

INSURANCE INSIGHTS

By Ken Furst and Jason Schiciano, Levitt-Furst Associates Ltd.



Are You Ready to “Play Fair?”

New “Construction Industry Fair Play Act” Establishes Fines and Penalties for Violators

Editor’s Note: Levitt-Furst is the Insurance Advisor to the Building & Realty Institute (BRI) and is the Group Manager for Workers Compensation Safety Groups 458 (Construction) and 530 (Real Estate). The Safety Groups offer discounted insurance for construction and real estate operations. In addition, Levitt-Furst’s 45-person office specializes in Property & Casualty Insurance, as well as Construction and Real Estate Bonding.

ALBANY—Former Gov. Paterson, in his press release upon signing the new Construction Industry Fair Play Act, said:

“Employee misclassification is a terrible practice that happens when a worker who should be considered an employee is improperly categorized, or paid, ‘off-the-books.’ It deprives the government of tax revenue at a time when it is sorely needed and places an unfair burden on law-abiding employers who play by the rules.”

Misclassification occurs when a construction contracting company:

- Categorizes an employee incorrectly, such as identifying a roofer’s payroll in the “Interior Carpentry” class, in

order to take advantage of lower workers compensation rates, and fraudulently reduce workers compensation premium.

- Pays an employee “off-the-books,” or tries to identify

- Pull more tax revenue into the state’s coffers; and
- Generate more workers compensation premium for carriers, including the New York State Insurance Fund (the largest construction

must be met, in order for a business to be considered a “separate business entity” (i.e. an “independent contractor”).

In short, a construction contractor that has set-up a “front” business, portrayed to be an “independent contractor” in order to avoid paying payroll taxes and workers compensation premium, will be subject to the law’s penalties.

The Penalties

New penalties for paying off-the-books or improperly treating employees as independent contractors are harsh:

- Civil Penalty First Offense: up to \$2,500 per employee. Subsequent Offense(s): up to \$5,000 per employee.

- Criminal Penalty First Offense: Misdemeanor—up to 30 days in jail, up to a \$25,000 fine and debarment from performing Public Work for up to one year. Subsequent Offense(s): Misdemeanor—up to 60 days in jail, up to a \$50,000 fine and debarment from performing Public Work for up to five years.

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the employee as an “independent contractor,” in a fraudulent attempt to avoid workers compensation premium (and other payroll-related costs) all together.

The Plan

- The new law is designed to:
- Make it more fair for employees that already “play by the rules,” who previously operated at a competitive disadvantage versus contractors that misclassified their labor; and

workers compensation insurer in the state).

The law says that an individual is considered your employee unless he or she:

- Is free from direction and control in performing your job; and
- Performs work that is not part of the usual work done by your business; and
- Has an independently established business.

There is also a long list of qualifications, all 12 of which

Remodeling Design Influences Homeowner Satisfaction

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stable economy may have a slight relation to the recent findings. A more practical attitude toward spending in the last few years has amplified the homeowner’s involvement in each step of the remodeling process. That way, no leaf goes unturned, the study said.

“To be successful as a remodeler today, you must have full transparency with your clients,” Hydeck said. “That usually means open communication lines and joint decision-making in every aspect of the job: budget, design, material selection,

- A total of 20 percent noted accessibility and timeliness of the remodeler during the project as influential.
- Surprisingly, finishing on-time, and safety precautions and cleanliness of the remodel were much less significant, with 4 percent and 6 percent, respectively.

For homeowners who are considering a remodel, Hydeck stressed a bit of advice.

“Make a note of everything you do in your home and how you access it over the course of a few days,” he said. “What

Construction Moving Ahead on New Greenwich Complex

GREENWICH, Conn.—A long vacant site on West Putnam Avenue in Greenwich will soon be home to a new 36,000-square-foot retail/office/medical building, spokesmen recently announced.

Construction of the two-story structure at 644 West Putnam Avenue is underway and a major retail tenant—CVS Pharmacy—has already signed a lease for space in the building. Occupancy is scheduled for next spring.

“We are delighted to be moving forward with this exciting and attractively designed building that will bring new business activity to the Greenwich area. We are particularly pleased to have CVS as our major retail tenant,” said Joseph Simone, president of Simone Development Companies of New Rochelle. Simone is developing the project in partnership with Fareri Associates, a Greenwich-based real estate development firm whose president is John Fareri, officials said.

The 644 West Putnam Avenue facility features 17,000 square feet of ground floor retail space and 19,000 square feet of second floor office/medical/retail space. CVS is occu-



pying 13,500 square feet on the ground floor, which leaves 3,500 square feet available for lease. The ground floor space is approved for a drive-up bank ATM.

The building, which has direct access to West Putnam Avenue (Route 1) and Holly Hill Lane, is situated on a two-level parking garage.

Simone said the second floor space available for lease is ideally suited for a medical practice.

“In addition to having ample parking for patients, this building will have a full-service CVS Pharmacy and is minutes from

nearby Greenwich Hospital. There’s a growing demand for high quality, conveniently located medical space in this market. We anticipate tremendous interest in our building from medical practices throughout the area,” he said.

644 West Putnam Avenue is on a site that was once dubbed as “the hole in the ground.” The 1.6-acre property was originally excavated in 1999 by a car dealership which never went ahead with its plans. The property remained vacant for many years. Plans for the site were approved last year, project officials said.

“Today’s homeowners are smarter and more strategic when it comes to remodeling their homes...”

—Michael Hydeck
President-Elect, NARI National

timeline and management.”

Hydeck said that process also reflects the long-term perspective most people have when it comes to their homes.

“My clients remodel their homes for the rest of their lives—they don’t think of remodeling as a short-term investment,” he said.

The Numbers

The breakdown of the poll results showed that:

- A total of 22 percent considered having their needs met as satisfactory.

paths you take, which counters you set items on, where you store belongings, and where you sit and relax—those are the things that are going to determine your remodeling outcome.”

NARI is the only trade association dedicated solely to the remodeling industry. The association, which represents more than 8,200 member companies nationwide, is comprised of 63,000 remodeling contractors. The organization is known as “The Voice of the Remodeling Industry,” association officials said.

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