



When purchasing all or part of a business, ask the seller for six things to protect yourself

When you buy an existing or a portion of a business, do you know that you assume the workers' compensation claim liabilities of that business? It's true. The new business owner inherits the claim responsibilities and their impact on premium rates.

How to protect yourself

Before buying the business, request the seller disclose the following six items which are not usually disclosed in financial documents. *L&I can only disclose this information to the current business owner, and not to a potential buyer directly.*

To uncover potential hidden future expenses, ask the seller to request the following from L&I:

- 1. Injury and Cost Profile:** This one-page report covers a five-year history of workers' compensation and injury data for a business, including:
 - Premiums which may include savings from a Claim-Free Discount or higher rates due to time-loss or disability claims.
 - Total number of claims per year.
 - Experience factor — learn more at www.Lni.wa.gov/ClaimsIns/Insurance/RatesRisk/How/ExpFactor/ or watch "Rate Setting 101" at www.Lni.wa.gov/ControlMyCosts.
 - Claim-Free Discount — learn more at www.Lni.wa.gov/ClaimFreeDiscount.
 - Top five types of injuries specific to the industry and injury types incurred by the business.
- 2. Injury Report²:** This report lists various claim expenses incurred by the business. Categories include medical, time-loss, partial permanent disability, pension and more.
- 3. Estimated Future Rate Projection:** This information projects a future experience factor and premium expenses should the business data remain unchanged.
- 4. Safety and Health Consultation Report:** The workplace safety culture is an intangible asset or risk a buyer inherits. Scheduling a no-cost, risk-free safety consultation with Labor & Industries will help the buyer assess the culture and evaluate whether it is an asset or a risk. The consultation includes a walk-through visit to the worksite to look for workplace hazards and an evaluation of the Accident Prevention Program (APP). Reference this and other safety resources at www.Lni.wa.gov/Safety. The business cannot be fined by a consultant as a result of the consultation. Correcting serious hazards, however, is required with no financial penalties.
- 5. Occupational Safety and Health Act (OSHA) Log Records:** Employers with 11 or more employees may be required to record workplace injuries and illnesses on an OSHA 300 log, located at www.osha.gov/recordkeeping/RKforms.html.

Learn more: www.Lni.wa.gov/safety/Topics/AToZ/RecordkeepingReporting/OSHA300DecisionTree.asp.
 Reviewing these logs will inform the buyer of hazards and workplace health and safety program effectiveness. Reports are required to be kept onsite for five years per WAC 296-27-02107. Reference WACs at <http://apps.leg.wa.gov/wac>.

6. Risk Management Consultation: This free consultation provides a review of the business’s injury history and a step-by-step plan covering best practices to help control costs. If the potential buyer plans to proceed with the purchase after learning the injury history and safety culture, a risk management consultation is an excellent mitigation step.

Note: For more information on items listed above, go to www.Lni.wa.gov.

Partial business purchases

The buyer can inherit the seller’s workers’ compensation liabilities even in a partial business purchase. For example, when a buyer purchases a customer list, inventory, or other partial assets, if employees working in those reported risk classifications were injured on the job, the buyer could potentially assume the claim liability.

Sales contracts and other purchase documents are often used by Labor & Industries to determine if the seller’s workers’ compensation history (experience factor) should be passed to the new purchaser per WAC 296-17-873.³



Example of potential impact to buyer

To better understand workers’ compensation rates, remember that:

1. The risk class reflects the overall loss history of each industry.
2. The experience factor reflects the loss history of the business.
3. A claim affects a business’s experience factor for three years, but your rate will not be affected for two to three years after the injury date.
4. An experience factor above 1.0 means more claim liability than average for that industry. An experience factor below 1.0 means less claim liability than average for that industry.

Assuming 10 full-time employees working 480 hours per quarter, below is an example of how various experience factors could affect the annual premium paid.

Industry Type	Risk Class Base Rate	1.0 Exp. Factor	0.9 Exp. Factor	2.0 Exp. Factor
Telephone clerks	0.1569	\$3,012	\$2,711	\$6,025
Roofing work	7.6753	\$147,366	\$132,629	\$294,732

1. RCW 51.16.090 Continuity of cost experience.
 To the end that no employer shall evade the burdens imposed by an unfavorable or high cost experience, the director may determine whether or not an increase, decrease, or change (1) of operating property; (2) of interest in operating property; (3) of employer; (4) of personnel or interest in employer is sufficient to show a bona fide change which would make inoperative any high cost experience.

2. WAC 296-17-873 Responsibility for past experience.
 WAC 296-17-87301 through 296-17-87306 shall be used to determine the assignment of past loss experience associated with a change in business ownership for experience rating purposes. . . . When a business or portion of a business is sold, the new owner or owners of such business or portion thereof shall also take over the past loss experience associated with the business unless another treatment is specified in these rules.

3. This report lists all claims incurred by the business without disclosing identifiable information such as injured worker’s name or the claim number.