



IMPORTANT NOTICE

Effective July 1, 2011

REQUIREMENTS FOR MANAGERS OF A MANAGER-MANAGED LIMITED LIABILITY COMPANY IN THE CONSTRUCTION INDUSTRY

Effective July 1, 2011 managers of a manager-managed limited liability company in the construction industry are required to apply for an Independent Contractor Exemption Certificate or obtain workers' compensation coverage.

39-71-401(3)(b,c)(v) (b) A **person** who holds an independent contractor exemption certificate may purchase a workers' compensation insurance policy and with the insurer's permission elect coverage for the certificate holder.

(c) For the purposes of this subsection (3), "person" means:

- (i) a sole proprietor,;
- (ii) a working member of a partnership,;
- (iii) a working member of a limited liability partnership, or;
- (iv) a working member of a member-managed limited liability company; or

(v) a manager of a manager-managed limited liability company that is engaged in the work of the construction industry as defined in 39-71-116.

39-71-417(1)(b,c)(v) (b) A **person** who meets the requirements of this section and receives an independent contractor exemption certificate is not required to obtain a personal workers' compensation insurance policy.

(c) For the purposes of this section, "person" means:

- (i) a sole proprietor;
- (ii) a working member of a partnership;
- (iii) a working member of a limited liability partnership; or
- (iv) a working member of a member-managed limited liability company; or

(v) a manager of a manager-managed limited liability company that is engaged in the work of the construction industry as defined in 39-71-116.

Montana Code Annotated 39-71-401(2)(r) exempts from workers' compensation coverage, officers of a corporation and managers of a manager-managed limited liability company (excluding managers of a manager-managed LLC working in the construction industry) who meet specified criteria. To be exempt, one of the following criteria must be met:

- (i) the officer or manager is not engaged in the ordinary duties of a worker for the corporation or the limited liability company and does not receive any pay from the corporation or the limited liability company for performance of the duties;
- (ii) the officer or manager is engaged primarily in household employment for the corporation or the limited liability company;

- (iii) the officer or manager either:
 - (A) owns 20% or more of the number of shares of stock in the corporation or owns 20% or more of the limited liability company;
 - (B) owns less than 20% of the number of shares of stock in the corporation or limited liability company if the officer's or manager's shares when aggregated with the shares owned by a person or persons listed in subsection (2) (r) (iv) total 20% or more of the number of shares in the corporation or limited liability company; or
- (iv) the officer or manager is the spouse, child, adopted child, stepchild, mother, father, son-in-law, daughter-in-law, nephew, niece, brother, or sister of a corporate officer who meets the requirements of subsection (2) (r) (iii) (A) or (2) (r) (iii) (B).

If a corporate officer or manager does not meet any of the criteria above they **are required to be covered** under Montana workers' compensation. This applies to all corporations and managers of a manager-managed limited liability company.

This document may assist you in providing proof of exemption. You could be asked to present additional documentation establishing your status within the corporation/LLC, and how, as the corporate officer/manager, you meet one of the criteria listed above. If you have any questions or concerns, please contact 406-444-0564.