



Workers' Compensation Premium Fraud in the Construction Industry

National Association of Insurance Commissioners

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Matthew Capece, Esq.

Rep. of the General President, United Brotherhood of Carpenters & Joiners of America



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From probable cause affidavit, FL v. Rodriguez, et.al. (2013)

The Problem and the Challenge

Construction employers *who do not cheat* on their premiums are punished in the marketplace.

Crooked contractors are taking over markets.

Insurance industry practices need to change to counter this threat.

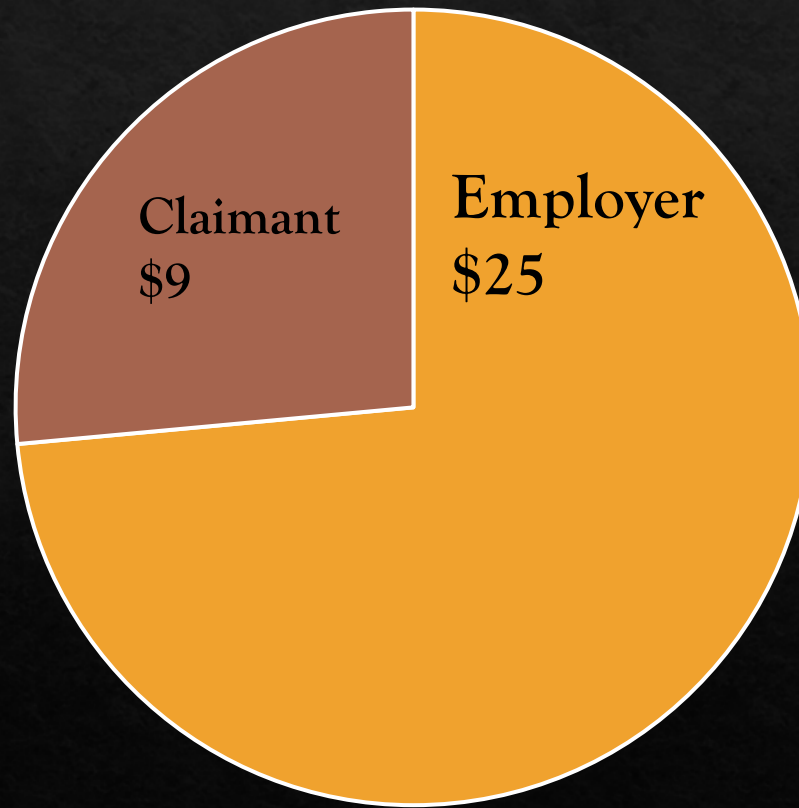
The status quo is unsustainable.



The Stolen Billions

Employer Premium Fraud More Severe than Claimant

Premium Fraud v. Claimant Fraud



\$Billions of Premium Fraud in the Construction Industry

◆ \$2 billion in lost workers compensation premiums in 2017.*

◆ Updated research based on 2021 data: \$5 billion.**

**An Empirical Methodology to Estimate the Incidence and Costs of Payroll Fraud in the Construction Industry*, by Russell Ormiston, Dale Belman and Mark Erlich (2020). Estimate based on 2017 BLS data.

**Publication forthcoming from The Century Foundation. Estimate based on average of 2021 rates per hundred in 11 construction categories.

Less Premiums=Less Resources for State Workers Comp Administration

- ◆ Premium fraud Tenn. Construction industry: \$296 million.*
- ◆ 4.4% assessment: Workers' comp. admin, subsequent injury and uninsured employers fund and TOSHA

\$13 million loss**

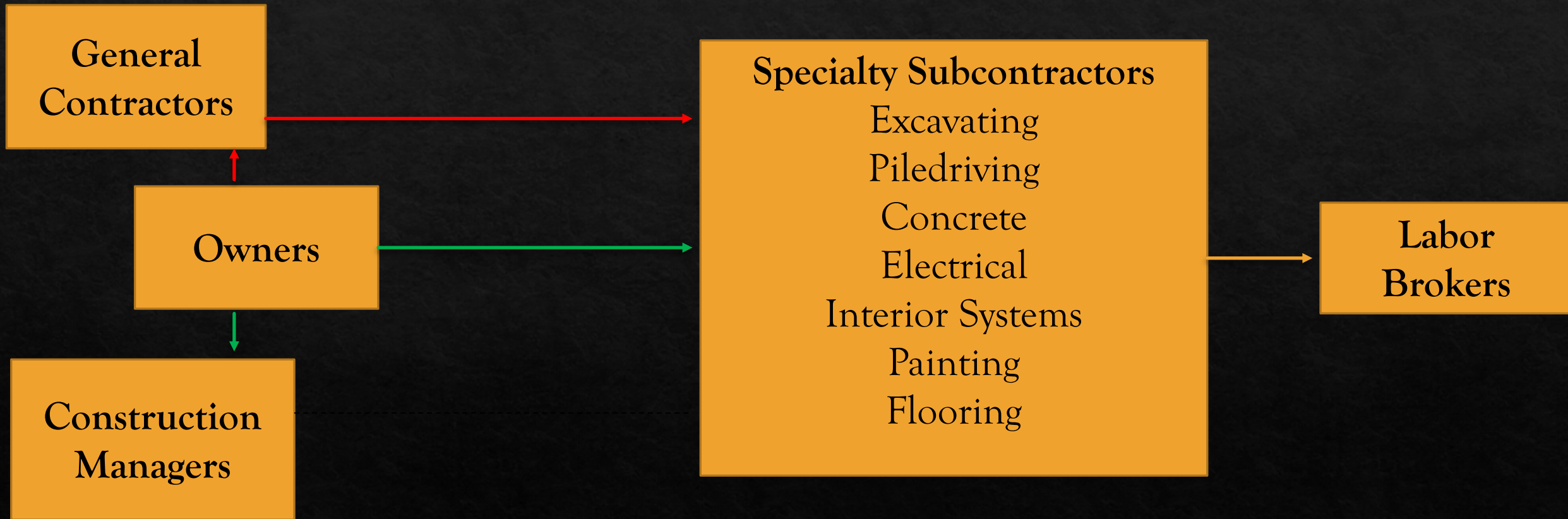
*Tenn. Bureau of Workers' Compensation, *Annual Report on Employer Coverage Compliance*, 6 (February 1, 2019).

**Tenn. Bureau of Workers' Compensation Employee Misclassification Advisory Committee, *The Use of Criminal Prosecution to Reduce Misclassification, Avoidance of Workers Compensation Coverage and Premium Fraud* (Dec. 12, 2019).



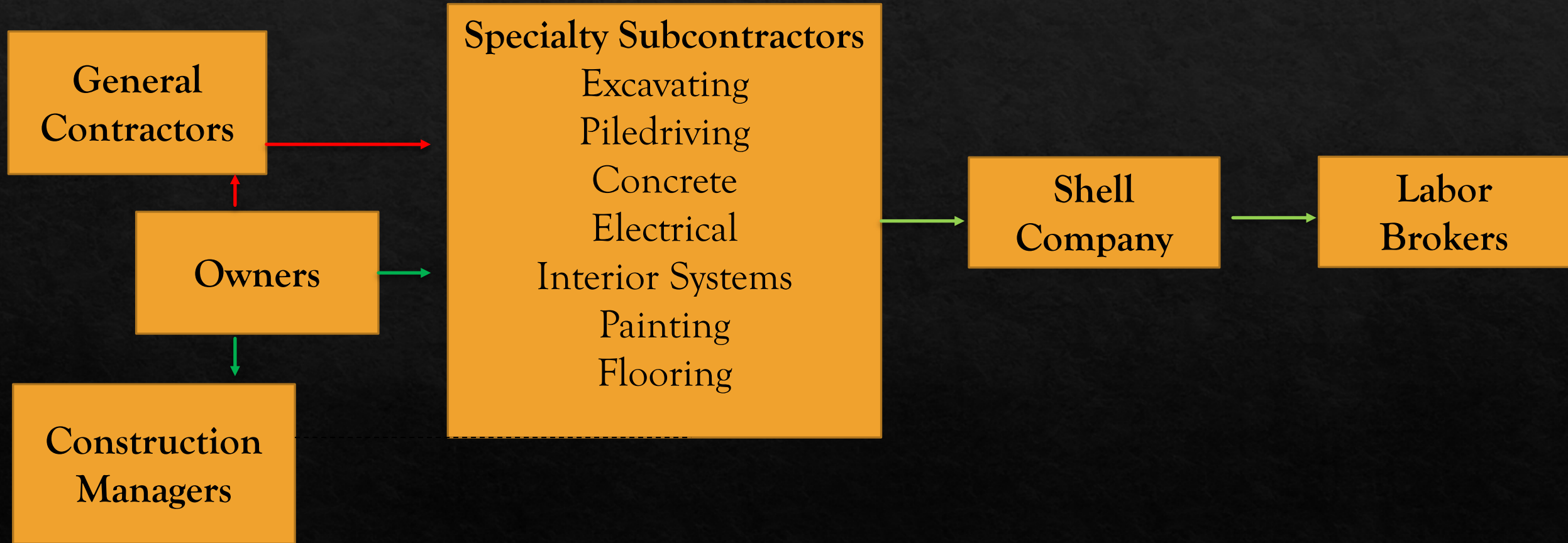
The Construction
Industry's Very
Lucrative and Successful
Fraud Schemes

Simple Labor Broker Fraud Scheme



Matthew F. Capece, *How Insurers Enable Damaging Workers' Comp Premium Fraud in Construction*,
Journal of Insurance Fraud in America (November 2022)

Complex Labor Broker Fraud Scheme



Other Conspirators



◆ Insurance Brokers

◆ Attorneys

◆ Accountants

◆ Money Service Businesses

A Cornucopia of Laws Violated

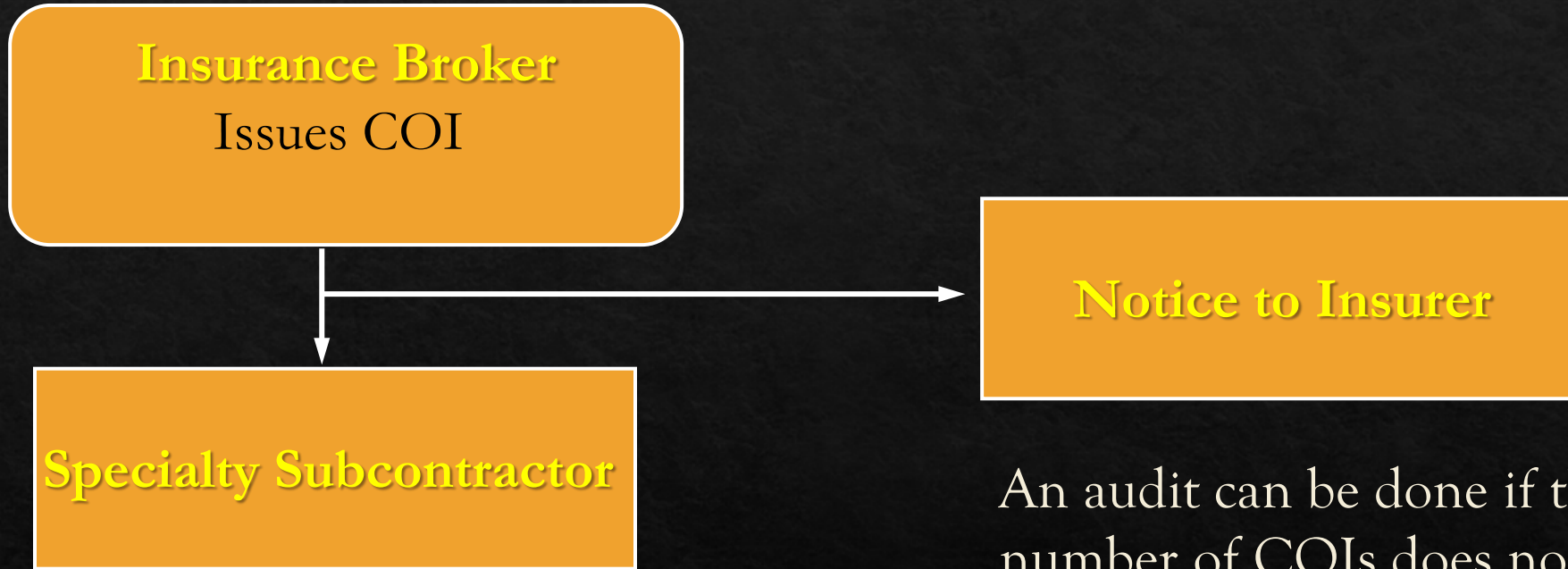


- ◆ Workers' comp. premium fraud
- ◆ Tax Fraud
- ◆ Wage Theft
- ◆ Child Labor
- ◆ Money laundering
- ◆ Mail and wire fraud
- ◆ Labor trafficking
- ◆ Racketeering
- ◆ Conspiracy



Change is Needed.
The Status Quo is
Unsustainable.

The Issuing of COIs by Insurance Brokers



An audit can be done if the number of COIs does not align with the declared payroll.

Additional Information Needed on COIs

CERTIFICATE OF LIABILITY INSURANCE		DATE (MMDDYYYY)
<p>THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.</p> <p>IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).</p>		
PRODUCER	CONTACT NAME: _____ PHONE: _____ FAX: _____ (A/C, No. Ext): _____ (A/C, No): _____ E-MAIL: _____ ADDRESS: _____	
INSURED	INSURER(S) AFFORDING COVERAGE INSURER A: _____ NAIC # _____ INSURER B: _____ INSURER C: _____ INSURER D: _____ INSURER E: _____ INSURER F: _____	
COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:		
THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.		
INSR LTR	TYPE OF INSURANCE	LIMITS
	COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PROJ. <input type="checkbox"/> LOC <input type="checkbox"/> OTHER: _____	EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMPROP AGG \$ \$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY	COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED. RETENTION \$	EACH OCCURRENCE \$ AGGREGATE \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	PER STATUTE OTHER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)		
CERTIFICATE HOLDER		CANCELLATION
		SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
		AUTHORIZED REPRESENTATIVE

◆ Payroll amount.

◆ Classification codes.

◆ Safeguards to prevent forgery.

◆ QR codes

◆ Block chain

Other Impactful Reforms



- ◆ Use labor brokers, pay a higher premium.
- ◆ Track bad employers.

Beginning of a Discussion

Matthew Capece, Esq.

United Brotherhood of Carpenters & Joiners of America

101 Constitution Ave, NW

Washington, DC 20001

203-231-0398

Matthew.Capece@carpenters.org

StopTaxFraud.net

Facebook & X: @StopTaxFraud