



# Glass Facts

April – June 2016

## SEGA Chairman's Message



### Potential Tsunami may Threaten our Industry

I generally like to write a blog for this space that is light hearted or offers a better idea about something that can be used in our industry. But, now is not the time for such a blog! In fact, it is a time for concern, a time to notify, a time to spread the word about what I am going to refer to as the three headed monster that threatens or could threaten our businesses with potential financial loss of substantial consequence. In fact, one of these monsters not only threatens just us in the glass business but will affect everyone who is in the construction business from material suppliers, subcontractors and contractors.

Let us further examine each one of these potential monsters individually starting with what SEGA, along with the help of others, was able to derail in this past session of the Florida Legislature, and the bill died in committee a slow death as time ran out. This was the AOB (Assignment of Benefits) bill pushed by the insurance industry. This bill originally started out over water mitigation issues in South Florida but soon morphed much larger to be inclusive of any personal property claim. For us in the Auto Glass business, auto glass claims quickly became inclusive in the definition of personal property. In a nutshell, the insurance companies want to take away or invalidate the insured's AOB right to authorize repair and payment of the repair without first receiving approval from the insurance company to perform the work. From numerous sources, the insurance companies will be back in Tallahassee again this upcoming session loaded for bear to try to convince elected officials to believe their stories and pass legislation that will effectively invalidate all AOBs in an insurance

policy. If successful, any ability to perform work at a fair and reasonable price and have an avenue to the insurance company for payment will no longer exist. Instead, our only avenue for payment will be with the insured and not the insurance company as payment from the insurance company will be issued directly to the insured and no longer to the contractor. Business models will be affected substantially if AOBs are invalidated.

The second monster was re-born when the Florida Supreme Court ruled that the limiting of attorney fees on workers' compensation claims was unconstitutional. This will cause workers' compensation rates to rise substantially and increase premiums across the board. The cost of doing business will drastically increase due to this ruling, and you can expect rates to start an upward climb soon.

The third monster that is quietly being championed is an extensive modification to the current lien law statute as it is written today. This modification will remove the right of anyone who is not in privity with the homeowner on any residential construction project, new construction or existing construction to file a lien. This means material suppliers, subcontractors and anyone else working for the building contractor **will not have lien rights**. This will be a game changer for us in the flat glass business that performs work in the residential construction market if this bill passes, which I believe will be part of the new House leadership agenda in 2017.

So there you have it about what and who are attempting to affect and damage our opportunity to operate a successful and profitable business in the state of Florida. SEGA is doing all it can with the resources it currently has. If you are receiving this newsletter and are not currently a SEGA member, I urge you to seriously consider joining SEGA so that we can become more effective in fighting these issues as they are introduced in the 2017 Legislative Session in Tallahassee. SEGA needs you and you need SEGA!

*Until next time!  
Woody Watters  
SEGA Chairman*

## SEGA 2016 OFFICERS

### **Chairman of the Board**

Woody Watters  
Pensacola Glass Company

### **Vice Chairman**

Vacant

### **Secretary/Treasurer**

Vacant

## SEGA 2016 DIRECTORS

Dan Knowlton – K & K Glass  
Thomas Lee, IV, – Lee & Cates Glass  
Jeff Miller – Lore L. Ltd.  
Bryan Yarborough – Glass Doctor  
(JONALISA)

## SEGA CONSULTANT

Roland “Stoney” Stonaker  
6741 Hidden Creek Boulevard  
St. Augustine, FL 32086  
Phone: (904) 806-3949  
FAX: (904) 797-4473  
E-mail: [stoneystonaker@yahoo.com](mailto:stoneystonaker@yahoo.com)

---

## SEGA OFFICE

231 West Bay Avenue  
Longwood, FL 32750-4125  
Phone: (407) 831-7342  
FAX: (407) 260-1582  
Website: [www.southeastglass.org](http://www.southeastglass.org)

## SEGA STAFF

R. Bruce Kershner,  
Executive Director  
E-mail: [rbkershner@att.net](mailto:rbkershner@att.net)

Julie A. Kershner,  
Assistant Executive Director  
E-mail: [juliepinto-kershner@att.net](mailto:juliepinto-kershner@att.net)

---

Please submit your news releases, articles and comments for this publication to the SEGA office, attention: Julie, 231 West Bay Avenue, Longwood, FL 32750-4125. Advertising Space is also available. Please call the SEGA office at (407) 831-7342 for current rates and information.

## SOUTHEAST GLASS ASSOCIATION CALENDAR OF EVENTS 2016

### **June**

7-8 ..... Florida Building Commission Meeting,  
Gainesville Hilton  
8-10 ..... CILB Board of Director's and Committee  
Meetings, TBA  
14-15 ..... Glass & Glazing Specialty License Exam  
23-24 ..... Florida Building Commission Meeting,  
Webinar/Conference Call

### **July**

13-15 ..... CILB Board of Director's and Committee  
Meetings, The Orlando Marriott Lake Mary, Lake Mary

### **August**

10-12 ..... CILB Board of Director's and Committee  
Meetings, Hyatt Regency Jacksonville  
Riverfront, Jacksonville  
16-17 ..... Florida Building Commission Meeting, TBA

### **September**

14-16 ..... CILB Board of Director's and Committee  
Meetings, The Orlando Marriott Lake Mary, Lake Mary

### **October**

11 ..... Florida Building Commission Meeting, TBA  
12-14 ..... CILB Board of Director's and Committee  
Meetings, Hilton Melbourne Beach  
Oceanfront, Melbourne  
19-21 .. GlassBuild America: The Glass, Window & Door  
Expo, Las Vegas Convention Center, Las Vegas, NV  
20-23 ..... Glasstec,  
Düsseldorf, Germany

### **November**

9-11 ..... CILB Board of Director's and Committee  
Meetings, Embassy Suites Orlando – North,  
Altamonte Springs  
24-26 ..... Glasstech Asia,  
Ho Chi Minh City, Vietnam

### **December**

13 ..... Florida Building Commission Meeting, TBA

## 2017

### **February**

21-22 ..... Glass & Glazing Specialty License Exam

### **June**

13-14 ..... Glass & Glazing Specialty License Exam

### **September**

12-14 ..... GlassBuild America: The Glass, Window  
& Door Expo, Georgia World Congress,  
Atlanta, GA

# A Closer Look at the 2016 Legislative Session

## By R. Bruce Kershner – Director of Government Affairs

### Session Ends Quietly

The end of the 2016 Legislative Session was certainly not as dysfunctional as last year when the House went home three days early and without a budget. This year, the Speaker of the House and Senate President brought an \$82.3 billion budget in for a landing, coolly on time, and with only one dissenting vote between them — the House. However, the final day of session this year was not without its last minute drama as a couple of bills bounced back and forth between the two chambers. When the hankie dropped signaling the end of the session, **Governor Rick Scott** was on hand to congratulate **Speaker Steve Crisafulli** and **Senate President Andy Gardiner** on a successful session event though much of his own legislative priorities were casualties of the 2016 Legislation Session.

### By the Numbers

With the Legislature sending bills to **Governor Scott** at a relatively brisk pace, he spent much of his time since sine die churning through proposals that needed his final approval to become law. We saw a small uptick this year in the number of bills filed and passed by the Legislature. The 2016 Legislative Session saw 1,580 General Bills filed. Of that, 245 passed.

The governor has received all the bills and taken final action on all of them. The governor vetoed three bills which dealt with dental care, family law and a local bill dealing with Gainesville Regional Utilities.

### Local Governments Prohibited from Collecting Fees

As a State Certified Contractor, have you ever had to pay a local jurisdiction an additional fee for them to track your state license or show proof of workers' compensation? They refer to them as a recording, tracking, registration, administrative, etc., fee ranging from \$50 – \$100. Local governments are no longer allowed to charge these additional fees. Tucked away in the Building Code Bill (**HB 535**) was a provision which prohibits local governments from requiring payment of any additional fees, charges or expenses associated with providing proof of licensure as a contractor, recording or filing evidence of workers'

compensation insurance coverage by a contractor.

### Governor Scott Quickly Signs the Budget

Governor Scott wasted little time in signing the state spending plan shortly after legislative leaders sent it to him. In a highly unusual move, the governor released a preemptive list of planned vetoes just days after sine die and individuate his intent to sign the budget into law as soon as he receives it. The veto list was far less extensive than lawmakers had feared with the governor signing the budget keeping intact the \$256.1 million in line-item vetoes that he had previously released.

### Legislature Address Construction Workforce Shortage

The Florida Legislature addressed the critical shortage of a trained construction workforce this session as they created the Construction Industry Workforce Task Force within the University of Florida M.E. Rinker, Sr., School of Construction Management. The task force was established within this year's Building Code Bill, **HB 535**. It specifies the goals and composition of the task force. Funding is provided for the task force from the building permit surcharge (Building Code Compliance & Mitigation Program).

## Construction Industry Workforce Task Force

This year's Building Code Bill, **HB 535**, was signed into law by **Governor Scott** on March 25. One of the many provisions of this bill which is critical to the construction industry was the establishment of the Construction Industry Workforce Task Force. The Task Force was established to look at the existing critical shortage of training individuals and develop a consensus path for training the next generation of construction workers.

The goals of the Construction Workforce Task Force, which was included in the bill, are to:

- Address the critical shortage of individuals trained in building construction and inspection;
- Develop a consensus path for training the next generation of construction workers in the state;
- Determine the causes for the current shortage

of a trained construction industry work force and address the impact of the shortages on the recovery of the real estate market;

- Review current methods and resources available for construction training;
- Review the state of construction training available in K–12 schools; and,
- Address training issues relating to building code inspectors to increase the number of qualified inspectors.

The Task Force will elect a chair from among its 22 members and must submit a final report to the Governor, President of the Senate and Speaker of the House of Representatives by February 1, 2017. The Department of Business & Professional Regulation (DBPR) is providing \$50,000 from funds available for the Florida Building Code Compliance and Mitigation Program to the University of Florida M.E. Rinker, Sr., School of Construction Management, for administration of this Task Force.

The Task Force must meet at least three times but as often as necessary to fulfill its responsibilities. The first meeting is currently slated to occur July 27, 2016 at the Gaylord Palms in Kissimmee. A second face-to-face meeting is being discussed for October with a final face-to-face meeting to occur most likely by December. It is expected that there will be conference calls in between the face-to-face meetings, all of which are being targeted for the central Florida area.

The Task Force expires on July 1, 2017, and the full list of the 22 members are as follows:

1. A member of the House of Representatives appointed by the Speaker of the House of Representatives.
2. A member of the Senate appointed by the President of the Senate.
3. The chair of the Florida Building Commission.
4. A member representing the Building Officials Association of Florida.
5. A member representing the Alarm Association of Florida.
6. A member representing the American Fire Sprinkler Association – Florida Chapter.
7. A member representing the Asphalt Contractors Association of Florida.
8. A member representing the Associated Builders and Contractors of Florida.

9. A member representing the Florida Associated General Contractors Council.
10. A member representing the Florida Building Construction Trades Council within the Florida AFL–CIO.
11. A member representing the Florida Carpenters Regional Council.
12. A member representing the Florida Chapter of the National Electrical Contractor Association.
13. A member representing the Florida Concrete and Products Association.
14. A member representing the Florida Electrical Workers Association.
15. A member representing the Florida Fire Sprinkler Association.
16. A member representing the Florida Home Builders Association.
17. A member representing the Florida Plumbing–Heating–Cooling Contractors Association.
18. A member representing the Florida Refrigeration and Air Conditioning Contractors Association.
19. A member representing the Florida Roofing, Sheet Metal and Air Conditioning Contractors Association.
20. A member representing the Florida Swimming Pool Association.
21. A member representing the Independent Electrical Contractors.
22. A member representing the National Utility Contractors Association of Florida.

## **Don't Pay Those Pesky Fees to Register Your Contractor's License**

For years, local governments have been collecting fees from state certified contractors associated with providing proof of licensure as a contractor or filing evidence of workers' compensation insurance coverage. These additional fees typically range from \$50 to \$100. State law authorizes local governments to provide a schedule of consistent reasonable fees to be used solely for carrying out the local government's responsibilities in enforcing the Building Code. The basis for the fee structure must relate to the level of service provided by the local government. Specifically, s. 166.222, F.S., provides that local governments



may provide a schedule of reasonable inspection fees in order to defer the costs of inspections and enforcement of the provisions of its building code . . . not tracking of contractors' licenses.

State lawmakers put a halt to this practice during the 2016 Legislative Session. Tucked away in the Building Code Bill (**HB 535**) now prohibits local governments from requiring payment of any additional fees, charges or expenses associated with providing proof of licensure as a state certified contractor, recording a contractor's license or providing, recording or filing evidence of workers' compensation coverage by a contractor.

Local governments can still collect fees for inspection, examination, site examination, building permit (based on square footage of the building) and various administrative fees including repermitting, time extension and reinspection fees.

The following is a copy of s. 553.80, F.S., for your reference:

*553.80 Enforcement.—*

*(7) The governing bodies of local governments may provide a schedule of reasonable fees, as authorized by s. 125.56(2) or s. 166.222 and this section, for enforcing this part. These fees, and any fines or investment earnings related to the fees, shall be used solely for carrying out the local government's responsibilities in enforcing the Florida Building Code. When providing a schedule of reasonable fees, the total estimated annual revenue derived from fees, and the fines and investment earnings related to the fees, may not exceed the total estimated annual costs of allowable activities. Any unexpended balances shall be carried forward to future years for allowable activities or shall be refunded at the discretion of the local government. The basis for a fee structure for allowable activities shall relate to the level of service provided by the local government and shall include consideration for refunding fees due to reduced services based on services provided as prescribed by s. 553.791, but not provided by the local government. Fees charged shall be consistently applied.*

*(d) The local enforcement agency may not require the payment of any additional fees, charges, or expenses associated with:*

*1. Providing proof of licensure pursuant to*

*chapter 489;*

*2. Recording or filing a license issued pursuant to this chapter; or*

*3. Providing, recording, or filing evidence of workers' compensation insurance coverage as required by chapter 440.*

## Important Notice to All State Certified Contractors Homeowners' Construction Recovery Fund Update

On Friday, March 25, 2016, **Governor Rick Scott** signed **HB 535** (Building Code Bill) in to law. The bill is now referred to as **Chapter 2016-129**, Laws of Florida. The bill makes several changes to existing law as it relates to the regulation of construction contracting and the Florida Building Code. One of the more important change revises the law to include Division II contractors within the parameters of the Florida Homeowners' Construction Recovery fund. Specifically, it revises the statutory limits on recovery payments to include Division II contracts beginning January 1, 2017, for any contract entered into after July 1, 2016. The bill limits Division II claims to \$15,000 per claim with a \$150,000 lifetime maximum per licensee.

Division II contractors **MUST** include a written statement on all residential contracts notifying the residential property owner of their rights under the Florida Homeowners' Construction Recovery Fund.

Below is a copy of s. 489.1425, F.S., which includes the written statement that needs to be included on all residential contracts beginning on July 1, 2016.

---

489.1425 Duty of contractor to notify residential property owner of recovery fund.—

(1) Each agreement or contract for repair, restoration,

improvement, or construction to residential real property must contain a written statement explaining the consumer's rights under the recovery fund, except where the value of all labor and materials does not exceed \$2,500. The written statement must be substantially in the following form:

**FLORIDA HOMEOWNERS' CONSTRUCTION RECOVERY FUND**

PAYMENT, UP TO A LIMITED AMOUNT, MAY BE AVAILABLE FROM THE FLORIDA HOMEOWNERS' CONSTRUCTION RECOVERY FUND IF YOU LOSE MONEY ON A PROJECT PERFORMED UNDER CONTRACT, WHERE THE LOSS RESULTS FROM SPECIFIED VIOLATIONS OF FLORIDA LAW BY A LICENSED CONTRACTOR. FOR INFORMATION ABOUT THE RECOVERY FUND AND FILING A CLAIM, CONTACT THE FLORIDA CONSTRUCTION INDUSTRY LICENSING BOARD AT THE FOLLOWING TELEPHONE NUMBER AND ADDRESS: 1940 NORTH MONROE STREET, TALLAHASSEE, FLORIDA 3239-2215.

---

The above statement **MUST** be immediately followed by the board's address and telephone number as established by board rule, which has been included above.

***Please note: Due to the poor health of DBPR's current office building, the aforementioned address is subject to change in the near future.***

## **Florida's Construction Lien Law Written Notice on Direct Contracts Greater Than \$2,500**

713.012 Written notices, demands, or requests. – Notices, demands or requests permitted or required under this part, except any required by s. 713.14, must be in writing.

### **713.015 Mandatory provisions for direct contracts. —**

(l) Any direct contract greater than \$2,500 between an owner and a contractor, related to improvements to real property consisting of single or multiple family dwellings up to and including four units, must contain the following notice provision printed in no less than 12/point, capitalized, boldfaced type on the front page of the contract or on a separate page, signed by the owner and dated:

ACCORDING TO FLORIDA'S CONSTRUCTION LIEN LAW (SECTIONS 713.001/713.37, FLORIDA STATUTES), THOSE WHO WORK ON YOUR PROPERTY OR PROVIDE MATERIALS AND SERVICES AND ARE NOT PAID IN FULL HAVE A RIGHT TO ENFORCE THEIR CLAIM FOR PAYMENT AGAINST YOUR PROPERTY. THIS CLAIM IS KNOWN AS A CONSTRUCTION LIEN. IF YOUR CONTRACTOR OR A SUBCONTRACTOR FAILS TO PAY SUBCONTRACTORS, SUB/SUBCONTRACTORS, OR MATERIAL SUPPLIERS, THOSE PEOPLE WHO ARE OWED MONEY MAY LOOK TO YOUR PROPERTY FOR PAYMENT, EVEN IF YOU HAVE ALREADY PAID YOUR CONTRACTOR IN FULL. IF YOU FAIL TO PAY YOUR CONTRACTOR, YOUR CONTRACTOR MAY ALSO HAVE A LIEN ON YOUR PROPERTY. THIS MEANS IF A LIEN IS FILED YOUR PROPERTY COULD BE SOLD AGAINST OUR WILL TO PAY FOR LABOR, MATERIALS, OR OTHER SERVICES THAT YOUR CONTRACTOR OR A SUBCONTRACTOR MAY HAVE FAILED TO PAY. TO PROTECT YOURSELF, YOU, SHOULD STIPULATE IN THIS CONTRACT THAT BEFORE ANY PAYMENT IS MADE, YOUR CONTRACTOR IS REQUIRED TO PROVIDE YOU WITH A WRITTEN RELEASE OF LIEN FROM ANY PERSON OR COMPANY THAT HAS PROVIDED TO YOU A "NOTICE TO OWNER." FLORIDA'S CONSTRUCTION

LIEN LAW IS COMPLEX, AND IT IS RECOMMENDED THAT YOU CONSULT AN ATTORNEY.

(2)(a) If the contract is written, the notice must be in the contract document. If the contract is oral or implied, the notice must be provided in a document referencing the contract.

(b) The failure to provide such written notice does not bar the enforcement of a lien against a person who has not been adversely affected.

(c) This section may not be construed to adversely affect the lien and bond rights of lienors who are not in privity with the owner. This section does not apply when the owner is a contractor licensed under chapter 489 or is a person who created parcels or offers parcels for sale or lease in the ordinary course of business.

## Legislative Issues Looming on the Horizon for the 2017 Legislative Session

**By R. Bruce Kershner – Director of Government Affairs**

As we head in to the summer doldrums, the 2017 Legislative Session seems far off on the horizon and not something we should be concerned with now. After all, we will be facing never-ending political campaigning both nationally and statewide leading up to the November elections. Surely we don't need to be worried about what our elected officials will be discussing in Tallahassee next spring. I wish that were true; however, we need to pay close attention to the upcoming elections for the Florida House and Senate. All 160 seats will be up for grabs, and it is imperative that all of the candidates be vetted. SEGA should support business-friendly candidates that understand how businesses operate. The people we elect in November will be dealing with three major issues that will affect how you do business here in Florida.

**Assignment of Benefits (AOB):** Look for legislators to address the misuse of assignment of

benefits (AOB) for water loss claims that they say has become a rampant and costly problem in the state. The insurance companies are seeking legislation that would regulate homeowners' ability to sign over their right to collect insurance benefits to third parties. Proposed regulation of AOBs would not just cover water remediation but in all types of property claims, including auto glass.

**Florida's Construction Lien Law:** Make no mistake, incoming **House Speaker Richard Corcoran** has already put in motion a proposal that would eliminate statutory lien rights for contractors, subcontractors and/or material suppliers. The construction industry functions on a credit-based system. Without it, every general, residential and building contractor would have to have the financial ability to finance all of their ongoing projects themselves. In short, without the current credit scheme which relies upon the construction lien law as an additional remedy if payment is not made, many contractors would simply be unable to compete and do business.

**Workers' Compensation Insurance:** The Florida Supreme Court recently handed down a decision that will drive up Workers' Compensation rates on every business in Florida. The court ruled that the attorney fees schedule, passed in 2009, is invalid because it eliminates the right of a claimant to get a reasonable attorney's fee, a right it says is a "critical feature" of the workers' compensation law. The 5-2 ruling is a setback for businesses and a threat to Florida's economy. Employers should be prepared for workers' compensation rates to skyrocket despite the steady decline in recent years. It is unclear at this time the exact timetable for an amended rate filing. The National Council on Compensation Insurance (NCCI) has stated that they will submit a rate filing change to the Office of Insurance Regulation (OIR) soon. NCCI is currently evaluating the court's decision and are planning an off-cycle rate filing in May with a proposed effective date this summer. Any rate increase will have to be approved by the OIR. A legislative remedy will be required to prevent significant increases in workers' compensation rates. House and Senate leadership expect the issue to be taken up during the 2017 Legislative Session, which begins next March.

The 2017 Legislative Session is shaping up to be a very important one for SEGA members. There will be much at stake. The potential impact of these three issues alone could threaten Florida's improving construction climate.

# Wage and Hour Division (WHD) Final Rule: Overtime Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales and Computer Employees under the Fair Labor Standards Act

On May 18, 2016, President Obama and Secretary Perez announced the publication of the Department of Labor's final rule updating the overtime regulations, which will automatically extend overtime pay protections to over 4 million workers within the first year of implementation.

In 2014, President Obama signed a Presidential Memorandum directing the Department to update the regulations defining which white collar workers are protected by the FLSA's minimum wage and overtime standards. Consistent with the President's goal of ensuring workers are paid a fair day's pay for a hard day's work, the memorandum instructed the Department to look for ways to modernize and simplify the regulations while ensuring that the FLSA's intended overtime protections are fully implemented.

The Department published a Notice of Proposed Rulemaking (NPRM) in the Federal Register on July 6, 2015 (**80 FR 38515**) and invited interested parties to submit written comments on the proposed rule at [www.regulations.gov](http://www.regulations.gov) by September 4, 2015. The Department received over 270,000 comments in response to the NPRM from a variety of interested stakeholders. The feedback the Department received helped shape the Final Rule.

## Key Provisions of the Final Rule

The Final Rule focuses primarily on updating the salary and compensation levels needed for Executive, Administrative and Professional workers to be exempt. Specifically, the Final Rule:

1. Sets the standard salary level at the 40th percentile of earnings of full-time salaried workers in the lowest-wage Census Region, currently the South (\$913 per week; \$47,476 annually for a full-year worker);
2. Sets the total annual compensation requirement

for highly compensated employees (HCE) subject to a minimal duties test to the annual equivalent of the 90th percentile of full-time salaried workers nationally (\$134,004); and

3. Establishes a mechanism for automatically updating the salary and compensation levels every three years to maintain the levels at the above percentiles and to ensure that they continue to provide useful and effective tests for exemption.

Additionally, the Final Rule amends the salary basis test to allow employers to use nondiscretionary bonuses and incentive payments (including commissions) to satisfy up to 10 percent of the new standard salary level.

The effective date of the final rule is December 1, 2016. The initial increases to the standard salary level (from \$455 to \$913 per week) and HCE total annual compensation requirement (from \$100,000 to \$134,004 per year) will be effective on that date. Future automatic updates to those thresholds will occur every three years, beginning on January 1, 2020.

Currently, the minimum salary amount to qualify for an overtime exemption is \$23,600. Starting December 1, however, the minimum salary to be exempt from overtime will increase to \$47,476. This means that salaried employees whose salary is less than \$47,476 a year (or \$913 a week) cannot be exempt regardless of their job duties and must be paid overtime for all hours over 40 they work in a given workweek, effective December 1.

This change will entitle many workers making more than the current threshold of \$23,660 to overtime pay and will be a big change for small businesses.

**Please note:** It is a common misconception that employees who are paid on a salary basis are automatically exempt from overtime; this is not true. Employees on salary must be paid overtime, unless they make a certain amount and their job duties meet specific criteria.

There are five categories of employees who do not have to be paid overtime: executive, administrative, professional, outside sales and certain computer-related occupations. These are known as the "white collar" exemptions because employees must be paid a certain salary amount and have specific job duties to qualify, like management of other employees or specialized skills that require advance schooling.



To qualify for these exemptions (and thus not receive overtime pay), employees must meet certain tests regarding their job duties and be paid a certain minimum salary. (One side note: the outside sales exemption does not require a minimum salary amount).

#### **Additional Information**

- ***Final Rule***
- ***Overtime Overview***
- ***Questions and Answers***
- ***Fact Sheet: Overtime Final Rule (PDF)***
  
- Guidance for Employers
  - ***General Guidance for Private Employers***
  - ***Small Business Guide to White Collar Exemptions***
  
- Guidance for Non-Profits
  - ***Fact Sheet***
  - ***Non-Profit Guidance***
  
- Guidance for Higher Education
  - ***Fact Sheet***
  - ***Guidance for Higher Education Employers***
  - ***NIH statement on overtime rule and postdoctoral researchers***
  - ***Huffington Post: “Fair Pay for Postdocs” – Dr. Francis Collins, Director, NIH and Secretary Perez***
  
- Guidance for States and Local Governments
  - ***Fact Sheet***
  
- ***Comparison Table: Current Regulations, Proposed Rule, and Final Rule***
  
- ***State-by-State Breakdowns of Workers Affected by DOL’s Final Overtime Regulation***
  
- ***DOL Overtime Page***
  
- ***Overtime NPRM Page***
  
- ***Blog Posts***
  
- ***Non-Enforcement policy for providers of Medicaid-funded services for individuals with intellectual or developmental disabilities in residential homes and facilities with 15 or fewer beds.***

## **Office Statement on NCCI Workers’ Compensation Rate Filing to Address Recent Legal Changes**

The Office of Insurance Regulation received a workers’ compensation rate filing today by the National Council on Compensation Insurance (NCCI). This rate filing was submitted to address the projected rate impacts of two recent legal changes. The first is the April 28th Florida Supreme Court decision in the case of *Castellanos v. Next Door Company (Castellanos)*, which found the mandatory attorney fee schedule in Section 440.34, Florida Statutes, unconstitutional as a violation of due process under both the Florida and United States Constitutions. The second is related to updates within the Florida Workers’ Compensation Health Care Provider Reimbursement Manual (HCPR Manual) per Senate Bill 1402.

The total impact is a combined rate increase of 17.1% equaling \$623 million. NCCI is proposing a 15% statewide average rate increase to cover the first year impact to workers’ compensation costs in Florida due to the Castellanos decision and a 1.8% increase related to the adoption of the 2015 Edition of the HCPR Manual, which becomes effective July 1, 2016. NCCI is also proposing an effective date of August 1, 2016 for new and renewal workers’ compensation policies and that the 17.1% rate increase apply to all workers’ compensation policies in effect as of August 1, 2016 on a pro-rata basis for the remainder of each policy’s term.

A public rate hearing will be held in July to give NCCI an opportunity to discuss the filing and interested parties and other stakeholders the ability to provide testimony or comments. More details will be forthcoming at a later date.

NCCI is a licensed rating organization authorized to make rate filings on behalf of workers’ compensation insurance companies in Florida. For more information about this filing, read the ***NCCI press release***. The Office’s statement on the Florida Supreme Court decision can be accessed ***here***.

# NCCI Evaluating “Westphal” Decision and Will Amend Pending Rate Filing

On June 9, 2016, the Florida Supreme Court issued its opinion in the case of *Bradley Westphal vs. City of St. Petersburg, etc, et al*, No. SC13-1930 (“*Westphal*”). The Supreme Court, in a 5-2 decision, concluded that the 104 week limitation on temporary total disability benefits established in section 440.15(2)(a) of the Florida Statutes is unconstitutional as it results in a statutory gap in benefits, in violation of the constitutional right of access to courts.

The Supreme Court’s decision revives the 260 week limitation on temporary total disability benefits that preceded the 1994 amendments to section 440.15(2)(a) of the Florida Statutes, limiting temporary total disability benefits to 104 weeks.

NCCI is currently evaluating the *Westphal* decision and will amend the pending rate filing currently under review by the Florida Office of Insurance Regulation. Further details will be made available upon submission of the amended rate filing.

# OSHA and NOAA Provide Guidance to Protect Outdoor Workers from Lightning Strikes



OSHA and the National Oceanic and Atmospheric Administration have released a **Lightning Safety When Working Outdoors** Fact Sheet that provides employers and workers with information about lightning hazards and protective measures that can be taken to ensure

workers’ safety. Often overlooked as an occupational hazard, lightning strikes can severely injure or kill

workers in occupations such as construction, logging, utility repair, agriculture, telecommunications, lawn services, airport ground operations, and pool and beach lifeguarding.

# Help Keep Workers SafeForLife during National Safety Month

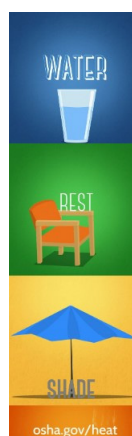


OSHA joins the National Safety Council and thousands of organizations across the country in recognizing June as National Safety Month.

As part of an effort to emphasize the importance

of safety both on and off the job, NSC’s SafeForLife campaign highlights the leading causes of injury and death at work, on the roads, and in our homes and communities. Visit the **SafeForLife website** to take the **SafeAtWork pledge** and access downloadable materials including posters, tips sheets and games. You will also find a video, **infographic** and **webinar** taking place on June 14. A new **NSC Safety Checkup** web app provides a custom report on your specific safety risks.

# Eight Steps to Keep Workers Safe in the Heat



Forecasters are calling for above-average temperatures across much of the country this summer. Are you prepared to beat the heat?

Every year, thousands of workers become ill from working in the heat, and some even die. Construction workers make up about one-third of heat-related worker deaths, but outdoor workers in every industry — particularly agriculture, landscaping, transportation, and oil and gas operations — are at risk when

temperatures go up.

Heat-related illnesses and deaths can be prevented. Employers and supervisors can save the lives of workers in hot environments by following these eight simple steps:

- 1. Institute a heat acclimatization plan and medical monitoring program.** Closely supervise new employees for the first 14 days or until they are fully acclimatized. Most heat-related worker deaths occur in the first 3 days on the job and more than a third occur on the very first day. New and **temporary workers** are disproportionately affected. If someone has not worked in hot weather for at least a week, their body needs time to adjust.
- 2. Encourage workers to drink about 1 cup of water every 15–20 minutes.** During prolonged sweating lasting several hours, they should drink sports beverages containing balanced electrolytes.
- 3. Provide shaded or air-conditioned rest areas** for cooling down, and empower workers to use them.
- 4. Provide workers with protective equipment and clothing** (such as water-cooled garments, air-cooled garments, hats, ice-packet vests, wetted over-garments, and heat-reflective aprons or suits).
- 5. Be familiar with heat illness signs and symptoms, and make sure your employees are, too.** Some heat exhaustion signs are dizziness, headaches, cramps, sweaty skin, nausea and vomiting, weakness and a fast heartbeat. Heat stroke symptoms include red, hot, dry skin; convulsions; fainting; and confusion. In general, fainting and confusion represent an emergency and should trigger the call for professional evaluation.
- 6. Encourage workers to recognize heat illness symptoms and notify a supervisor or medical professional if they or other coworkers are showing signs.** Implement a buddy system where workers observe each other for early signs and symptoms of heat intolerance.
- 7. Download OSHA’s *Heat Safety Tool* on your iPhone or Android** to help calculate the heat index, a measurement of how it feels when considering humidity. The app provides specific recommendations for preventing heat illness based on the estimated risk level where you are working.
- 8. Know what to do in an emergency.** Employees should call a supervisor for help.

If a supervisor is not available, call 911. Have someone stay with the worker until help arrives.

More resources are available on **OSHA’s website** in English and Spanish. **Remember: “Water. Rest. Shade.” can prevent heat illness and save lives.**

## OSHA Updates Eye and Face Protection Standards in Final Rule

The Occupational Safety and Health Administration has published a final rule that updates requirements for personal protective equipment (PPE) for workers in general industry, shipyards, longshoring, marine terminals and construction.

The final rule reflects current national consensus standards, and ensures that workers can use up-to-date eye and face protection.

The rule updates references in OSHA’s Eye and Face Protection Standards to recognize the ANSI/ISEA Z87.1–2010, Occupational and Educational Personal Eye and Face Protection Devices, while deleting the outdated 1986 edition of that same national consensus standard. OSHA is also retaining the 2003 and 1989 (R–1998) versions of the ANSI standard already referenced in its standard.

In addition, the final rule updates the construction standard by deleting the 1968 version of the ANSI standard that was referenced and now includes the same three ANSI standards referenced above to ensure consistency among the agency’s standards.

OSHA’s final rule became effective on April 25, 2016.

Under the Occupational Safety and Health Act of 1970, employers are responsible for providing safe and healthful workplaces for their employees. OSHA’s role is to ensure these conditions for America’s working men and women by setting and enforcing standards, and providing training, education and assistance. For more information, visit [www.osha.gov](http://www.osha.gov).

# OSHA's Final Rule to Protect Workers from Exposure to Respirable Crystalline Silica

## Rule Requires Engineering Controls to Keep Workers from Breathing Silica Dust

The Occupational Safety and Health Administration (OSHA) has issued a final rule to curb lung cancer, silicosis, chronic obstructive pulmonary disease and kidney disease in America's workers by limiting their exposure to respirable crystalline silica. The rule is comprised of two standards, one for Construction and one for General Industry and Maritime.

OSHA estimates that the rule will save over 600 lives and prevent more than 900 new cases of silicosis each year, once its effects are fully realized. The Final Rule is projected to provide net benefits of about \$7.7 billion, annually.

About 2.3 million workers are exposed to respirable crystalline silica in their workplaces, including 2 million construction workers who drill, cut, crush, or grind silica-containing materials such as concrete and stone, and 300,000 workers in general industry operations such as brick manufacturing, foundries, and hydraulic fracturing, also known as fracking. Responsible employers have been protecting workers from harmful exposure to respirable crystalline silica for years, using widely-available equipment that controls dust with water or a vacuum system.

### Key Provisions

- Reduces the permissible exposure limit (PEL) for respirable crystalline silica to 50 micrograms per cubic meter of air, averaged over an 8-hour shift.
- Requires employers to: use engineering controls (such as water or ventilation) to limit worker exposure to the PEL; provide respirators when engineering controls cannot adequately limit exposure; limit worker access to high exposure areas; develop a written exposure control plan, offer medical exams to highly exposed workers, and train workers on silica risks and how to limit exposures.
- Provides medical exams to monitor highly exposed

workers and gives them information about their lung health.

- Provides flexibility to help employers — especially small businesses — protect workers from silica exposure.

### Compliance Schedule

Both standards contained in the final rule take effect on June 23, 2016., after which industries have one to five years to comply with most requirements, based on the following schedule:

**Construction** – June 23, 2017, one year after the effective date.

**General Industry and Maritime** – June 23, 2018, two years after the effective date.

**Hydraulic Fracturing** – June 23, 2018, two years after the effective date for all provisions except Engineering Controls, which have a compliance date of June 23, 2021.

### Background

The U.S. Department of Labor first highlighted the hazards of respirable crystalline silica in the 1930s, after a wave of worker deaths. The department set standards to limit worker exposure in 1971, when OSHA was created. However, the standards are outdated and do not adequately protect workers from silica-related diseases. Furthermore, workers are being exposed to silica in new industries such as stone or artificial stone countertop fabrication and hydraulic fracturing.

A full review of scientific evidence, industry consensus standards, and extensive stakeholder input provide the basis for the final rule, which was proposed in September 2013. The rule-making process allowed OSHA to solicit input in various forms for nearly a full year. The agency held 14 days of public hearings, during which more than 200 stakeholders presented testimony, and accepted over 2,000 comments, amounting to about 34,000 pages of material. In response to this extensive public engagement, OSHA made substantial changes, including enhanced employer flexibility in choosing how to reduce levels of respirable crystalline silica, while maintaining or improving worker protection.

### More Information and Assistance

OSHA looks forward to working with employers to ensure that all workers exposed to respirable crystalline silica realize the benefits of this final rule.



Please check back for frequent updates on compliance assistance materials and events, and learn about OSHA's **on-site consulting services for small business**.

OSHA approved State Plans have six months to adopt standards that are at least as effective as federal OSHA standards. Establishments in states that operate their own safety and health plans should check with their **State Plan** for the implementation date of the new standards.

## OSHA Ladder and Scaffold Safety Information

According to the Occupational Safety & Health Administration (OSHA), falls on construction sites are one of the four leading causes of employee deaths in the southeast, and thousands more construction workers suffer catastrophic and debilitating on-the-job injuries from falling.

In addition to endangering their employees, construction businesses without the proper fall protection can be cited and fined by OSHA. Catastrophic injuries on the job may also jeopardize workers' compensation coverage.

Workers using ladders or scaffolds are at risk for serious injury or death if they should fall or if the equipment is not in good condition. To protect these workers, all construction businesses are required by OSHA to provide fall protection and equipment that is in good working order.

For more information about fall protection and what OSHA requires for construction businesses, visit [osha.gov/stopfalls](http://osha.gov/stopfalls).

Business owners whose employees use ladders and scaffolding should download these training materials to teach their employees to:

1. Understand how to choose, inspect and use ladders correctly, and
2. be aware of general safety requirements for scaffold users.

Ladder and Scaffold Training Materials – **English**.

Ladder and Scaffold Training Materials – **Spanish**.

## Division of Workers' Compensation Offers Free Classes

The Florida Department of Financial Services, Division of Workers' Compensation, is offering free classes regarding Florida's workers' compensation laws and workplace safety to business owners, licensed contractors and employers.

Workers' compensation topics covered include:

- Review of Key Statutory Definitions
- Contractor Responsibilities
- Exemptions
- Insurance Coverage Requirements
- Enforcement Provisions

Workplace safety topics presented by OSHA (U.S. Dept. of Labor, Occupational Safety and Health Administration) include:

- Direct and Indirect Costs
- Inspections
- Florida Fatalities

The following is a list of dates and times for future sessions.

### **June 14, 2016**

Orlando

9:00 a.m. – 12:00 noon

State Office Florida Hurston Building

400 West Robinson Street, North Tower, N-101

Orlando, FL 32801

The Division of Workers' Compensation is an authorized provider (Provider Number: 0004354) for continuing education purposes through the CILB. Course Number: 0010118 – one hour satisfies the workers' compensation requirement and Course Number: 0010630 – one hour satisfies the workplace safety requirement.

Advanced registration is required. The form is available on the Division's website at [www.myfloridacfo.com/division/WC](http://www.myfloridacfo.com/division/WC). For additional information, e-mail [bocseminars@MyFloridaCFO.com](mailto:bocseminars@MyFloridaCFO.com), or call (813) 221-6518.

## Certified Contractor License Renewal Reminder

Just a reminder that the Registered Contractor licenses issued by the Department of Business and Professional Regulation (DBPR) are up for renewal on August 31, 2016.

Current law requires licenseholders to obtain 14 hours of continuing education with at least one hour in workplace safety, one hour in workers' compensation, one hour in business practices, one hour in the advance building code module, one hour in laws and rules (Chapter 489) and one hour in wind mitigation (this requirement only affects general, residential, building, roofing and glass and glazing contractors).

## CILB Update

### ADVERTISING: Signs to Social Media, License Numbers Required!

Advertising is important to Florida contractors and can make the difference between a great business year and just making ends meet. Florida contractors have many new ways of promoting their businesses with the increased use of internet websites and the advent of social media technologies. As advertising evolves, it is important for Florida contractors to remember that their license number must be included in all offers of service, bids, business proposals, contracts or advertisements, regardless of the medium. Pursuant to **Rule 61G4-12.011, F.A.C.**, advertisements include any electronic media including Internet sites. So please remember to include your license number on your websites, social media pages and other advertisements.

If you have any questions regarding advertising requirements please review the Construction Industry Licensing Board's **FAQs** or you may contact the DBPR's Customer Contact Center at (850) 487-1395.



# Welcome New SEGA Members



SEGA extends a hearty welcome to the following new members. We thank them for joining our association and look forward to their participation in helping this association achieve its goals.

## **Glass Doctor**

Tom Ashley  
405 East John Sims Parkway  
Niceville, FL 32578  
Phone: (850) 678-6800  
FAX: (850) 678-9690  
E-mail: [glassdoctor32578@hotmail.com](mailto:glassdoctor32578@hotmail.com)  
Website: [www.glassdoctor.com](http://www.glassdoctor.com)  
Glass & Glazing Contractor; Auto Glass

## **Glass Doctor of Southwest Florida**

Tim Caughenbaugh  
6485 Taylor Road  
Naples, FL 34109  
Phone: (239) 591-0600  
FAX: (239) 591-1080  
E-mail: [tim@glassdoctorswfl.com](mailto:tim@glassdoctorswfl.com)  
Website: [www.glassdoctor.com](http://www.glassdoctor.com)  
Glass & Glazing Contractor; Auto Glass

## **Glass Doctor of Volusia County**

Kathy Cassata  
398 North Nova Road  
Daytona Beach, FL 32114  
Phone: (386) 763-2100  
FAX: (386) 763-2125  
E-mail: [glasdrvolutia@msn.com](mailto:glasdrvolutia@msn.com)  
Website: [www.glassdoctor.com](http://www.glassdoctor.com)  
Glass & Glazing Contractor; Auto Glass

## **Global Glass Solutions, LLC**

Eric Channel  
P. O. Box 3140  
Fort Pierce, FL 34948  
Phone: (937) 830-6860  
E-mail: [e.channel@globalglassolutions.com](mailto:e.channel@globalglassolutions.com)  
Website: [www.globalglassolutions.com](http://www.globalglassolutions.com)  
Importer

## **K&K Glass**

Dan Knowlton  
5938 7th Street  
Zephyrhills, FL 33542  
Phone: (813) 783-1169  
FAX: (813) 783-1417  
License Number: SC C131141081  
E-mail: [info@kkglass.com](mailto:info@kkglass.com)  
Website: [www.kkglass.com](http://www.kkglass.com)  
Glass & Glazing Contractor; Auto Glass; Retail

## **Mobile Auto Glass Repair, LLC d/b/a**

### **Mr. Auto Glass**

Rob Arnold, Todd Palmer  
925 Florida Avenue  
Palm Harbor, FL 34683  
Phone: (727) 498-5988  
E-mail: [rob@fixmyquack.com](mailto:rob@fixmyquack.com)  
Website: [www.fixmyquack.com](http://www.fixmyquack.com)  
Auto Glass

# Not a Member of SEGA?

Are you receiving the Glass Facts but are not a member of SEGA? Need help with the glass and glazing licensing process? Join SEGA today for as low as \$225 per year.

To take advantage of this pricing today and join the southeast's premier glass and glazing trade association, ***please click here for a SEGA Membership Application*** or contact the association office at (407) 831-7342 and request a membership application.