

Longshore 101 Presented by Key Risk

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Exposures for Marine Employees

State W.C.



Longshore




*MEL or
Crew P&I*






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Exposures for Marine Employees

State W.C.




Clerical
Marinas
Recreational boat repair
Other exclusions from Longshore

OR

Inland
Land locked lake


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Exposures for Marine Employees

Longshore



Longshore
Status

In a marine job?
Not excluded

Longshore
Situs

Did the accident
happen on “navigable
waters of the United
States?”

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Navigating Federal Workers Compensation

Crew P&I if we own/operate the vessel:
Follows the vessel

MEL if we put our employees on vessels owned/operated by others:
Follows the employee

MEL or Crew P&I




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Increased Rewards

State WC	\$10,000
Longshore	\$25,000
Admiralty	\$50,000



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Longshore & Harbor Workers’ Compensation Act

Covered By Endorsing To W.C. Policy


Or By Monoline Policy

Maritime Employment

Unless Excluded

Longshore “Situs”

US Navigable Waters & Adjoining Areas




STATUS + SITUS = ELIGIBILITY

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Longshore Act Status

The term “employee” means any person engaged in maritime employment, including any longshoreman or other person engaged in longshoring operations, and any harbor-worker including a ship repairman, shipbuilder, and ship-breaker, but such term does not include...



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Longshore Act Status Exclusions

A) Individuals employed exclusively to perform office clerical, secretarial, security, or data processing work;



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Longshore Act Status Exclusions

B) Individuals employed by a club, camp, recreational operation, restaurant, museum, or retail outlet;



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Longshore Act Status Exclusions

Income Predominantly From Storage of Recreational Boats.

C) Individuals employed (directly) by a marina and who are not engaged in construction, replacement, or expansion of such marina except for routine maintenance

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Longshore Act Status Exclusions

D) Individuals who:

I. Are employed by suppliers, transporters, or vendors,

II. Are temporarily doing business on the premises of an employer described in paragraph (4) and

III. Are not engaged in work normally performed by employees of that employer under this Act;




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Longshore Act Status Exclusions

E) Aquaculture workers;

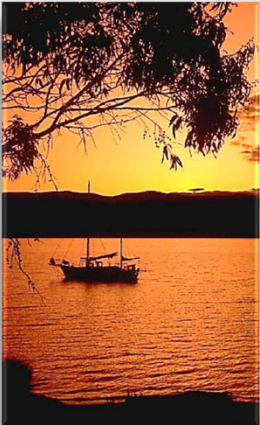


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Longshore Act Status Exclusions

F) Individuals employed to build, repair, or dismantle any recreational vessel under sixty-five feet in length; or individuals employed to repair any recreational vessel, or to dismantle any part of a recreational vessel in connection with the repair of such vessel;

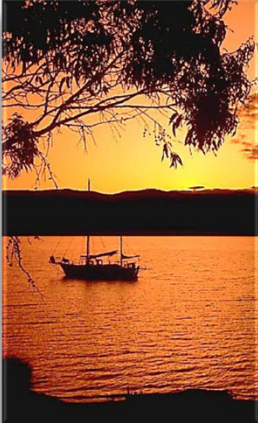


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Longshore Act Status As of January 2012

Type of Vessel	Repair/ Service	Build / Construct/ Manufacture
Recreational <65ft	State WC	State WC
Recreational >65ft	State WC	Longshore
Commercial	Longshore	Longshore



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Recreational Vessels Regulations Repair/Service of Longshore Vessels January 2012



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Recreational Vessels Regulations

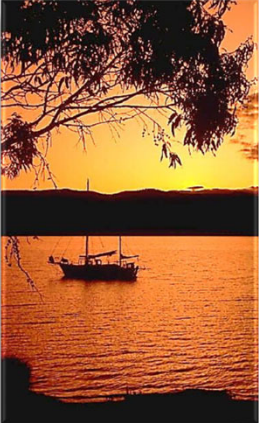
Repair/Service of State Act Vessels January 2012



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Longshore Act Status Exclusions

If individuals described in clauses (A) through (F) are subject to coverage under a State workers’ compensation law




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Longshore Act Status Exclusions

G) A master or member of a crew of any vessel; or

H) Any person engaged by a master to load or unload or repair any small vessel under eighteen tons net;




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Longshore Act Situs

SEC. 3. (a) Except as otherwise provided in this section, compensation shall be payable under this Act in respect of disability or death of an employee, but only if the disability or death results from an injury occurring upon the *navigable waters of the United States*



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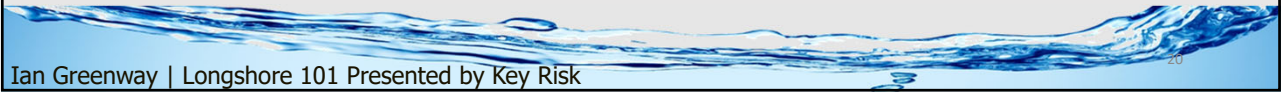
Longshore Act Situs

Navigable Waters of the US: Ian's Definition

A waterway on which you can directly or indirectly travel to another state, country, Gulf of Mexico or Ocean

Even if not currently navigable

US Navigable Waters = 12 nautical mile limit Waterway use not limited to commercial but includes recreational activities



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Longshore Act Situs


Not Navigable Waters of the US:

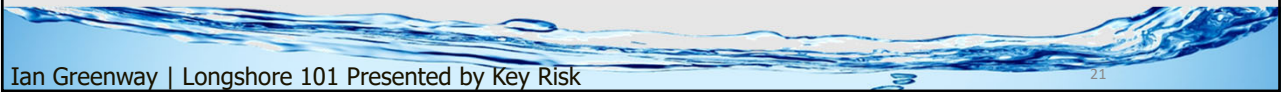
Land Locked Lake

Upstream of a Dam on a River, with no locks to bypass

WITHIN A SINGLE STATE

Coast Guard NOT Determinative






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Longshore Act Situs

Including any adjoining pier, wharf, dry dock, terminal, building way, marine railway or other adjoining area customarily used by an employer in loading, unloading, repairing, dismantling, or building a vessel



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Longshore Act Liability for Compensation

Section 4 (a)
Every employer shall be liable for the payment of compensation

If employer is a subcontractor if they fail to secure the payment of compensation, the contractor may be liable for compensation



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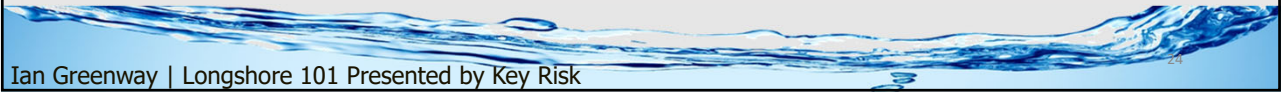
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Longshore Act Liability for Compensation

Section 32 (a)
Every employer shall secure the payment of compensation under this Act-
By insuring with any stock company or mutual company or association, ...while such person or fund is authorized

- (A) Under the laws of the United States or of any State, to insure workmen's compensation, and
- (B) By the Secretary, to insure payment of compensation under this Act

<http://www.dol.gov/owcp/dlhwc/lscarrier.htm>
Approx. 350 "approved" carriers – how many writing?



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Longshore Act Penalties for Not Carrying Coverage

Fine of not more than \$10,000 or by imprisonment for not more than one year, or by both

Where employer is a corporation, the president, secretary and treasurer
Severally liable for such fine or imprisonment
Severally personally liable for compensation





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Cases Satisfying the Status Test

AMPHIBIOUS WORKER	BARGE WORKER	BIN DECK OPERATOR
BLOWER	BOAT OPERATOR	BOILERMAKER
BOOK CLERK	BURNER (Shipbreaker)	CARGO LOADER AND UNLOADER
CARGO OPERATIONS MANAGER	CARPENTER	CARPENTER (Shipwright)
CHECKER	CHIP-PILE OPERATOR	CHIPPER
CLEAN-UP CREW MEMBER	CLERK	COMPUTER TRAINER
CONCRETE FINISHER	CONSTRUCTION FOREMAN	CONSTRUCTION WORKER
CONTAINER MAINTENANCE MECHANIC	CONTAINER REFURBISHER	CONTAINER REPAIRMAN
CONTAINER STRIPPER	CONTAINER STUFFER	COOPER
COTTON HEADER	COURIER	CRANE OPERATOR
DARK ROOM ASSISTANT	DECK ENGINEER	DECKHAND
DELIVERY CLERK	DISPATCHER	DIVER
DOCK BUILDER	DRAFTSMAN/ILLUSTRATOR	DREDGE MAN
DRIVER	DRIVER-COURIER	ELECTRICIAN
ELECTRONICS WEAPON PLANNER	EQUIPMENT OPERATOR	EXPEDITER
FISH SPOTTER (Airplane Pilot)	FITTER	FOREMAN

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Cases Satisfying the Status Test

FORKLIFT OPERATOR	FORM CARPENTER	GEAR LOCKERMAN
HOLDMAN/DRIVER/SORTER	HUSTLER	KEYMAN
INSULATION INSTALLER	IRONWORKER	LABOR RELATIONS REPRESENTATIVE
LABORER	LINESMAN	LOADER
LONGSHOREMAN INSTRUCTOR	MACHINERY MAINTENANCE WORKER	MACHINERY OPERATOR
MACHINIST	MAINTENANCE CREW	MAINTENANCE MECHANIC
MAINTENANCE WORKER	NUCLEAR SHOP WORKER	OFFSHORE OIL FIELD WORKER
OFFSHORE PLATFORM CONSTRUCTION WORKER	OIL GAUGER	OILER
PAINTERS/SANDBLASTER	PARTS COORDINATOR	PETROLEUM INSPECTION
PICKUP DRIVER	PILE DRIVER	PILEBUTT
PIPE CLERK	PIPE INSPECTION	PIPEFITTER
PLAN FILE CLERK	PONDMAN	PUMPHOUSE OPERATOR
PUMPMAN	PURCHASING AGENT	RAILROAD WORKERS
RECREATIONAL BOAT INSPECTOR	REPRODUCTION CLERK	RESTAURANT VESSEL WORKER
RIGGER	ROUSTABOUT	SAFETY INSPECTOR
SCRAP METAL WORKER	SECURITY GUARD	SENIOR MATERIAL PLANNER

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Cases Satisfying the Status Test

SENIOR OFFICE CLERK	SENIOR REPRODUCTION CLERK	SHEET METAL WORKER
SHIP-BREAKER	SHIPBUILDER	SHIP REPAIRMAN
SHIPFITTER	SHIPFITTER HELPER	SMALL BOAT SHIPBUILDER
STEEL RIGGER/ERECTOR	STEVEDORING MECHANIC	STRIPPER
STRUCTURAL FITTER SUPERVISOR	SWAMPER	TANKERMAN
TERMINAL LABORER	TERMINAL OPERATOR	TIMEKEEPER
TORCH OPERATOR	TRACK MAINTENANCE CREW MEMBER	TRAILER INTERCHANGE RECEIVING MAN
TRAINEE	TRUCK AND CAR DRIVER	UTILITY MAN
VESSEL PLANNING AND STOWAGE COORDINATOR	WAREHOUSEMAN	WELDER
WIRELESS OPERATOR	WIRELINE OPERATOR	WORKER FABRICATING SHIP COMPONENTS AND MODULES
WORKER IN TRANSIT		

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Admiralty



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Painter Can Be A Seaman McDermott International, Inc. v. Wilander

The court concluded that the Jones Act made no requirement that a seaman aid in navigation.

It is not the employee's particular job that is determinative, but the employee's connection to a vessel.

A seaman need not aid in navigation or contribute to a vessel's movement as long as a seaman is doing the ship's work. The determination of seaman status is a factual finding for the jury.

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Admiralty Status

As a result of the Wilander decision the test for admiralty status is composed of two parts:

The worker must have an employment related connection to a vessel in navigation &

Must contribute to the function of the vessel or to the accomplishment of its mission

NO EMPLOYMENT RELATIONSHIP TO OWNER REQUIRED FOR STATUS

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Maritime Remedies


General Maritime Law

- Maintenance & Cure
- Unseaworthiness

Wrongful Death

Jones Act

Death On The High Seas Act



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Admiralty Exposures Methods of Insuring!

Maritime Employers Liability

endorse the W.C.

Maritime Employers Liability Monoline

Protection and Indemnity



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Maritime Employers Liability NCCI Programs Have Limitations

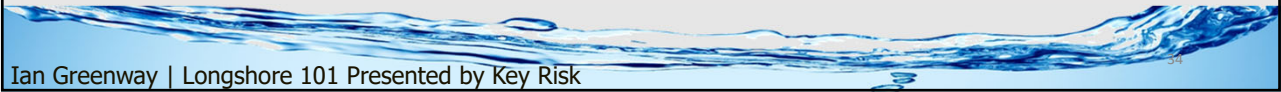
Liability limits from a minimum of \$25,000 to \$500,000

Most assigned risk/state fund carriers can provide maritime employers liability but only for a limit of \$25,000

Excess limits are not available through the funds but available through specialty markets

NCCI endorsements cover only those injuries that occur in the territorial limits of the continental United States, Alaska, Hawaii or Canada and those operations involving a vessel sailing directly between ports within these territories

Excludes coverage provided by a Protection and Indemnity (P&I) policy



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Maritime Employers Liability Monoline

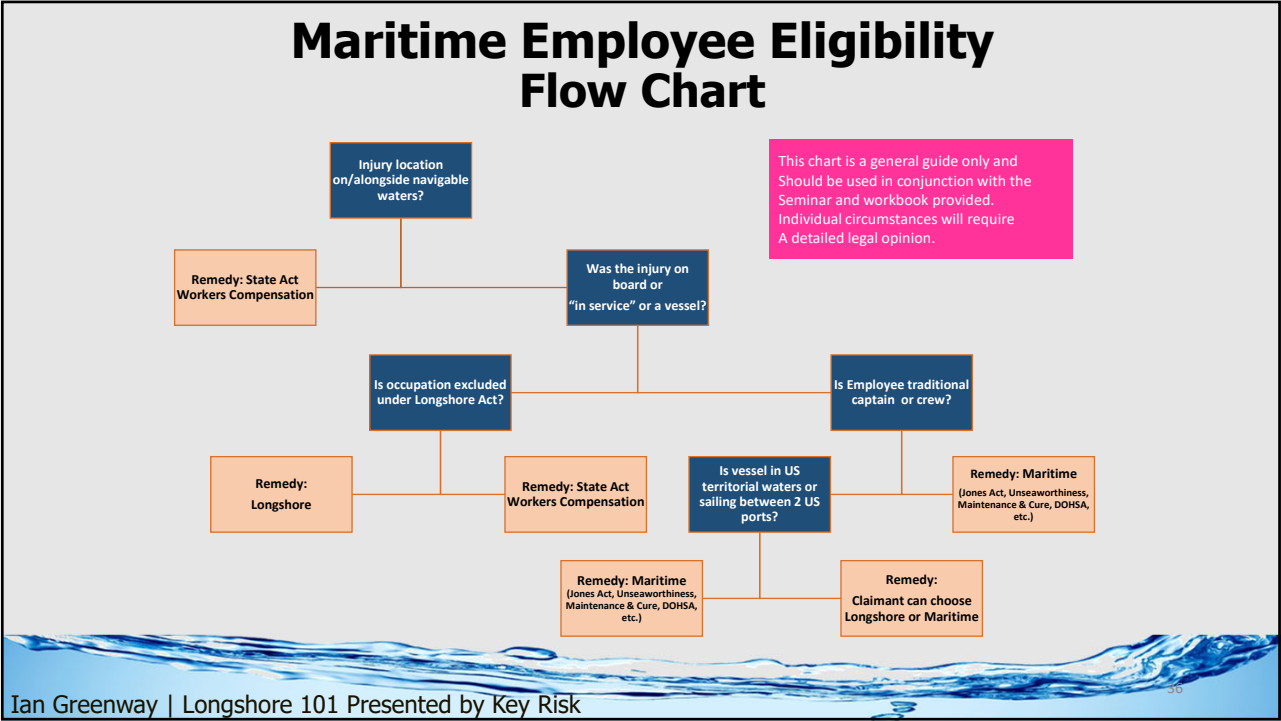


Specialty Domestic Insurers and Foreign markets such as Lloyd’s of London provide maritime employers liability coverage either on a primary or excess basis



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Navigating Waterfront Exposures Reference Material

Longshore Toolbox

www.Longshoretoolbox.com

Longshore Blog

blog.ligmarine.com

Longshore Act

www.LIGMarine.com/LongShoreAct

Federally Approved Longshore Authorized Carriers and Self Insured Employers

<http://www.dol.gov/owcp/dlhwc/lscarrier.htm>

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Exposures for Marine Employees

State W.C.



Longshore




MEL or Crew P&I



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