

1 A bill to be entitled
2 An act relating to workers' compensation insurance for
3 employee leasing companies; amending s. 440.10, F.S.;
4 providing an additional manner in which certain
5 subcontractors must secure and maintain workers'
6 compensation for employees under certain
7 circumstances; amending s. 468.525, F.S.; providing
8 that employees of certain subcontractors are deemed
9 employees of an employee leasing company for purposes
10 of workers' compensation coverage; requiring an
11 employee leasing company to provide notice of intent
12 to terminate a contractual arrangement to specified
13 client companies under certain circumstances;
14 requiring an employee leasing company to allow a
15 client company to cure contractual defaults or
16 deficiencies under certain circumstances; amending s.
17 468.529, F.S.; providing circumstances under which a
18 person is deemed an employee of an employee leasing
19 company for workers' compensation coverage; requiring
20 that an employee leasing company provide written
21 notice of termination of a contractual arrangement
22 with a client company under certain circumstances;
23 providing requirements for the notice; requiring the
24 employee leasing company to continue workers'
25 compensation coverage for a specified period after

26 termination of a contractual arrangement under certain
 27 circumstances; reenacting s. 468.532(1)(g), F.S.,
 28 relating to discipline, to incorporate the amendments
 29 made by the act; providing applicability; providing an
 30 effective date.

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 32 Be It Enacted by the Legislature of the State of Florida:

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 34 Section 1. Paragraph (a) of subsection (1) of section
 35 440.10, Florida Statutes, is amended to read:

36 440.10 Liability for compensation.—

37 (1)(a) Every employer coming within the provisions of this
 38 chapter shall be liable for, and shall secure, the payment to
 39 his or her employees, or any physician, surgeon, or pharmacist
 40 providing services under the provisions of s. 440.13, of the
 41 compensation payable under ss. 440.13, 440.15, and 440.16. Any
 42 contractor or subcontractor who engages in any public or private
 43 construction in the state shall secure and maintain compensation
 44 for his or her employees under this chapter as provided in s.
 45 440.38 or pursuant to an employee leasing company's contractual
 46 arrangement under s. 468.525(4)(g).

47 Section 2. Paragraphs (g) and (h) are added to subsection
 48 (4) of section 468.525, Florida Statutes, to read:

49 468.525 License requirements.—

50 (4) The employee leasing company's contractual

51 | arrangements with its client companies shall satisfy the
 52 | following conditions, whereby the leasing company:

53 | (g) Provides that during the term of the contractual
 54 | arrangement, if the client company is a subcontractor engaged in
 55 | the construction industry, all leased and nonleased employees of
 56 | the subcontractor, including any employees who are hired by the
 57 | subcontractor, commence work for the subcontractor, or are hired
 58 | directly by the employee leasing company during the term of the
 59 | contractual arrangement, are deemed employees of the employee
 60 | leasing company for purposes of workers' compensation coverage.

61 | (h) Provides at least 10 days' notice to a client company
 62 | that is a subcontractor engaged in the construction industry
 63 | before terminating the contractual arrangement. If the
 64 | termination is for cause, the employee leasing company must
 65 | allow the client company to cure any contractual defaults or
 66 | deficiencies within that timeframe.

67 | Section 3. Subsections (4) and (5) of section 468.529,
 68 | Florida Statutes, are renumbered as subsections (5) and (6),
 69 | respectively, subsection (1) is amended, and a new subsection
 70 | (4) and subsections (7) and (8) are added to that section, to
 71 | read:

72 | 468.529 Licensee's insurance; employment tax; benefit
 73 | plans.—

74 | (1)(a) A licensed employee leasing company is the employer
 75 | of the leased employees, except that this provision is not

76 | intended to affect the determination of any issue arising under
77 | Pub. L. No. 93-406, the Employee Retirement Income Security Act,
78 | as amended from time to time. An employee leasing company shall
79 | be responsible for timely payment of reemployment assistance
80 | taxes pursuant to chapter 443, and shall be responsible for
81 | providing workers' compensation coverage pursuant to chapter
82 | 440.

83 | **(b)** However, ~~a~~ ~~ne~~ licensed employee leasing company may
84 | not ~~shall~~ sponsor a plan of self-insurance for health benefits,
85 | except as may be permitted by ~~the provisions of~~ the Florida
86 | Insurance Code or, if applicable, by Pub. L. No. 93-406, the
87 | Employee Retirement Income Security Act, as amended from time to
88 | time. For purposes of this section, the term a "plan of self-
89 | insurance" excludes ~~shall exclude~~ any arrangement where an
90 | admitted insurance carrier has issued a policy of insurance
91 | primarily responsible for the obligations of the health plan.

92 | **(4)** During the term of a licensed employee leasing
93 | company's contractual arrangement with a client company that is
94 | a subcontractor engaged in the construction industry, all leased
95 | and nonleased employees of the subcontractor, including any
96 | employees who are hired by the subcontractor, commence work for
97 | the subcontractor, or are hired directly by the licensed
98 | employee leasing company during the term of the contractual
99 | arrangement, are deemed employees of the licensed employee
100 | leasing company for purposes of workers' compensation coverage.

101 (7) If a contractual arrangement between a licensed
 102 employee leasing company and a client company that is a
 103 subcontractor engaged in the construction industry is
 104 terminated, the licensed employee leasing company must send
 105 notice by first-class mail to the last known address of each
 106 employee who was assigned to the client company. The notice must
 107 include the date the contractual arrangement was terminated. The
 108 notice must also be sent by first-class mail to each contractor
 109 with whom the client company has contracted, if known.

110 (8) Workers' compensation coverage must continue to be
 111 provided by the licensed employee leasing company for 20 days
 112 after the licensed employee leasing company terminates the
 113 contractual arrangement with a client company that is a
 114 subcontractor engaged in the construction industry.

115 Section 4. For the purpose of incorporating the amendment
 116 made by this act to section 468.529, Florida Statutes, in a
 117 reference thereto, paragraph (g) of subsection (1) of section
 118 468.532, Florida Statutes, is reenacted to read:

119 468.532 Discipline.—

120 (1) The following constitute grounds for which
 121 disciplinary action against a licensee may be taken by the
 122 board:

123 (g) Failing to maintain workers' compensation insurance as
 124 required in s. 468.529.

125 Section 5. This act applies to contracts entered into or

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126 | renewed on or after July 1, 2021.

127 | Section 6. This act shall take effect July 1, 2021.