

Applications for Empire Zone Certification

Guidelines Regarding:

Division of Unemployment Insurance

Division of Labor Standards

Division of Safety and Health

Boiler Safety Bureau

Bureau of Public Work

Workers' Compensation Board

Purpose: To ensure that applicants for Empire Zone certification comply with New York State Unemployment Insurance, Labor Standards, Workers' Compensation and Disability Insurance laws and regulations.

Background: Empire Zone Applications for Certification are reviewed by New York State Department of Labor (DOL) for patterns and/or history of abuse of workers, outstanding fines and penalties and compliance with worker protection laws. This review is coordinated by DOL, utilizing resources from the Division of Unemployment Insurance, Worker Protection compliance officers and the Workers' Compensation Board.

Databases are the primary source for verification of compliance. Should database verification fail, it is incumbent on the business applicant to provide other proof of compliance as directed below.

FORMS AND COMPLIANCE REQUIREMENTS

Applicants with current employees, or those who are listed as a corporation or association with officers receiving remuneration, must include an unemployment insurance registration number, a workers' compensation insurance number and a disability insurance number on their applications for Empire Zone certification,¹ and/or be prepared to provide proof of insurance (*see instructions for Workers' Compensation and Disability Insurance below*).

Applicants who do not have an unemployment insurance registration number (i.e. are unregistered) may be required to register (*see instructions for Unemployment Insurance Registration below*).

Unemployment Insurance Registration

Form NYS-100 – Registration for Unemployment Insurance.

Applicants for Empire Zone Certification who are unregistered do not need to file Form NYS-100 if they:

¹ In certain limited instances, a corporation can be issued an exemption from the Workers' Compensation Board. However, the applicant still must register with the WCB in order for the exemption to be granted. Form C-105.21 serves as proof of exemption from Workers' Compensation and/or Disability Insurance.

- Have no current employees; **and**
- Will not begin hiring within 90 days from the date on which they signed the application for Empire Zone certification; **and**
- Are listed as either a Sole Proprietor, Partnership, Limited Partnership (LP), Limited Liability Partnership (LLP), Limited Liability Company (LLC) or S-Corp.

Unregistered applicants who meet these criteria also do not have to obtain Workers' Compensation or Disability Insurance. The requirements for the latter insurance are contingent upon having to register for Unemployment Insurance.

Applicants for Empire Zone certification who are unregistered are required to file Form NYS-100 if they indicate any of the following:

- Current Employees
- Future Employees (within 90-day period)
- Listed as a Corporation (C-Corp) or Association

If a business anticipates hiring to begin within 90 days of the date on which they sign the application for Empire Zone certification, Form NYS-100 should be filed. This form is used to establish an employer account, and forms the basis for determination for unemployment insurance liability. No unemployment insurance charges will incur until (1) hiring begins or (2) officers of a C-corporation receive remuneration for their services.

Please note: C-Corporations must register immediately in order to determine whether they have incurred liability.

Form NYS-100 can be obtained by calling the Unemployment Insurance Registration Office at (518) 485-8589 or toll-free at 1-888-899-8810. It can also be downloaded from the Department of Labor website at www.labor.state.ny.us

Applicants should fax a completed NYS-100 to the attention of Lynne Camileo at (518) 485-8010. To expedite the registration process, indicate that the business is an applicant for Empire Zone certification.

When Empire Zone certification review staff notifies an applicant of a delinquent report, a penalty for failure to file a report or an underpayment in Unemployment Insurance, they may call 1-800-456-1015 for details.

Workers' Compensation Insurance

Businesses are required to obtain Workers' Compensation Insurance on the first day of employment. Proof of insurance is required to be filed by the carrier with the Workers' Compensation Board within 30 days after the first day of work. No insurance policy costs should be incurred until the effective date of the policy.

Form C-105.2 – Serves as proof of Workers' Compensation Insurance. The applicant, their insurance carrier or registered agent will send this form to the Department of Labor upon request. A "Declaration of Insurance" from the insurance carrier or registered agent indicating that the applicant is insured in New York State may be used in lieu of this form. Both forms can only be obtained by the applicant through the insurance agent or carrier.

Proof of coverage is required only when the Workers' Compensation Board indicates that they have no record of coverage for the applicant business. Department of Labor Empire Zone review staff will notify the applicant business and the Empire Zone Coordinators when Form C-105.2 is required.

Please note: If proof of Workers' Compensation Insurance is required, and the applicant business' carrier is the New York State Insurance Fund, Department of Labor Empire Zone review staff will request proof of insurance internally. Form C-105.2 is not required.

Form SI-12 – Serves as proof of Workers' Compensation self-insurance. To acquire Form SI-12, applicants should call the Board's Self-Insurance Office at (518) 402-0247. Self-Insurance Administrator will send this form to Department of Labor Empire Zone review staff upon request. Applicants who participate in Workers' Compensation group self-insurance should request **Form GSI-105.2**.

When Empire Zone certification review staff notifies an applicant of a Worker's Compensation penalty for non-compliance, they may call the Office of Compliance at (518) 474-6967.

Disability Insurance

Businesses are required to obtain disability insurance on the thirty-first day of employment. Proof of insurance is required to be filed with the Workers' Compensation Board within 60 days after the first day of work. No insurance policy costs should be incurred until the effective date of the policy.

Form DB-820/829 – Serves as proof of disability insurance. The applicant, their insurance carrier or registered agent will send this form to the Department of Labor upon request. A "Declaration of Insurance" from the insurance carrier or registered agent indicating that the applicant is insured in New York State may be used in lieu of this form. Both forms can only be obtained by the applicant through the insurance agent or carrier.

Proof of coverage is required only when the Disability Benefits Bureau indicates that they have no record of coverage for the applicant business. Department of Labor Empire Zone review staff will notify the applicant business and the Zone Coordinators when Form DB-820/829 is required.

Please note: If proof of Disability Insurance is required, and the applicant business' carrier is the New York State Insurance Fund, Department of Labor

Empire Zone review staff will request proof of insurance internally. Form DB-820/829 is not required.

Form DB-155 – Serves as proof of Disability Benefits self-insurance. To acquire Form DB-155, applicant should call the Board's Self-Insurance Office at (518) 402-0247. The Self-Insurance Administrator will send this form to Department of Labor Empire Zone review staff upon request.

Further information is available at: Disability Insurance and Workers' Compensation Board: www.wcb.state.ny.us and New York State Insurance Fund: www.nysif.com.

When Empire Zone certification review staff notifies an applicant of a Disability Benefits penalty for non-compliance, they may call the Office of Compliance at 1-800-353-3092 for details.

Division of Labor Standards / Apparel Registration

The Division of Labor Standards enforces the New York State Labor Laws concerning minimum wage, hours of work, child labor, payment of wages and wage supplements, industrial homework, apparel industry registration and farm labor. It also administers the Employment Agency Law (Article 11 of the General Business Law) outside New York City.

Applicant businesses that are manufacturers or contractors involved in the production of any apparel must register with the New York State Department of Labor Division of Labor Standards. For the purposes of registration, the apparel industry is defined as the making, cutting, sewing, finishing, assembling, pressing or otherwise producing any men's, women's, children's or infants' apparel, or a section or component of apparel, designed or intended to be worn by any individual which is to be sold or offered for sale. A registration packet may be obtained by calling (518) 457-1942.

When Empire Zone certification review staff notifies an applicant of a Labor Standards violation and/or penalty, they may call the compliance office at (518) 457-1942 for details.

Division of Safety and Health/Boiler Safety Bureau

The Division of Safety and Health is responsible for protecting workers in their work environment. Boiler Safety, a bureau of the Division of Safety and Health, inspects most of the boilers in New York State. Applicant businesses are reviewed for both safety and health and boiler violations.

When Empire Zone certification review staff notifies an applicant of a safety and health or boiler safety violation, phone numbers for district offices can be found on the Business in New York page at www.labor.state.ny.us.

Bureau of Public Work

The Bureau of Public Work is responsible for the administration of Article 8 and Article 9 of the state's labor law. Articles 8 and 9 cover the payment of prevailing wages and supplements on public construction projects and for building service contracts. Applicant businesses are reviewed for these issues.

When Empire Zone certification review staff notifies an applicant of a Public Work law violation, they may call (518) 457-5589 statewide or phone numbers for district offices can be found on the Business in New York page at www.labor.state.ny.us.