



Workers' Compensation

AB 2883 – New Exclusion Rules

Today versus 2017

Overview

- ❑ Work Comp Exclusions Today
- ❑ Work Comp Exclusions 1/1/17 (AB 2883)
- ❑ Impact to New and Inforce Business
- ❑ Questions



Work Comp Exclusions Today

Work Comp Exclusions Today

□ Definition of Work Comp Exclusion

- Someone that “waives” Work Comp coverage.
- Excluded individuals are not eligible to receive Work Comp benefits from the carrier.
- Business owners and officers are the most commonly excluded individuals.



Work Comp Exclusions Today

□ Reasons for Waiving Coverage

- Work Comp premium is derived from payroll times a risk factor.
- An excluded person's payroll is not considered when generating Work Comp premium, thereby, lowering premiums.
- To avoid filing a claim against your own company..



Work Comp Exclusions Today

❑ **Exclusion Requirements - Corporations**

- 100% of the business must be entirely owned by internal members of the business.
- Waiving individuals must have an officer title such as President, Vice-president, etc.

❑ **Exclusion Requirements - Partnerships**

- 100% of the business must be entirely owned by internal members of the business.
- Waiving individuals must be a general partner or managing member with the business.

Work Comp Exclusions Today

ELIGIBLE EXCLUSIONS	INELIGIBLE EXCLUSIONS
<p>Positions and their ownership %</p> <ul style="list-style-type: none">• President: 50%• Treasurer: 25%• Corporate Secretary: 25% <p>All 3 positions are eligible for exclusions since 100% of the company is owned by internal members of the business.</p>	<p>Positions and their ownership %</p> <ul style="list-style-type: none">• President: 10%• CFO: 5%• Investors: 85% <p>None of the positions are eligible since only 15% of the company is owned by internal members of the business.</p>

Work Comp Exclusions Today

Good Faith Approach

- Meticulous ownership value audits have not been conducted prior to quote and bind.
- Application data assumed to be truthful.

Opt-In Coverage

- Officers & directors of private corporations have been automatically exempt from Work Comp coverage if they collectively owned 100% of the corporation.

Payroll & Premium Exclusion

- Payroll is excluded from the Work Comp premium calculation for excluded individuals; thereby reducing annual premium.

Work Comp Exclusions Today


□ Problems with Current System

- Current system does not effectively filter out fraudulent information prior to bind.
- Employees working high-risk jobs are improperly excluded from Work Comp coverage.
- Improper exclusions, technically, are premium fraud.

Work Comp Exclusions Today

□ Problems with Current System

- Lower level employees with fresh claims can inexplicably find themselves excluded from coverage and premium calculations.
- Carriers receive audit petitions claiming certain employees should be removed from coverage/premium calculations because they did not opt-in to coverage.
- High-risk employees or employees that incurred a claim can be unknowingly “promoted” to a corporate executive designation and tiny shares of ownership.



AB 2883

Exclusions in 2017

Work Comp Exclusions in 2017

□ AB 2883

- Legislation passed in 2016 to change the requirements for obtaining Work Comp position exclusions.
 - *New requirements must be met in order to obtain an exclusion.*
 - *The process for obtaining an exclusion will also change.*
- Effective January 1, 2017 for all new and inforce Work Comp business throughout California.

Work Comp Exclusions in 2017

□ Changes

- Owning officers will automatically be included in Work Comp coverage and premium unless they specifically opt-out.
- The carrier specific Work Comp Exclusion form(s) must be completed and provided to the carrier for each member requesting exclusion.
- Companies that DID NOT have any employees , such as owner only groups, may be required to obtain Work Comp coverage.
- Businesses must carefully evaluate previously excluded positions.
- Premiums are expected to increase.
- Groups should expect to owe a balance for the 2016-2017 policy period's end of year audit.

Work Comp Exclusions in 2017

Exclusion Requirements - Corporations

- Owning officers no longer need to retain 100% ownership of the company.
- Each owning officer must have at least 15% ownership in the corporation to be eligible for exclusion.
- Excluded individual(s) must hold an officer title such as President, Vice President, etc.
- A carrier specific waiver must be signed and submitted for approval to be excluded.

Work Comp Exclusions in 2017

❑ Exclusion Requirements - Partnerships

- Need to have an ownership share; percentage amount is not relevant.
- Excluded individual(s) must be a General Partner or Managing Member.
- A carrier specific waiver must be signed and submitted for approval to be excluded.

Insured Name:

Insurer: Insurance Company of the West
Policy No.:

CORPORATE OFFICERS/DIRECTORS - WAIVER OF WORKERS' COMPENSATION CO

Pursuant to California Labor Code section 3352(p), I hereby certify, under penalty of perjury, that I am or director of the above-named insured, which is a quasi-public or private corporation, and that I own percent (15%) of the issued and outstanding stock of the above-named insured corporation. As a qual or director, I elect to be excluded from the corporation's workers' compensation insurance policy with the referenced insurer. I understand and agree that this written waiver will be effective upon the date of rece acceptance by the corporation's insurer and it shall remain in effect until I provide the insurer with a writ withdrawal of this waiver. I understand and agree that by signing this waiver, I will not be entitled to cove the insured's workers' compensation policy with the above-referenced insurer if an employment-related occurs.

PRINT OFFICER'S/DIRECTOR'S FULL NAME

TITLE

OFFICER/DIRECTOR SIGNATURE

DATE

EMAIL ADDRESS

NOTE TO EMPLOYER: The exclusion will be endorsed to the policy upon our receipt and acceptan completed and signed form. The person electing exclusion must sign this form. Company representative sign on behalf of the individual. One exclusion per form. Submit additional forms as needed.

Mail form(s) to:

ICW Group
AB2883
PO Box 509039
San Diego, CA 92150-9039

Or, email signed and scanned copy(s) to:

AB2883@ICWGroup.com

Below to be completed by ICW Group

ACCEPTED:

[Insurance Company]

DATE

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<Policyholder Name>
<Policy #>

Coverage Questionnaire for Included Individuals

Corporate Officers / Directors / Partners / LLC Managing-Members

Please complete this form for each Corporate Officer, Director, General Partner or Managing-Member who is not eligible to elect exclusion from your WC policy (or is eligible to elect exclusion but has elected to be included on the WC policy). One form per individual. Failure to complete this questionnaire with sufficient detail may impact our ability to accurately update your policy.

Corporate Officer / Director / Partner / Managing-Member _____
(Name of Person)

Policy # _____
(Title of Person)

Employer Name _____
(Name of Entity) (Legal Entity Type)

List the annual compensation (salary and bonus) of above Officer / Director / Partner / Managing-Member _____

PLEASE DESCRIBE job duties of the Corporate Officer, Director or Partner or LLC Managing-Member, including physical operations performed, daily routines, and work locations visited. Please note: "administration" or "management" are insufficient job duty descriptions.

(please add additional pages to explain, if necessary)

If supervision is performed by this individual, what operations are being supervised?

If sales are a job duty by this individual, estimate percentage of inside and outside sales work.

Signature of Corporate Officer/Director/Partner/Managing-Member Title Date

Work Comp Exclusions in 2017

Ownership %	Payroll	Classification	Rate	Premium
50%*	\$100,000	NA	NA	\$0
15%*	\$80,000	NA	NA	\$0
10%**	\$70,000	Clerical	\$.40	\$280
0%	\$100,000	Clerical	\$0.40	\$400
0%	\$75,000	Software/IT	\$0.14	\$192

**Eligible exclusion due to percentage of ownership and office title.*

***Ineligible exclusion due to percentage of ownership and/or title.*

Work Comp Exclusions in 2017

□ Next Steps

- Notify your groups of the new exclusion requirements change.
- Have all existing and eligible individuals that wish to remain excluded from Work Comp, complete the carrier's required waiver form.
- Make sure the form(s) is carrier specific, and that it is accurate and complete prior to submitting for approval.
- If ownership shares need to be shifted, be sure the group completes an Ownership Change Form (Form 601) and send the form directly to the carrier.
- Exclusion does not take effect until the 1st of month following receipt and approval.

Summary

Pre-AB 2883	Post-AB 2883
<ul style="list-style-type: none">▪ Assumed officers waived coverage.	<ul style="list-style-type: none">▪ Assumes officers are insured.
<ul style="list-style-type: none">▪ Officers required to opt-in.	<ul style="list-style-type: none">▪ Officers required to opt-out.
<ul style="list-style-type: none">▪ Waiver requires no documentation.	<ul style="list-style-type: none">▪ Waiver requires carrier specific form to be signed and submitted.
<ul style="list-style-type: none">▪ 100% ownership of the business must be retained by internal members.	<ul style="list-style-type: none">▪ No longer relevant (“100% ownership rule” is gone)
<ul style="list-style-type: none">▪ Individual not required to have a minimum ownership percentage.	<ul style="list-style-type: none">▪ Individuals seeking exclusion for corporations must have at least 15% ownership.
<ul style="list-style-type: none">▪ Must have an officer or director title	<ul style="list-style-type: none">▪ Same
<ul style="list-style-type: none">▪ Owner + shareholder = eligible for exclusion	<ul style="list-style-type: none">▪ Exclusion eligibility based up business structure, title and waiver form.

Questions



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