AFFIDAVIT OF EXEMPTION FOR CERTAIN CORPORATE OFFICERS OR DIRECTORS

Chapter 169 of the Acts of 2002 amended M.G.L. c. 152, §1(4) by adding the following paragraph:

"This chapter shall be elective for an officer or director of a corporation who owns at least 25 percent of the issued and outstanding stock of the corporation. Notwithstanding section 46, these provisions shall apply only if the corporate officer provides the commissioner of industrial accidents with a written waiver of his rights under this chapter. Said commissioner shall promulgate regulations to carry out the purpose of this paragraph. Violations of this paragraph shall subject the corporation to the penalties set forth in section 25C."

Pursuant to M.G.L. c. 152, §1(4) as amended, I/We the undersigned officers of:

(Name of Corporation and Address)

each holding at least 25% of the issued and outstanding stock in said corporation, do hereby invoke the right to be exempt from the provisions of M.G.L. c. 152, §25A and therefore are not required to carry a workers’ compensation policy covering the undersigned corporate officer(s) or director(s). I/We the undersigned do also waive any and all rights to make claims for benefits as defined in M.G.L. c. 152 for any injuries that may be sustained while in the employ of the above-named corporation.

Further, I/We the undersigned do understand that, should the above-named corporation hire or have in its employ any employee(s) in addition to the undersigned corporate officer(s) or director(s), said corporation is required to obtain workers’ compensation coverage for the employee(s) as prescribed by M.G.L. c. 152, §25A.

I/We the undersigned have read and understand the statements and obligations as delineated above and I/we have checked the appropriate box below my/our name(s) indicating my/our desire to be exempt or not to be exempt from the provisions of M.G.L. c. 152.

Signed under the pains and penalties of perjury:

<table>
<thead>
<tr>
<th>Signature</th>
<th>Print Name &amp; Title</th>
<th>Date (mm/dd/yyyy)</th>
</tr>
</thead>
<tbody>
<tr>
<td>I wish to exercise my right of exemption</td>
<td>or</td>
<td>I wish NOT to exercise my right of exemption</td>
</tr>
</tbody>
</table>

Note: ALL ELIGIBLE CORPORATE OFFICERS MUST SIGN. THERE CAN BE NO MORE THAN 4 SIGNATURES. Instructions on back.
PURPOSE & INSTRUCTIONS

Pursuant to M.G.L. c. 152, §1(4) workers' compensation insurance "...shall be elective for an officer or director of a corporation who owns at least 25% of the issued and outstanding stock of said corporation. Notwithstanding the provisions of section 46 of this chapter, these provisions shall apply only if said corporate officer provides the Commissioner of the Department of Industrial Accidents with a written waiver of his rights under this chapter. The Commissioner of the Department of Industrial Accidents shall promulgate regulations to carry out the purpose of this subsection. Violations of the terms of these provisions in any way shall subject said corporation to the penalties set forth under section 25C of this chapter."

Therefore in accordance with M.G.L. c. 152, §1(4) and 452 CMR c. 8.00 et. seq.:

- Such an exemption DOES NOT apply to employees of such a corporation who are not corporate officers. Those employees must be covered by a valid workers’ compensation policy at all times.

- A copy of this form should be submitted to the insurance carrier on an annual basis, prior to the renewal of any existing policy, as affirmation that the statements contained herein remain in effect. If there has been ANY change in status of a corporate officer or director, a new Form 153 must be filed with the DIA and provided to the insurance carrier.

- Any corporation in which the corporate officers or directors own at least 25% interest in the corporation may exercise their right to exempt said corporate officers or directors from the provisions of the Massachusetts Workers' Compensation Act (M.G.L. c. 152).

- If the corporation named on this form employs no persons other than the eligible corporate officer(s) or director(s) who have exercised their right of exemption by signing the Form 153, said corporation may legally operate without a workers' compensation coverage. However, the corporation may not employ any person other than those corporate officers or directors who have exercised their right of exemption by signing the Form 153. Should the corporation hire additional employees, workers’ compensation coverage must be obtained for those employees.

- The completed Form 153 must be submitted to the Department of Industrial Accidents, Office of Investigations for the exemption under M.G.L. c. 152, §1(4) to be invoked.

- The policies and procedures surrounding the exemption of a corporate officer or director are governed by 452 CMR 8.06 et. seq.

- If your corporation is submitting this form in response to a notice or Stop Work Order (SWO) from the DIA Office of Investigations, please write the Investigation ID Number or Stop Work Order Number on that correspondence on the space provided in upper right hand corner of the front of this form.

Instructions -

- All eligible corporate officers must sign the form and indicate their choice to be exempt or not to be exempt from the provisions of M.G.L. c. 152 by checking the appropriate box located under their name and signature. Complete all information on the front of the form and submit it to:

  Department of Industrial Accidents
  Office of Investigations - Dept. 153
  600 Washington Street, 7th Floor
  Boston, MA 02111

For additional information visit our web site at <www.mass.gov/dia>. See 452 CMR c. 8.00 et. seq.
October 30, 2002

CIRCULAR LETTER NO. 1902

To All Members and Subscribers of the Bureau:

COVERAGE FOR SOLE PROPRIETORS AND PARTNERS OF LEGAL PARTNERSHIPS
AND
EXEMPTION FROM COVERAGE OF CORPORATE OFFICERS OR DIRECTORS

As advised in Circular Letters 1898 and 1901, An Act Relative To Workers' Compensation Coverage For Sole Proprietors, Partnerships And Corporate Officers, also known as Chapter 169 of the Acts and Resolves of 2002, became effective on October 23, 2002. This Act amends Massachusetts General Laws Chapter 152, § 1(4), to make it possible (i) for sole proprietors and partners of a legal partnership to elect coverage for themselves as employees and (ii) for certain corporate officers and directors to exempt themselves from coverage.

If a sole proprietor or partner of a legal partnership wants to be covered as an employee under a workers' compensation insurance policy, he/she must submit a written request directly to their insurance carrier or to the Bureau if an application is being submitted for coverage through the Assigned Risk Pool. If a sole proprietor or partnership obtains any workers' compensation insurance policy without specifically electing coverage in writing for the sole proprietor or for each or any partner, then the sole proprietor and partners shall not be covered under that policy.

The effective date of coverage for the sole proprietor or partner shall be either (i) the next policy effective date following the carrier's receipt of a written request from the sole proprietor or partner, or (ii) the day following the carrier's receipt of a written request that the election for coverage be made effective mid-term. All such written requests must be on company letterhead and signed by the sole proprietor or partner electing coverage. Once electing to be covered under a workers' compensation insurance policy, no sole proprietor or partner may opt out of said coverage until the completion of the current policy term.
Insurance carriers who receive these written requests for coverage should endorse the policy with the Sole Proprietors, Partners, Officers and Others Coverage Endorsement, WC000310, a National Council on Compensation, Inc. endorsement which was approved for use in Massachusetts in 1984. In the near future, we expect to add a Massachusetts Explanatory Note to the Endorsement to further clarify usage in Massachusetts.

As advised in Circular Letter 1901, the premium for each sole proprietor or partner of a legal partnership who elects to become an employee and obtain workers' compensation insurance coverage for themselves shall be based on the established fixed amount of $45,900. This fixed amount is based on the State Average Weekly Wage (SAWW), effective as of October 1, 2002. The SAWW is promulgated annually by the Massachusetts Director of Employment and Training and is subject to change.

Any eligible corporate officer or director that wants to be exempt from coverage must first obtain approval from the Massachusetts Department of Industrial Accidents (DIA). A Form 153 must be filed with and approved by the DIA. The employer must then submit a copy of the filed and approved Form 153 to their insurance carrier or to the Bureau if coverage is sought through the Assigned Risk Pool. Insurance carriers must not process requests to exempt corporate officers or directors without having received from the employer a Form 153 that has been filed with and approved by the DIA.

An approved Form 153 will be marked as such in the upper right hand corner of the form and will indicate the date of approval and the initials of the commissioner of the DIA and/or his designee. Upon notification to the insurance carrier that said corporate officer(s) or director(s) has exercised his or her right of exemption, the salary and/or compensation of the exempted corporate officer(s) or director(s) shall no longer be considered in calculating the premium for the corporation's workers' compensation policy. Notwithstanding any earlier date indicated on an approved Form 153, the effective date of the requisite changes to any existing workers' compensation policy shall be either (i) the next policy effective date following the carrier's receipt of the approved Form 153, or (ii) the day following the carrier's receipt of the approved Form 153 along with a written request that the election be made effective mid-term. All such written requests must be on the employer's corporate letterhead and signed by a corporate officer.

Insurance carriers who receive an approved Form 153 should endorse the policy with the Partners, Officers and Others Exclusion Endorsement, WC000308, a National Council on Compensation Insurance, Inc endorsement which was approved for use in Massachusetts in 1984. In the near future, we expect to add a Massachusetts Explanatory Note to the Endorsement to further clarify usage in Massachusetts.

The Bureau expects to issue another Circular Letter after the DIA Regulations (452 CMR c.8.00 et. seq.) are finalized. Detailed information about the Form 153 is available on the DIA's web-site at www.mass.gov/dia.

DANIEL M. CROWLEY
Director - Customer Services