

1

---

---

---

---

---

---

---

---



2

---

---

---

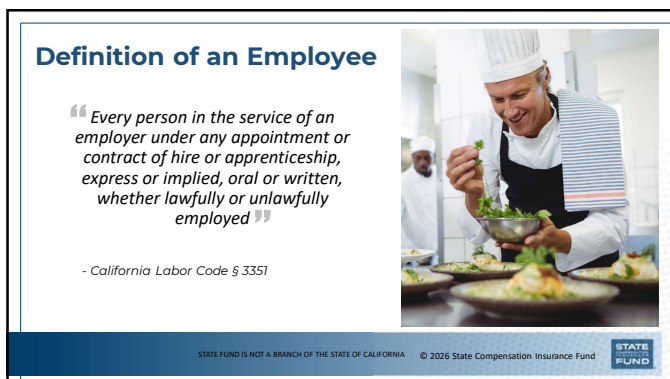
---

---

---

---

---



3

---

---

---

---

---

---

---


---

### Presumption of Employment

“Any person rendering service to another, other than as an independent contractor, or unless expressly excluded... is presumed to be an employee.”

- California Labor Code § 3357

- Burden of proof is on employer
- Workers in service, whether paid or not



STATE FUND IS NOT A BRANCH OF THE STATE OF CALIFORNIA © 2026 State Compensation Insurance Fund

STATE FUND

4

---

---

---

---

---

---

---

---

### Who's Included as an Employee?

- Undocumented workers
- Minors
- Family members
- Workers without formal employment contracts
- Elected/appointed paid public officers
- Officers/members of a board of directors
- Working members of a partnership/LLC



STATE FUND IS NOT A BRANCH OF THE STATE OF CALIFORNIA © 2026 State Compensation Insurance Fund

STATE FUND

5

---

---

---

---

---

---


---

---

### Employment Status

**Assembly Bills 5 & 2257**

Changed the applicable test in California to determine if a worker is an independent contractor



STATE FUND IS NOT A BRANCH OF THE STATE OF CALIFORNIA © 2026 State Compensation Insurance Fund

STATE FUND

6

---

---

---

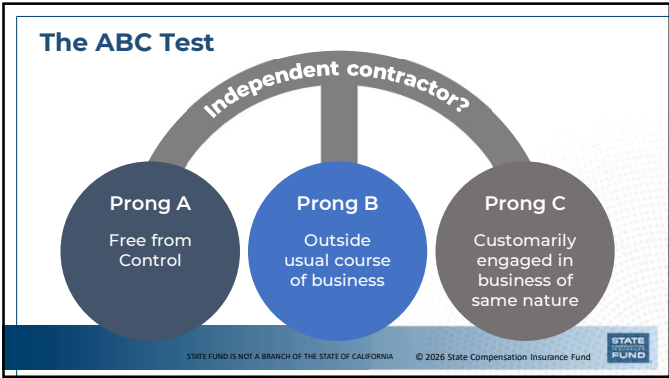
---

---

---

---

---



7

---

---

---

---


---

---

---

---

**Example #1 – ABC Test**



**Moe's Moving Company hires a team of movers.**

- Moe decides the price the customer pays
- Moe tells the movers when and where to go
- Movers use a truck with "Moe's Moving" logo

STATE FUND IS NOT A BRANCH OF THE STATE OF CALIFORNIA © 2026 State Compensation Insurance Fund

8

---

---

---

---

---


---

---

---

**Example #2 – ABC Test**

**Wally's Grocery Store has a water pipe burst and they hire a plumber to fix it.**



- Plumber charges the grocery store for work
- Plumber has other customers

STATE FUND IS NOT A BRANCH OF THE STATE OF CALIFORNIA © 2026 State Compensation Insurance Fund

9

---

---

---

---

---

---

---

---

## The “Borello” Test



- 11-factor test to determine whether an individual is an independent contractor
- Principal factor is whether: **“The person to whom service is rendered has the right to control the manner and means of accomplishing the result desired”**

California Supreme Court case of S.G. Borello and Sons v. the Department of Industrial Relations

STATE FUND IS NOT A BRANCH OF THE STATE OF CALIFORNIA © 2026 State Compensation Insurance Fund



10

---

---

---

---

---

---

---

---

## Conditional Exemptions

Occupations for which if certain conditions are fulfilled, then the occupation is **exempt from the “ABC” test** and will be **evaluated under the “Borello” test**.



STATE FUND IS NOT A BRANCH OF THE STATE OF CALIFORNIA © 2026 State Compensation Insurance Fund



11

---

---

---

---

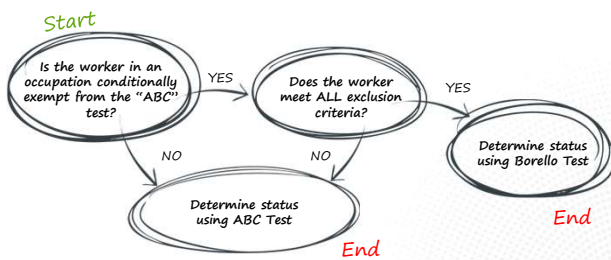
---

---

---

---

## ABC Test Exemptions



STATE FUND IS NOT A BRANCH OF THE STATE OF CALIFORNIA © 2026 State Compensation Insurance Fund



12

---

---

---

---

---

---

---

---

### Example: Professional Services Exemption


The "Borello" test applies to **Professional Services** if all conditions are met:



Maintain a business location



Required to have a license



Negotiate their own rates



Set their own hours



Perform same type of work



Independent judgement

STATE FUND IS NOT A BRANCH OF THE STATE OF CALIFORNIA

© 2026 State Compensation Insurance Fund

STATE FUND

13

---

---

---

---

---

---

---

---

### Employment Status Resource Center

Friday, July 25, 2025



Chat with Me!

STATE FUND IS NOT A BRANCH OF THE STATE OF CALIFORNIA

© 2026 State Compensation Insurance Fund

STATE FUND

14

---

---

---

---

---

---

---

---

### Conditional Exemption Information

#### Construction subcontractors

Current Expiration of Exemption - None

Labor Code Reference [§2791](#)

Condition of Exemption from ABC Test	Additional Conditions (if any)
1. The subcontract is in writing	If conditions for exemption met, employment status for individual working for contractor determined by Borello and Labor Code §2790.5
2. Subcontractor is licensed by the CSLB	
3. Subcontractor has business license/tax registration if required by subcontractor's domicile	
4. Subcontractor's business location separate from contractor's business location	
5. Subcontractor authorized to hire/line others	
6. Subcontractor must prove assumption of financial responsibility for errors or omissions in labor or services	



StateFundCA.com

STATE FUND IS NOT A BRANCH OF THE STATE OF CALIFORNIA

© 2026 State Compensation Insurance Fund

STATE FUND

15

---

---

---

---

---

---

---

---

5

## Audit Documentation Requirements

**Independent contractor status is determined on case-by-case basis.**

Documents that may be required:

- Business license
- Contractor's license number and expiration date
- Written contracts
- Certificate of workers' compensation insurance

STATE FUND IS NOT A BRANCH OF THE STATE OF CALIFORNIA © 2026 State Compensation Insurance Fund

STATE  
FUND

16

---

---

---

---

---

---

---

---

## Things to Remember

- ✓ With the presumption of employment, the burden is on the **employer to prove** that a worker is not an employee.
- ✓ The **method of payment has no bearing** on employment status.
- ✓ Certain **records will be needed** to substantiate the worker as an independent contractor.

STATE FUND IS NOT A BRANCH OF THE STATE OF CALIFORNIA © 2026 State Compensation Insurance Fund

STATE  
FUND

17

---

---

---

---

---

---

---

---

## Thank You for Making State Fund Your Carrier of Choice

Visit us at [StateFundCA.com](https://StateFundCA.com)

Customer Support Center:  
(888) 782-8338

For safety resources visit  
[SafeAtWorkCA.com](https://SafeAtWorkCA.com)

Safety Support Unit:  
(800) 675-2667

STATE FUND IS NOT A BRANCH OF THE STATE OF CALIFORNIA © 2025 State Compensation Insurance Fund

STATE  
FUND

18

---

---

---

---

---

---

---

---