

All you ever wanted to know about the Longshore Act but were afraid to ask!

Recreational Marine businesses are excluded from the Longshore and Harbor Workers Compensation Act!..... Unless they build or repair recreational vessels 65 ft and over..... Unless they build or repair any commercial vessels.... Unless they are employed by a marina and construct, replace or expand the marina... Unless.... Unless.

The simple fact is that when the Longshore Act was revised, it left many businesses, in that gray area, unsure of their Longshore exposure. Until recently many recreational marine businesses have ignored the problem, but the increased scrutiny at the federal, state and even local government level, plus the increased degree of attorney activity in this field, means that ignoring Longshore exposure is no longer an option.

I only have 2 employees so I am exempt. The Florida Workers Compensation Act does allow certain employers with fewer than four employees to not purchase workers compensation insurance, but the Longshore Act has no such exemption. Consequently if you have one part time Longshore employee you **MUST** buy the coverage

I use subcontractors: Florida and many states say that you are not responsible for uninsured subcontractors if they are truly independent, but the Longshore Act makes you totally responsible for any uninsured subcontractors without regard to any “independent” status.

My insurance company and agent know my business and don't see I need Longshore coverage: Unfortunately many agents and insurance carriers are not well versed in the recent developments in the Longshore field and often their advice is misplaced. Be sure your agent and carrier are familiar with these issues.

I cannot afford to buy the coverage: Can you afford not to? The penalties are severe for not having coverage. First, if you have a Florida State Act only policy (NO Longshore endorsement) carriers are legitimately denying Longshore claims, and a recent court case has upheld this position. That means you would have to pay ALL of a Longshore claim (not just the difference), which is typically double the same claim under the state act. Further an unpaid claim is the personal responsibility of the President, Secretary and Treasurer of a corporation so any corporate veil disappears, and the Federal department of labor has the power to fine, or even put you in jail, if you do not have valid Longshore coverage.

Your association is working in three ways to help with this problem.

1. **Education:** Through this article, a seminar in January and continuing education projects, we are working to provide the latest information, to understand your exposures and the best way to insure them. In addition we are planning an e-mail hotline for your questions on Longshore in the near future
2. **Availability and Pricing:** Your association is working to provide detailed information on what this coverage should cost and the best way to contain the costs. In addition, we are working on new ways to ensure that recreational marine businesses are fairly treated.
3. **Longshore Act Revisions:** Through the MIA SF Longshore Task Force, we have started the lengthy process of drafting and lobbying to have the Act more effectively reflect current exposures.

Your association is working to ensure your long-term goals in this field are heard and that a comprehensive and sensible solution to your problems is available quickly.

Ian Greenway is president of LIG Marine Managers a Marine Insurance Wholesaler. He is also a national instructor on Marine Insurance for the Certified Insurance Councilors, the Florida Association of Insurance Agents, the California Surplus Lines Association and numerous other professional organizations. He is the author of Navigating Marine Insurance and Navigating Marine Workers Compensation, and worked as an expert witness and consultant. He can be reached by e-mail for any questions or comments you might have at IRG@LIGinsurance.com

Ian will also be our featured speaker at the January 25th Seminar on the Longshore Act