



LOSS CONTROL ALERT

New York's Labor Law § 240 - “The Scaffold Law”

As a property owner, tenant, or contractor, you may be liable for injuries to employees of contractors that you hire. Under New York Labor Law, Section 240, commonly known as “The “Scaffold” Law” you may be liable if these injuries result from a fall from height or being struck by falling objects.

Labor Law 240 places the primary responsibility for a contractor's worksite safety on the property owners, tenants, and contractors who hire them. Court rulings on the applicability of this law have broadly defined fall related accidents as any change in elevation or contact by falling objects. As such injuries from ladders, scaffolds, roofs, stairs, open platforms, and even step stools have resulted in litigation against those hiring, supervising or subcontracting the injured worker's employer. This law also applies to injuries caused by falling objects (tools, materials, debris) if the object fell while in the active process of being raised, lowered or secured. Recent court decisions have expanded this interpretation to now include injuries resulting from falling objects whose base is on the same level as the injured worker. For example owners, tenants or contractors may be responsible for injuries resulting from a crate, box, or piece of equipment tipping over and striking a worker.

Who is affected?

All contractors, project owners, tenants and their agents are impacted by this law. Owners of one and two-family dwellings are exempt.

Why do you need to take action?

A component of your insurance premium is based on your claims experience. If the number or severity of your claims increases, your premiums may also increase. Property owners, tenants, and contractors with adverse claim history may even find that competitively priced coverage is not available or may require higher deductibles, increasing your overall cost. There is also the possibility that a judgment against you would exceed your insurance policy limits.

What you can do:

The following are a few practices that can be taken to minimize your liability.

Assure worksite safety

- Under the labor law, workplace safety is your responsibility. You should assure that equipment such as ladders, scaffolding or other means of access to the work site are properly constructed, suitable for the job, in good condition, maintained & operated properly. Verify that workers are trained and safely using all tools and equipment. If you don't perform these responsibilities then you could be liable in the event of an injury.

Hire Quality, Safe Contractors:

- Before any contractor is hired, review their qualifications and references. Verify licenses and call 311(NYC only) or your local Better Business Bureau to assess prior complaint history.
- Refer to the New York City publication, “Tips for Hiring a Home Improvement Contractor” before selecting a contractor. [Contractor Hiring Tips](#) .
- Verify a contractor's license is current by clicking on the following link for New York [Contractor License Verification](#) or other states [Multi-State License Verification](#)
- Avoid contractors with less than 2 years of business history
- Obtain the contractor's workers compensation claim experience and their experience modification factor – a modification factor greater than 1.0 may indicate an unsafe contractor. Contractors with a frequency of claims may also be an indicator of unsafe work practices.

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- Obtain evidence of inforce liability and workers' compensation coverage
- Obtain references from prior customers
- Verify contractor's OSHA citation history from the OSHA web site at [OSHA search page](#) .
- Determine how the contractor manages the safety of their employees or subcontractors especially regarding fall from heights exposures such as ladders, scaffolds, floor openings, roofs, balconies and work platforms. The contractor should have plans to include the use of well designed and maintained equipment, issuance and use of proper safety equipment and proper training.
- Refer to Everest's contractor due diligence checklist as a guide to help ensure your selection and hiring of safe quality contractors minimizes your litigation potential. The checklist is available at our website [Everest Loss Control](#)

When hiring contractors, use your own written work contracts developed by a qualified legal counsel to assure effective risk management. The contract should contain the following clauses:

- A favorable indemnification clause for the property owner or tenant.
- A requirement that the contractor maintain in force insurance coverages with a minimum of \$1 million in liability coverage during the project term
- A requirement that the property owner or tenant be named as a primary, non-contributory additional insured to the contractor's liability policy with verification that this has occurred.
- A requirement that the contractor will follow all applicable federal, state and local safety requirements

Everest National Insurance offers loss control information that you may find beneficial to your loss prevention efforts. If you would like to review these publications, visit our web site at [Everest Loss Control](#).

Loss Control is a daily responsibility of your individual management. This publication is not a substitute for your own loss control program. The information that is provided in this Alert should not be considered as all encompassing, or suitable for all situations, conditions, or environments. Each organization is responsible for implementing their safety/injury/illness prevention program and should consult with legal, medical, technical, or other advisors as to the suitability of using the information contained in this Alert.



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CONTACT US

Westgate Corporate Center
477 Martinsville Road
P.O. Box 830
Liberty Corner, NJ 07938-0830

Loss Control Department

Phone: 908-604-3000
Fax: 908-604-3526
E-mail: losscontrol@everestre.com