

# HOUSE BILL 405

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By: **Chair, Economic Matters Committee (By Request – Departmental – Workers’ Compensation Commission)**

Introduced and read first time: January 29, 2010

Assigned to: Economic Matters

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 22, 2010

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Workers’ Compensation – Covered Employees and Employers – Corporate or**  
3 **Limited Liability Company Officer**

4 FOR the purpose of authorizing an officer of a close corporation, as defined under the  
5 laws of the jurisdiction where the corporation is incorporated, to elect to be  
6 exempt from workers’ compensation coverage; clarifying that members of  
7 certain limited liability companies may elect to be exempt from workers’  
8 compensation coverage; limiting the number of officers of a close corporation  
9 who may elect to be exempt from workers’ compensation coverage; requiring the  
10 State Workers’ Compensation Commission to adopt certain regulations; and  
11 generally relating to exemptions from workers’ compensation coverage  
12 requirements.

13 BY repealing and reenacting, with amendments,  
14 Article – Labor and Employment  
15 Section 9–206  
16 Annotated Code of Maryland  
17 (2008 Replacement Volume and 2009 Supplement)

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

20 **Article – Labor and Employment**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 9–206.

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

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

8 (1) **SUBJECT TO SUBSECTION (C)(3) OF THIS SECTION**, the individual  
9 [is an officer of a close corporation, as defined in §  
10 4–101(b) of the Corporations and Associations Article];

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

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

16 (2) the individual:

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

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

21 (3) the individual:

22 (i) is an officer of a professional corporation, as defined in §  
23 5–101(C) OR (f) of the Corporations and Associations Article;

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

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

28 (4) the individual:

29 (i) is a member of a limited liability company, **AS DEFINED IN**  
30 **§ 4A–101(J) OR (L) OF THE CORPORATIONS AND ASSOCIATIONS ARTICLE**; and

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

1 (c) (1) A corporation or limited liability company shall submit to the  
2 Commission and to the insurer of the corporation or limited liability company a  
3 written notice that names the individual who has [elected to be excluded from  
4 coverage] **MADE AN ELECTION TO BE EXEMPT UNDER SUBSECTION (B) OF THIS**  
5 **SECTION.**

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

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

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

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

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.