

Chapter 669

(House Bill 405)

AN ACT concerning

Workers' Compensation – Covered Employees and Employers – Corporate or Limited Liability Company Officer

FOR the purpose of authorizing an officer of a close corporation, as defined under the laws of the jurisdiction where the corporation is incorporated, to elect to be exempt from workers' compensation coverage; authorizing an officer of a corporation, other than a close corporation, to elect to be exempt from workers' compensation coverage; limiting the number of officers of a corporation, other than a close corporation, who may elect to be exempt from workers' compensation coverage; clarifying that members of certain limited liability companies may elect to be exempt from workers' compensation coverage; ~~limiting the number of officers of a close corporation who may elect to be exempt from workers' compensation coverage;~~ requiring the State Workers' Compensation Commission to adopt certain regulations; and generally relating to exemptions from workers' compensation coverage requirements.

BY repealing and reenacting, with amendments,
 Article – Labor and Employment
 Section 9–206
 Annotated Code of Maryland
 (2008 Replacement Volume and 2009 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Labor and Employment

9–206.

(a) Subject to subsection (b) of this section, an officer of a corporation or a member of a limited liability company is a covered employee if the officer or member provides a service for the corporation or limited liability company for monetary compensation.

(b) An individual who otherwise would be a covered employee under this section may elect to be exempt from coverage if:

(1) ~~SUBJECT TO SUBSECTION (C)(3) OF THIS SECTION,~~ the individual [is an officer of a close corporation, as defined in § 4–101(b) of the Corporations and Associations Article;]:

(I) IS AN OFFICER OF A CLOSE CORPORATION, AS DEFINED IN § 4–101(B) OF THE CORPORATIONS AND ASSOCIATIONS ARTICLE; OR

(II) IS AN OFFICER OF A CLOSE CORPORATION, AS DEFINED UNDER THE LAWS OF THE JURISDICTION IN WHICH THE CORPORATION IS INCORPORATED;

(2) SUBJECT TO SUBSECTION (C)(3) OF THIS SECTION, THE INDIVIDUAL IS AN OFFICER OF A CORPORATION, OTHER THAN A CLOSE CORPORATION;

~~(2)~~ (3) the individual:

(i) is an officer of a corporation that earns at least 75% of its income from farm operations; and

(ii) owns at least 20% of the outstanding capital stock of the corporation;

~~(3)~~ (4) the individual:

(i) is an officer of a professional corporation, as defined in § 5–101(C) OR (f) of the Corporations and Associations Article;

(ii) owns at least 20% of the outstanding capital stock of the corporation; and

(iii) performs for the corporation a professional service, as defined in § 5–101(g) of the Corporations and Associations Article; or

~~(4)~~ (5) the individual:

(i) is a member of a limited liability company, **AS DEFINED IN § 4A–101(J) OR (L) OF THE CORPORATIONS AND ASSOCIATIONS ARTICLE;** and

(ii) owns at least 20% of the outstanding interests in profits of the limited liability company.

(c) (1) A corporation or limited liability company shall submit to the Commission and to the insurer of the corporation or limited liability company a written notice that names the individual who has [elected to be excluded from

coverage] **MADE AN ELECTION TO BE EXEMPT UNDER SUBSECTION (B) OF THIS SECTION.**

(2) An election under subsection (b)(1) or (b)(4) of this section is not effective until a corporation or limited liability company complies with this subsection.

(3) NO MORE THAN FIVE OFFICERS OF A ~~CLOSE~~ CORPORATION DESCRIBED IN SUBSECTION (B)(1)(I) OR (II) (2) OF THIS SECTION MAY ELECT TO BE EXEMPT UNDER SUBSECTION (B)(1) (2) OF THIS SECTION.

(D) THE COMMISSION SHALL ADOPT REGULATIONS TO CARRY OUT THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.