

Contractual Liability

To avoid paying claims for large Labor Law 240 third-party law suits, some insurance companies have removed contractual liability from their policies. In this case, your “Additional Insured” status with the contractor will be meaningless, and the contractor’s insurance will not back the contractor’s indemnification.

Here are few methods to try to determine if your subcontractor has contractual liability:

1. Ask for a copy of the contractor’s/sub-contractor’s insurance policy and have your broker review it.
2. Make sure “Contractual Liability” is added to the subcontractors’ certificate and request “No exclusion for contractual liability or injury to employees” in the “Description of Operations” section.
3. Request Certificate Addendum **Acord 855 NY** for coverage details from contractor / sub-contractor

Below is a partial list of insurance carriers that sometimes exclude this coverage:

Acceptance Casualty Ins. Co.	Everest	Peleus Insurance Co.
Acceptance Indemnity Ins. Co.	First Mercury – Cover X	Penn America
ACE	Gemini Insurance	Preferred Contractors Inc.
Alterra E&S	Guard Insurance Companies (NorGuard/AmGuard)	Prime Insurance Co.
Am. European Ins. Group	Hermitage	Princeton E&S
American Safety	Hudson	Rutgers/American European Ins. Co.
Arch Specialty Ins. Co.	Illinois Union Insurance Co.	Scottsdale
Aspen Specialty	Kingstone Insurance	Sompo (Endurance)
Atlantic Casualty	Lloyds	Tokyo Marine
Atlantic Mutual	Markel Corp.	Tower Insurance
Burlington	Maxum Indemnity/Maxum Specialty	Tudor
Century Surety	MUSIC (Mesa Underwriters)	United Specialty Insurance
Colony	National Fire & Marine	U.S. Liability / U.S. Underwriters / USLI
Employers Mutual Co.	Northfield / Northland	Utica First
Essex – Binding Authority	Nautilus Insurance	Western Heritage
Evanston (Alterra E&S)	Nova Casualty	Western World

We also recommend you require your subcontractors include a description of the work they plan to do. For example: roofing, excavation, residential carpentry, etc.

