

House Labor & Industry Committee

Good Morning,

My Name is Lynn Sholley and I have been an Insurance Broker in Pa, specializing in commercial lines, for over 40 years.

Independent contractors are often either sole proprietors or LLCs that have no employees. In these situations, independent contractors are not required to carry workers compensation.

In 2016, one of our small trucking account clients experienced a significant increase in its workers compensation premium. Up until 2016, due the size of its payroll and the use of owner operators, the insured workers compensation coverage was placed through SWIF.

On March 29, 2016, the Legal Division of State Workers Insurance Fund rendered a decision on whether to include the wages paid to a Trucking Company's independent contractors in the premium calculation. SWIF Legal Department stated "The Independent Contractor's wages can be EXCLUDED from the audit for the following reasons: The independent contractors advertise their services, and operate under their own ICC and PUC rights. Further, contractors provide their own vehicles and display no logo that shows the vehicles are under lease. Based upon information derived from the contract and ICQ responses, wages paid to independent contractors are to be EXCLUDED."

At our client's workers compensation renewal on September 21, 2016 we were able to place coverage through a standard carrier. After 3 months, the insurance company conducted an audit to check on our client's payroll. After the audit, the insurance company sent out a bill for an additional premium of \$25,000 for the quarter. We reach out to the insurance company to investigate the reason for the increase, and were told that a premium was charged for the independent contractors, because they had no proof of being covered by workers compensation. After that discussion, we sent all of the paperwork that the Legal Division of State Workers Insurance had reviewed on the independent contractors and their ruling. We were told by the insurance company that they no longer use that type of criteria and if the independent contractor does not have workers compensation, the trucking company will be required to pay the premium for the independent contractors.

With this information, the trucking company realized that their premium would be over \$100,000 more than they were expecting, which was unaffordable. We checked with several other insurance companies and they all said that they would charge premium for the independent contractors. Ultimately, the trucking company's workers compensation was placed back with SWIF and SWIF did not charge for the independent contractors.

There may be a way to fix this problem. Currently, officers of corporations are allowed to waive coverage by workers compensation. Sole proprietors, partners, and members of LLC's, who are not required to be covered by workers compensation, should be afforded the same opportunity. Employers should not be required to provide workers compensation coverage to independent contractors who specifically indicate that they do not want to be covered.

Sincerely,

Lynn Sholley

EXECUTIVE OFFICER'S DECLARATION

INSTRUCTIONS: Each executive officer having an ownership interest in a corporation seeking exemption must complete an original Declaration for submission with the Corporation's Application for Executive Officer Exception. The total ownership interest of all Declarations combined must equal 100%. See the Form Completion Hints on the reverse side for additional information and the Application for Executive Officer Exception for filing instructions.

I, the below named Executive Officer, do hereby knowingly and voluntarily elect not to be an employee of the below named corporation for purposes of the Pennsylvania Workers' Compensation Act, and waive any and all benefits and rights which I might be entitled under the Pennsylvania Workers' Compensation Act (77 P.S. §1, et seq.).

I do hereby state and affirm that I am an executive officer who: (check only one box)

- Has an ownership interest in a Subchapter S corporation as defined by the Federal Tax Reform Code of 1971.
- Has at least 5% ownership interest in a Subchapter C corporation as defined by the Federal Tax Reform Code of 1971.
- Serves voluntarily and without remuneration in a nonprofit corporation.

I, the undersigned, verify that the facts set forth in this Executive Officer's Declaration are true and correct to the best of my knowledge, information and belief. This verification is made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

Signature of Executive Officer _____ Date

Month	Day	Year
<input type="text"/>	<input type="text"/>	<input type="text"/>

Corporation's Full Legal Name

--

Title of Executive Officer

--

First Name

--

513 0705

Middle Name

--

Last Name

--

Suffix (ex: Jr.)

--

 Social Security Number

--	--	--	--	--	--

 Percentage of Ownership

--	--	--	--

 Telephone

--	--	--	--	--	--	--	--

Address (Business or residence address acceptable)

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City

--

 State

--

 Zip

--	--	--	--	--	--

APPLICATION FOR EXECUTIVE OFFICER EXCEPTION

INSTRUCTIONS: Submit one original Application for the corporation along with an Executive Officer's Declaration for every officer having an ownership interest. The total ownership interest of all Declarations combined must equal 100%. If the corporation has workers' compensation insurance, all forms must be submitted directly to the insurance carrier. If not, submit all original forms to the address on left. See Form Completion Hints on reverse side.

CORPORATION INFORMATION

Federal Employer Identification Number

Telephone

Corporation's Full Legal Name

Corporation Address (line 1)

Corporation Address (line 2)

City

State

Zip

Does the corporation have PA employees other than those listed on the attached declaration(s)? Yes No

If Yes, employer's current workers' compensation coverage:

Insurance Company Name

Policy Number

Month

Day

Year

Policy Effective Start Date

Policy Effective End Date

Month

Day

Year

Corporation Type: (Check only one box)

Subchapter S

Subchapter C

Nonprofit

I, the undersigned, verify that I am signing in my capacity as an Executive Officer for the above named corporation and that I am authorized to do so. I further verify that the facts set forth in this Executive Officer's Exception Application are true and correct to the best of my knowledge, information and belief. This verification is made subject to the penalties of 18 Pa.C.S. §4904, relating to unsworn falsification to authorities.

Signature of Executive Officer _____

Date

Month

Day

Year

First Name

For Bureau Use ONLY....

Last Name

Title

509 0705