

# Learning Center

Home > Learning Center

## Executive Officers and Partners

Certain business owners who meet the statutory requirements may elect to exclude themselves from workers' compensation insurance coverage, including:

- Officers and members of boards of directors of certain types of corporations
- Owners of professional corporations
- General partners
- Managing members of limited liability companies

The California Labor Code (Sections 3351 and 3352) governs the exclusion of these individuals. Effective July 1, 2018, the individuals who may elect to exclude themselves from coverage if they meet the requirements for exclusion include:

- a qualifying officer or member of the board of directors of a quasi-public or private corporation who owns at least 10% of the issued and outstanding stock of the corporation, or at least 1% of the issued and outstanding stock of the corporation if that officer's or member's parent, grandparent, sibling, spouse, or child owns at least 10% of the issued and outstanding stock of the corporation and that officer or member is covered by a health insurance policy or a health care service plan;
- an officer or member of the board of directors of a cooperative corporation organized pursuant to the Cooperative Corporation Law (California Corporations Code, §§12200, et seq.) who states that he or she is covered by both a health care service plan or health insurance policy, and a disability insurance policy that is comparable in scope and coverage, as determined by the Insurance Commissioner, to a workers' compensation policy;
- an owner of a professional corporation, as defined in Section 13401 of the Corporations Code, who is a practitioner rendering the professional services for which the professional corporation is organized and who states that he or she is covered by a health insurance policy or a health care service plan;
- a general partner of a partnership who is a qualifying general partner;
- a managing member of a limited liability company who is a qualifying managing member; and
- a person who holds the power to revoke a trust with respect to shares of a private corporation held in trust or general partnership or limited liability company interests held in trust, to the extent he or she is considered an employee pursuant to the provisions defining as employees officers and members of boards of directors of quasi-public or private corporations or working members of a partnership or limited liability company, and otherwise meets the criteria for exclusion.

In order to be excluded, the individual must execute a document, in writing and under penalty of perjury, waiving his or her rights under the Labor Code and stating that he or she has the qualifications or coverage(s) required by the Labor Code. There are additional waiver requirements for officers or members of the board of directors of a cooperative corporation and owners of a professional corporation.

Effective July 1, 2018, a sole shareholder who is an officer or director of a private corporation or a private cooperative corporation, or who is an owner of a private professional corporation, is excluded from the definition of "employee," unless the officer, director, owner, private corporation, private cooperative corporation or private professional corporation, as applicable, has elected to be subject to liability for workers' compensation pursuant to Labor Code Section 4151(a).

See the Related Documents below for sample waiver forms and additional guidance published by the California Department of Insurance.

**If you have questions concerning these exclusions, please consult your insurance professional or legal advisor.**

## **Payroll - Minimums and Maximums**

When the above individuals are subject to workers' compensation coverage, the annual payroll used for premium computation is subject to minimum and maximum limitations. For the current minimums and maximums, see Part 3, Section V, Rule 1, Subrules j – m and p of the *California Workers' Compensation Uniform Statistical Reporting Plan—1995*. These limits are subject to annual adjustments.

## **Policyholder Ombudsman**

The Policyholder Ombudsman can help policyholders obtain, evaluate and understand workers' compensation insurance information about loss experience, claims, classification assignments, experience modifications and other factors that impact your policy premium. To reach the Policyholder Ombudsman, call (415) 778-7159 or email [ombudsman@wcirb.com](mailto:ombudsman@wcirb.com). More information is available on the Policyholder Ombudsman page.

## **Related Documents**

- 2018-10 California Department of Insurance Notice Regarding Cooperative Corporations and Senate Bill No. 189
- 2018-02 Revised and New Standard Endorsement Forms
- CDI Notice Regarding Senate Bill No. 189
- CDI FAQs Regarding Senate Bill No. 189
- CDI Sample Waiver Forms - Effective July 1, 2018
- 2017-26 California Department of Insurance Notice Regarding Senate Bill No. 189 (Corrected)
- 2016-24 Impact of Assembly Bill No. 2883 on In-Force Policies

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