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January, 2008

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association
at its new website:



www.wrmba.com

The California

Contractor

News for the Western Regional Master Builders Association

Great rates for 2008!

As you probably know, your association, Western Regional Master Builders Association (W.R.M.B.A.), is no longer working with the State Compensation Insurance Fund. We have partnered with Heffernan Insurance Brokers to bring our members a new workers' compensation insurance program with **AMAZING** rates.

Check out the 2008 base rates comparison below and make sure to get a quote for your company A.S.A.P.!!!

Workers' Comp Class Code	New Heffernan 2008 base rate*	Compare	SCIF 2008 base rate	Class Code Description
5645	\$20.16	vs.	\$31.95	Construction- N.O.C.
5482	\$5.18	vs.	\$8.00	Painting or Decoration- Over \$23
5474	\$11.06	vs.	\$17.08	Painting or Decoration- Under \$23
5606	\$1.92	vs.	\$2.96	Construction Executive Supervisor
5213	\$7.71	vs.	\$11.89	Concrete Construction
5205	\$5.30	vs.	\$8.19	Concrete or Cement work
5140	\$3.87	vs.	\$5.98	Electrical work- Over \$27
5190	\$5.17	vs.	\$7.98	Electrical work- Under \$27
5183	\$7.78	vs.	\$12.03	Plumbing- Over \$24
5187	\$4.40	vs.	\$6.80	Plumbing- Under \$24
5447	\$5.15	vs.	\$7.95	Drywall/ Wallboard Application- Over \$25
5446	\$9.50	vs.	\$14.59	Drywall/ Wallboard Application- Under \$25
5348	\$5.54	vs.	\$8.54	Tile or Stone Work
5028	\$7.30	vs.	\$11.31	Masonry- Over \$23
5027	\$10.50	vs.	\$16.21	Masonry- Under \$23

* All 2008 rates are the filed base rates and do not include any individually earned merits or credits. Actual rates may be lower.

Our new workers' compensation program through Heffernan Insurance Brokers offers a substantial savings over the State Fund rates. To participate in this new program, be sure to get your quote today!!!

Call Heffernan Insurance Brokers at: (866) 500-6359 and let them know you are a member of Western Regional Master Builders Association. If you currently use a broker for your insurance needs, you may have your broker call Tangram Insurance to get the same program and rates, at (800) 676-2213 ext. 662 and speak to Riley Binford.

Don't miss out on these savings! Call today for a quote!!!



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2008 construction laws clarify contractor responsibilities, consumer safety

Clean-up language
dominates new contractor laws

As the New Year rolls in, contractors, once again, must heed the new and revised state laws that govern professions within the construction industry. Following are the highlights of legislative action taken in 2007. All California contractor laws are available in the Contractor State License Board's (CSLB) 2008 Law and Reference Book, due for release in early January.

BUSINESS & PROFESSIONS CODE

§101.7 – Boards and other entities within the Department of Consumer Affairs (DCA) must meet three (3) times each calendar year, and at least once in northern California and once in southern California. The DCA Director is authorized to excuse a Board from meeting upon showing cause, and/or to call a special meeting.

§125.6 – In addition to facing disciplinary action if a licensed contractor refuses services based upon race,

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LAW TALK



By Bruce D. Rudman
Abdulaziz, Grossbart & Rudman



'No Match' letters are the subject of substantial controversy

As all employers should know, when hiring a new employee you must have the employee fill in an I-9 form issued by the Federal Government, and employer thereafter files W-2 forms each year with the Social Security Administration. According to the U.S. Immigrations and Customs Enforcement Agency (ICE), as many as 4% of the 250 million wage reports that are received by the Social Security Administration ("SSA") do not match the Social Security's Administration records.

When this occurs, the Social Security Administration issues a letter which is known as a "no match" letter to the employer, stating that the name or corresponding social security account

number submitted for certain employees do not match the agency's records. Similarly, no-match letters are sometimes also issued by the Department of Homeland Security ("DHS"), notifying the employer that the immigration-status or employment-authorization documentation presented or referenced by the employee is not consistent with the Department of Homeland Security's records.

The Department of Homeland Security had enacted a new regulation, in which some have argued would result in the termination of employees whose Social Security Administration discrepancies were not resolved within 93 days of the receipt of a no-match letter. The effect of the new

regulation was a finding that if an employer did not respond to a "no-match" letter, the Department of Homeland Security could conclude that the employer had "constructive knowledge" the employee was not authorized to be in the U.S. and they might then prosecute the employer accordingly.

A Federal Court issued a preliminary order stopping enforcement of the new Rule, which the court found could result in irreparable harm to the innocent workers and employers. The AFL-CIO, among others, filed a Federal lawsuit in the Northern District of California, seeking to prevent the government from enforcing the new regulation. The Union argued that the "no match" letter will serve to undermine all

workers' labor rights, and that the majority of these letters are based on error-filled Social Security Administration records.

The Department of Homeland Security suggests that the new regulation merely reiterates that employers should remain accountable for the workers they hire, and it clarifies the steps employers should take to resolve mismatches identified in the letters issued by the Social Security Administration. According to ICE, there are other reasons for a mismatch between the employer and the SSA records, including transposition errors and name changes following marriage that are not reported to SSA. Employers are told not to assume that the mismatch is the result of any wrongdoing on the

part of the employee, but it was argued before the Federal Court that employers out of fear from being prosecuted would nevertheless terminate employees who could not reconcile problems with their Social Security or other employment information.

The DHS regulations specify the following steps that employers should take upon receipt of a no match letter: 1) verify within 30 days that the mismatch was not a result of a record-keeping error on the employer's part; 2) request that the employee confirm the accuracy of the employment records; 3) ask the employee to resolve the issue with SSA; 4) if these steps lead to the resolution of the problem, follow the instructions on the no match letter itself to correct the information with SSA and retain a copy of the verification with SSA; and 5) where the information cannot be corrected, complete a new I-9 form without using the questionable social security number and instead using approved documentation presented by the employee that conforms with the I-9 document identity requirements, including a photograph and other biographic data.

ICE advises that, "Employers unable to confirm employment through these procedures risk liability for violating the law by knowingly continuing to employ unauthorized persons. The word "knowingly" is the problem with the regulation.

Unfortunately, if the employer cannot resolve any record keeping discrepancies, then the employer will then have a "catch-22" by having to either terminate the employee, or, face the risk that DHS will find the employer had constructive knowledge that the employee was unauthorized to work, which means that the employer will be violating the law and could be prosecuted.

The latest ruling from the Federal Court came down on October 10, 2007. This halted enforcement of the new regulation. As we

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SAFETY ... IT PAYS



Wet weather and work surfaces

Wet surfaces, whether indoors or out, always present a workplace hazard. They can be caused by wet weather, cleaning and accident spills, and work activities that require the use of water or are performed around water. Slipping on a wet surface can result in injuries including bruises, strains and sprains, lacerations, fractures and head trauma, and can even be fatal.

Some ways to prevent accidents include:

- * Use caution signs to clearly identify when a surface is wet or likely to become wet. Remember that signs lose their effectiveness if they are not removed once the surface is dry.

- * Consider posting seasonal caution signs in outdoor work areas and near equipment during the rainy season.

- * Specifically post signs that identify electrical



hazards in wet conditions. Check for equipment and electrical currents that may not be grounded and wires that aren't insulated.

- * Clean up spills immediately.

- * Use floor mats at entrances and exits to reduce tracking in of water from outside. Remind employees to slow down and use extra caution.

- * If possible, organize work schedules based on weather forecasts and plan alternative tasks for inclement weather.

- * Schedule work activities under covered areas during predicted "wet weather days."

- * Construct temporary shelters such as tents or tarps over work sites that do not have existing overhead coverage.

- * Ensure good drainage to prevent standing water and speed drying.

- * Use pumps to disburse water.

- * Be certain that employees wear shoes and boots with slip-resistant soles.

Making your New Year's resolutions stick

It's been estimated that 88% of us will make a New Year's resolution, with great hope that some things will change. The top resolutions are to loose weight, save or earn more money and to quit smoking. We resolve to change habits and do things differently, but somehow by the end of January we frequently slip back into our old behavior.

The best way to avoid a setback is to carefully think through the best strategies for setting your goals. It's as important to think of what you DON'T want as it is to think of what you DO want. Here's a plan on how to make your resolutions work for you.

- ~ Look at your past. Before you start something new, you need to evaluate what's worked for you in the past and what hasn't. Be realistic. Remember insanity is doing the same thing over and over but expecting a different result.

- ~ List all your goals. Don't worry about how many you have. Be specific as to what you want to accomplish. If you want to improve your sales,



list how you will accomplish that. Maybe it means you need hire someone to do your book-keeping, so you'll have time to network. If you want to start an exercise program, list how many times a week you will work out and for how long.

- ~ Prioritize. After you list is complete, you

may find there are too many goals. Rather than try to do them all, concentrate of the ones that are the most important. It's better to accomplish one goal than to attempt them all and complete none of them.

- ~ Get a buddy. Look at your list and figure out who will be your best supporter. If your goal is work related, ask an employee to help you out and in exchange, do something for them. Talk to coworkers, friends and family to see if they have resolutions and need an accountability partner to help stay motivated.

- ~ Reward yourself. Whenever you achieve a milestone, give yourself a reward. If your goal was to loose 20 pounds, when you've lost ten, treat yourself to a mini vacation, or something you've been wanting. If your goal was business related, include your employees in the reward.

Hopefully you will successfully reach you goal and experience the great feeling of being thrilled for yourself as well as someone else.

Laws: Contractors with expired, canceled or inactive licenses must notify Registrar with five years of addresses, instead of three years

Continued from page 1

color, sex, religion, ancestry, disability, marital status, or national origin, licensees will face disciplinary action if they discriminate by refusing construction-related services based upon a prospective client's medical condition or sexual orientation.

§7026.11 – The terms "mobile home" and "manufactured home" will now have separate and distinct definitions for reasons that are unrelated to Contractors License Law. The General Manufactured Housing (C-47) classification continues to be the appropriate special-

ty license for performing work relative to mobile homes and manufactured housing.

§7027.5 – Landscape Contractors (C-27) licensed by the Contractors State License Board are authorized to enter into prime contracts to construct and install outdoor cooking centers and fireplaces, as long as the projects are included in a residential landscape project, and the fireplace is not attached to the dwelling. Other properly licensed specialty or general contractors would still be required for tasks that are beyond the scope of the landscape contractor classification.

§7083.1 – Contractors whose

licenses have expired, are canceled, or are otherwise inactive, must notify the CSLB Registrar of their current address(es), in writing, for five (5) years, instead of the previously designated three (3) years.

§7091 – If a licensee is convicted of a crime that is substantially related to the qualifications, functions or duties of a contractor, the CSLB will have two (2) years from the date the conviction is discovered in which to file disciplinary action against the licensee. Also, the CSLB will have 18 months after the date a warranty expires in which to file a disciplinary action against a licensee who fails to honor the terms of the warranty.

§7114 – As part of disciplinary action against a licensee, the Registrar of Contractors is authorized to order a licensee to pay a specific amount of money to an injured party if the licensee has aided an unlicensed person or allowed an unlicensed person to use his or her license.

§7159.5 – A statute of limitations has been established for filing criminal charges against contractors who furnish a bond, bond equivalent, or Joint Control that is approved by the Registrar and who

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CSLB: 2008 Law and Reference book is out in January

Continued from page 3

are exempt from referencing the down payment, schedule of payments, the Mechanic's Lien warning, or using the 10%/\$1,000 down payment rule in a Home Improvement Contract where the cost of all labor and materials exceeds \$500. The date the first payment is given to the contractor is the date used in establishing the statute of limitations for filing criminal charges.

§7159.14 – For the case where a Service and Repair Contract is not reduced to writing as required by the law, the date the first payment is given to the contractor is the date used in establishing the statute of limitations for filing criminal charges.

CIVIL CODE

§2782 – Residential construction contracts and amendments that indicate a general contractor or subcontractor is to be held harmless for construction defects, injury or negligence are legally unenforceable as of January 1, 2008.

INSURANCE CODE

§11760.1 – If an employer fails to provide access to an insurance company or its representative to perform a workers' compensation audit, the employer will be liable to pay the insurance company three (3) times the total premium, plus associated costs.

Complete contents of each legislative change is available by looking up the California code and section number on the following state Website: www.leginfo.ca.gov.

Rudman: Before terminating an employee, discuss it with an employment lawyer

Continued from page 2

know more, we will report the decision of the Federal Court. If in doubt, before terminating any employee, you should discuss that action with a lawyer practicing employment litigation to avoid any potential liability on your part.

Abdulaziz, Grossbart & Rudman provides this information as a service to its friends & clients. The contents of the article are of a general nature and are intended to highlight areas of the subject matter and should not be used as a substitute for specific legal advice. You should seek the aid and advice of a competent attorney and/or accountant instead of relying on the presentation and/or documents. Bruce D. Rudman can be reached at Abdulaziz, Grossbart & Rudman, P.O. Box 15458, North Hollywood, CA 91615-5458; (818) 760-2000, Facsimile (818) 760-3908; or by E-Mail at bdr@agrlaw.net. On the Internet, visit our Website at www.agrlaw.net.

Some 2008 calendars still available! Hurry...

We have some 2008 WRMBA calendars still available. They can be purchased for \$10 each. Please make checks payable to WRMBA and send them to:

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On the main site, www.scryve.com, users can directly look up responsibility ratings and company profiles on over 3,500 companies, products and brands. One-click alternatives immediately provide users with more responsible options to deal with.

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