contract, and is responsible for satisfactory performance of work and is subject to profit or loss in performing the specific work under such contract, and be in a position to succeed or fail if the business's expenses exceed income.
5. Obtain a liability insurance policy (and if appropriate, workers' compensation and disability benefits insurance policies) under its own legal business name and federal employer identification number;
6. Have recurring business liabilities and obligations;
7. If it has business cards or advertises, the materials must publicize itself, not another entity;
8. Provide all equipment and materials necessary to fulfill the contract;
9. Control the time and manner in which the work is to be done; and
10. The individual works under his/her own operating permit, contract or authority.

**Special Not for the Trucking Industry:** To be considered an independent contractor, drivers must also be transporting goods under their own bill of lading and under their own Department of Transportation Number.

**When Coverage Can or Cannot be Required:** A business cannot require employees working for that business to obtain their own workers' compensation insurance policy or contribute towards a workers' compensation insurance policy (WCL §31, 32 and 32-a). Independent contractors may be required to maintain their own workers' compensation insurance policy if they intend to work for other businesses. For proper risk management and to ensure that its insurance premiums are as low as possible, a business that hires independent contractors should require those independent contractors to provide proof of their own workers' compensation insurance policies prior to commencing work (See C-105.2, U-26.3, GSI-105.2 and SI-12).

Therefore, a business may require an independent business that has its own employees to obtain a workers' compensation insurance policy if the independent business is working as a subcontractor. (An independent business usually has characteristics such as media advertising, commercial telephone listing, business cards, business stationary or forms, its own Federal Employer Identification Number (FEIN), working under its own permits or operation authority, business insurance (liability & WC), and/or maintaining a separate establishment. The independent business has a significant investment in facilities and means of performing work).

For example, if Business A contracts with Business B to perform services and Business B is an independent business with its own employees, Business A can require Business B to have its own workers' compensation insurance policy and obtain a certificate of insurance for this policy. This will help ensure that Business A's workers' compensation premiums are as low as possible and shield business A from liability under the Workers' Compensation Law.

**Disclaimer:** The preceding was solely provided for informational purposes. Only the Board, in its adjudicatory function, is authorized to determine entitlement to benefits based on the specific facts of a case and its application of the Law.

## Section 57 -- Restriction on Issue of Permits and the Entering of Contracts Unless Compensation Is Secured

Section 57 of the Workers' Compensation Law ("WCL") requires the heads of all State and municipal entities, prior to issuing any permits, licenses or entering into contracts, to ensure that **businesses** applying for those permits, licenses or entering into contracts have appropriate workers; compensation insurance coverage.

To comply with coverage provisions of the WCL, businesses must:

- A) be legally exempt from obtaining workers; compensation insurance coverage; or
- B) obtain such coverage from insurance carriers; or
- C) be a Board-approved self-insured employer or participate in an authorized group self-insurance plan.

To assist State and municipal entities in enforcing WCL Section 57, businesses requesting permits or seeking to enter into contracts **MUST provide ONE** of the following forms to the government entity issuing the permit of entering into a contract:

- A) CE-200 Certificate of Attestations For New York Entities With No Employees And Certain Out Of State Entities, That New York State Workers' Compensation And/Or Disability Benefits Insurance Coverage Is Not Required;

*Starting December 1, 2008, Form CE-200 can be filled out electronically on the Board's website [www.web.state.ny.us](http://www.web.state.ny.us), under the heading "Forms." Applicants filing electronically are able to print a finished Form CE-200 immediately upon completion of the electronic application. Applicants without access to a computer may obtain a paper application for the CE-200 by writing or visiting the Customer Service Center at any District Office of the Workers' Compensation Board. Applicants using the manual process may wait up to four weeks before receiving a CE-200. Once the applicant receives the CE-200, the applicant can then submit that CE-200 to the government agency from which he/she is getting the permit, license or contract. **OR***

- B) C-105.2 (9/07) – Certificate of Workers' Compensation Insurance (the business's insurance carrier will send this form to the government entity upon request) **PLEASE NOTE:** The State Insurance Fund provides its own version of this form, the U-26.3; **OR**
- C) SI-12 – Certificate of Workers' Compensation Self-Insurance (the business calls the Board's Self-Insurance Office at 518-402-0247), **OR** GSI-105.2 – Certificate of Participation in Worker's Compensation Group Self-Insurance (the business's Group Self-Insurance Administrator will send this form to the government entity upon request).

**(Please note: ACORD forms are NOT acceptable proof of workers' compensation coverage!)**

### Government Officials Local Contacts with the NYS Workers' Compensation Board

Government Officials should call the Workers' Compensation Board's Enforcement Unit in the nearest district office to notify them of a non-compliant business:

Albany	(518) 486-3349	Manhattan	(212) 932-7576
Binghamton	(607) 721-8179	Peekskill	(914) 788-5804
Brooklyn	(718) 802-6870	Queens	(718) 523-8409
Buffalo	(716) 842-2057	Rochester	(585) 238-8335
Hauppauge	(631) 952-6698	Syracuse	(315) 423-1141
Hempstead	(516) 560-7741		

Please call the Bureau of Compliance at (518) 486-6307 with any general questions regarding Section 57 of the Workers' Compensation Law.

## Form CE-200 (12/08)

**Effective December 1, 2008**, please use the following revised Form CE-200 as part of the enforcement of Section 57 and Section 220 of the New York State Workers' Compensation Law and Section 125 of the General Municipal Law (Form CE-200 replaces the old forms WC/DB-100, WC-DB-101 and C-105.21.):

### **Form CE-200, Certificate of Attestation For New York Entities With No Employees And Certain Out Of State Entities, That New York State Workers' Compensation And/Or Disability Benefits Insurance Coverage Is Not Required**

This certificate can **ONLY** be used to attest to a government entity that the applicant requesting a permit, license or contract from that government entity is not required to carry New York State specific workers' compensation and/or disability benefits insurance.

**IMPORTANT:** *These certificates cannot be used to waive the workers' compensation rights or obligations of any party.* The applicant may **NOT** use this certificate to show either another business or that business's insurance carrier that such insurance is not required.

If appropriate, the applicant requesting a permit, license or contract from a government entity must complete Form CE-200, print a copy of it and give it to the **government entity** issuing the permit, license or contract.

The Board may investigate entities using this certificate to claim exemption from the coverage requirements of the Law. Any false statement, misrepresentation or concealment will subject business owners to **felony** criminal prosecution, including jail and civil liability in accordance with the Workers' Compensation Law and all other New York State laws.

Form CE-200 reflects a totally new process for granting exemptions from worker's compensation and disability benefits insurance coverage requirements. Historically, the WC/DB-100 exemption forms were: 1) valid for multiple permits, licenses or contracts for which the applicant applied, 2) had to be notarized, and 3) had to be stamped by the New York State Workers' Compensation Board.

Effective December 1, 2008, this process radically changes. **Exemptions** will no longer be valid for multiple permits, licenses or contracts for which the applicant applied. Further, exemptions no longer have to be notarized; nor do they have to be stamped by the NYS Worker's Compensation Board. (Please note that **government agencies may continue to use insurance and self-insurance certificates** for multiple permits, licenses or contracts issued to a specific legal entity during the coverage period listed on insurance/self-insurance related certificates).

**Starting December 1, 2008, ONLY** applicants eligible for **exemptions** must file a **new CE-200** for each and every new or renewed permit, license or contract issued by a government agency. Each CE-200 will specifically list the issuing government agency and the specific type of permit, license or contract requested by the applicant. Applicants for building permits will also need to supply additional information including identifying the specific job location and the estimated cost of the project.

Please ensure that the legal entity name on Form CE-200 exactly matches the legal entity name applying for the permit, license or contract that you are issuing. Please also ensure that Form CE-200 is signed and dated by the applicant.

Each CE-200 will have a certificate number printed on it. You can verify if the CE-200 provided to you by the applicant was actually issued by the Workers' Compensation Board by checking on the Board's website at [www.wcb.state.ny.us](http://www.wcb.state.ny.us).

The applicant is attesting under penalty of perjury that the information contained in the CE-200 is accurate – the Board does not initially verify this information. However, Board staff may investigate applicants filing Form CE-200.

Accordingly, please also verify that the business is eligible for the workers' compensation and/or disability benefits exemption reason described on the CE-200 and notify the Board's investigative staff if there are discrepancies (Board Enforcement Unit phone numbers are listed on page 11 of the instruction manual). For example, if you are licensing a 150 seat restaurant and the applicant indicates on the CE-200 exemption form that he/she is a sole proprietor with no employees, this may indicate a problem.

To make this process as easy and as efficient as possible for business owners, the vast majority of these forms will be processed electronically on-line. Applicants having access to the internet will be able to fill out the CE-200 on the internet and **immediately** upon completion, **be able to print out a hard copy of the CE-200** that they will then submit to the government agency issuing the permit, license or contract. Computers with internet access will also be available for CE-200 electronic application processing at Customer Service Centers located in Workers' Compensation Board District Offices.

Filling out the electronic Form CE-200 on the internet is very similar to filling out a hotel-reservation request on the internet for frequent travelers. Applicants will be issued a pin number and a password so that they can easily access their information. Once an applicant enters his/her basic information on the Board's website, it can be retrieved by that applicant in the future by using that pin number and password when the applicant is applying for another permit, license or contract.

Applicants without access to a computer may obtain a paper application for the CE-200 by writing or visiting the Customer Service Center at any District Office of the Workers' Compensation Board. Applicants using the manual process may wait up to four weeks before receiving a CE-200. Once the applicant receives the CE-200, the applicant can then submit the CE-200 to the government agency form which he/she is getting the permit, license or contract. This delay results from Workers' Compensation Board staff having to manually enter information from the applicant's paper application into the web based application. Accordingly, to avoid delays, all applicants for exemptions are strongly encouraged to use the on-line Form CE-200 on the Board's website, [www.wcb.state.ny.us](http://www.wcb.state.ny.us), under the heading "Forms."



## Section 220 (8) – Restriction on Issue of Permits and the Entering of Contracts Unless Disability Benefits Coverage Is Secured

Section 220 (8) of the Workers’ Compensation Law (WCL) regarding disability benefits requires the heads of all State and municipal entities, prior to issuing any permits, licenses or entering into contracts, to ensure that businesses applying for those permits, licenses or entering into contracts have appropriate disability benefits insurance coverage.

To comply with coverage provisions of the WCL, businesses must:

- A) be legally exempt from obtaining workers’ compensation insurance coverage; or
- B) obtain such coverage from insurance carriers; or
- C) be a Board-approved self-insured employer or participate in an authorized group self-insurance plan.

Accordingly, to assist State and municipal entities in enforcing WCL Section 220 (8), **businesses** requesting permits or seeking to enter into contracts **must provide ONE** of the following forms to the entity issuing the permit or entering into a contract:

- A) CE-200, Certificate of Attestation For New York Entities With No Employees And Certain Out Of State Workers’ Compensation And/Or Disability Benefits Insurance Coverage Is Not Required;

*Starting December 1, 2008, Form CE-200 can be filled out electronically on the Board’s website [www.web.state.ny.us](http://www.web.state.ny.us), under the heading “Forms.” Applicants filing electronically are able to print a finished Form CE-200 immediately upon completion of the electronic application. Applicants without access to a computer may obtain a paper application for the CE-200 by writing or visiting the Customer Service Center at any District Office of the Workers’ Compensation Board. Applicants using the manual process may wait up to four weeks before receiving a CE-200. Once the applicant receives the CE-200, the applicant can then submit that CE-200 to the government agency from which he/she is getting the permit, license or contract. **OR***

- B) DB-120.1 – Certificate of Disability Benefits Insurance (the business’s insurance carrier will send this form to the government entity upon request); **OR**
- C) DB-155 – Certificate of Disability Benefits Self-Insurance (the business calls the Board’s Self-Insurance Office at 518-402-0247).

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Binghamton	(607) 721-8179	Peekskill	(914) 788-5804
Brooklyn	(718) 802-6870	Queens	(718) 523-8409
Buffalo	(716) 842-2057	Rochester	(585) 238-8335
Hauppauge	(631) 952-6698	Syracuse	(315) 423-1141
Hempstead	(516) 560-7741		

Please call the Bureau of Compliance at (518) 486-6307 with any general questions regarding Section 57 of the Workers’ Compensation Law.