



October 30, 2023

DCRB CIRCULAR NO. 1029

To All Members of the DCRB:

Re: **APPROVAL OF DCRB FILING NO. 2303**

Revisions to the Executive Officer/LLC Member Exclusion Procedure, Section 1 Basic Manual Language and Form DE-EXCL Amendments

The Delaware Insurance Commissioner has approved DCRB Filing No. 2303 regarding revisions to the Executive Officer/LLC Member exclusion procedure in Section 1 and Form DE-EXCL in Section 3 of the Delaware Workers Compensation Manual of Rules, Classifications and Rating Values for Workers Compensation and for Employers Liability Insurance (Basic Manual) for policies effective 12:01 a.m., June 30, 2023, or later.

Governor John Carney signed Delaware House Bill 144 of 2023 (An Act to Amend Title 19 of the Delaware Code Relating to Workers Compensation) into law on June 30, 2023. This Act increases the number of members of a limited liability company eligible for exemption from workers' compensation reimbursement from four (4) to eight (8). This brings the number of members of a limited liability company eligible for exemption equal to the number of officers of a traditional corporation presently eligible for exemption. The revisions align the Delaware Basic Manual provisions and Form DE-EXCL with this change in the number of limited liability company members now eligible for exemption from worker compensation reimbursement.

Please refer to Filing No. 2303, posted under the "Filings" tab of the DCRB's website, for additional information. Please contact Drew Kratz, Director of Underwriting & Classification, at (215) 320-4432 or at dkratz@pcrb.com for any questions relating to this Circular. The Basic Manual will be updated on the DCRB's website at a later date.

William V. Taylor
President



July 28, 2023

VIA SERFF

The Honorable Trinidad Navarro
Insurance Commissioner
Department of Insurance
State of Delaware
1351 West North Street, Suite 101
Dover, DE 19004

Attention: Tanisha Merced, Deputy Insurance Commissioner

**RE: DCRB Filing No. 2303 – Proposed Effective June 30, 2023
Revisions to the Executive Officer/LLC Member Exclusion Procedure, Section 1 Basic
Manual Language and Form DE-EXCL Amendments**

Dear Commissioner Navarro and Deputy Commissioner Merced:

On behalf of the members of the Delaware Compensation Rating Bureau, Inc. (DCRB), we hereby submit the proposed filing for revisions to the DCRB Workers' Compensation Manual of Rules, Classifications and Rating Values for Workers' Compensation and Employer's Liability Insurance (Basic Manual). These revisions are proposed for new or renewal policies with effective dates of 12:01 a.m., June 30, 2023, and later.

Governor John Carney signed Delaware House Bill 144 of 2023 (An Act to Amend Title 19 of the Delaware Code Relating to Workers Compensation) into law on June 30, 2023. This Act increases the number of members of a limited liability company eligible for exemption from workers' compensation reimbursement from four (4) to eight (8). This brings the number of members of a limited liability company eligible for exemption equal to the number of officers of a traditional corporation presently eligible for exemption. The proposed revisions will align the Delaware Basic Manual provisions and Form DE-EXCL with this change in the number of limited liability company members now eligible for exemption from worker compensation reimbursement.

Thank you in advance for your review and attention to this filing. The DCRB is pleased to answer any questions you or the Department of Insurance staff may have regarding these proposals.

Sincerely,

William V. Taylor
President

Enclosure: Revisions to Sections 1 and 3
Revisions to Form DE-EXCL

**DELAWARE WORKERS COMPENSATION MANUAL OF RULES, CLASSIFICATIONS
AND RATING VALUES FOR WORKERS COMPENSATION AND FOR EMPLOYERS
LIABILITY INSURANCE**

Proposed Effective June 30, 2023

INFORMATION PAGE remains unchanged.

PREFACE remains unchanged.

MEMBERSHIP remains unchanged.

TABLE OF CONTENTS remains unchanged.

SECTION 1 – UNDERWRITING RULES

RULE 1 – GENERAL through **RULE VIII – LIMITS OF LIABILITIES** remain unchanged.

RULE IX – SPECIAL CONDITIONS OR OPERATIONS AFFECTING COVERAGE AND PREMIUM

A. EXECUTIVE OFFICERS

1. **Definition** remains unchanged.

2. **Law And Status**

- a. Executive Officers of a corporation and members of a limited liability company, which corporation or limited liability company is not licensed under Title 30, Chapter 25 of the Delaware Code or shown to be conducting business in a manner in which they should be so licensed, are covered under the Delaware Workers' Compensation Law. However, up to eight (8) executive officers who are stockholders of the corporation (except construction contractors – see below) or as many as ~~four (4)~~ eight (8) individuals who are members of a limited liability company, when executing a written agreement between the corporation and such executive officers or between the limited liability company and such members, may elect not to be subject to the law. To exclude such officers or limited liability company members, attach the Partners, Officers, and Others Exclusion Endorsement WC 00 03 08.
- b. **Construction Contractors:** Executive officers of a corporation and members of a limited liability company, which corporation or limited liability company is licensed under Title 30, Chapter 25 of the Delaware Code or shown to be conduction business in a manner in which they should be so licensed, are covered under the Delaware Workers Compensation Law. However, up to four (4) executive officers who are stockholders of the corporation or as many as ~~four (4)~~ eight (8) individuals who are members of a limited liability company, when executing a written agreement between the corporation and such executive officers or between the limited liability company and such members, may elect not to be subject to the law. To exclude such officers or limited liability company members, attach the Partners, Officers and Others Exclusion Endorsement WC 00 03 08.

Note – Remains Unchanged.

Item 3 through **Item 9** remain unchanged.

ITEM B – SOLE PROPRIETORS AND PARTNERS OR MEMBERS OF THEIR IMMEDIATE FAMILY through **ITEM I – WAIVER OF SUBROGATION (WAIVER OF OUR RIGHTS TO RECOVER FROM OTHER)** remains unchanged.

RULE X – CANCELLATION through **RULE XVII – MEMBER CARRIER DISPUTES (DISPUTE RESOLUTION CONFERENCE)** remain unchanged.

SECTION 2 – CLASSIFICATIONS AND BUREAU RATING VALUES remains unchanged.

**DELAWARE WORKERS COMPENSATION MANUAL OF RULES, CLASSIFICATIONS
AND RATING VALUES FOR WORKERS COMPENSATION AND FOR EMPLOYERS
LIABILITY INSURANCE**

Proposed Effective June 30, 2023

SECTION 3 – ENDORSEMENTS

GENERAL INFORMATION remains unchanged.

TABLE OF CONTENTS remains unchanged.

TABLE OF CONTENTS TO SECTION 3 ENDORSEMENTS remains unchanged.

ENDORSEMENT WC 00 01 01 A, DEFENSE BASE ACT COVERAGE ENDORSEMENT, through **ENDORSEMENT WC 00 03 26 A, RESIDUAL MARKET LIMITED OTHER STATES INSURANCE ENDORSEMENT**, remain unchanged.

**DELAWARE WORKERS COMPENSATION MANUAL OF RULES, CLASSIFICATIONS
AND RATING VALUES FOR WORKERS COMPENSATION AND FOR EMPLOYERS
LIABILITY INSURANCE**

Proposed Effective June 30, 2023

AGREEMENT BY EXECUTIVE OFFICER(S)/LLC MEMBER(S) NOT TO BE SUBJECT TO THE DELAWARE WORKERS' COMPENSATION LAW

Executive officers of corporations and members of Limited Liability Companies (LLCs) are covered under the Delaware Workers' Compensation Law. However, up to eight (8) executive officers who are stockholders of a corporation or up to ~~four (4)~~ eight (8) members of an LLC may elect not to be subject to Delaware Workers' Compensation Law by completing this agreement with their corporation/LLC. **SPECIAL NOTE:** - **CONSTRUCTION** corporations/LLCs subject to Title 30, Chapter 25 of the Delaware Code may elect to exclude up to four (4) executive officers who are stockholders of a corporation or up to ~~four (4)~~ eight (8) members of an LLC. Executive Officers are the president, any vice president, secretary, treasurer or any other executive officer(s) elected by the board of directors in accordance with the charter and the regularly adopted by-laws of the corporation. This Executive Officer/LLC Member Exclusion Procedure must be repeated each time a corporation/LLC wishes to change the status of any executive officer/LLC member and/or secures coverage from a different carrier group.

Name of business

Address of business

Street/Road/PO Box

Town/City

State

Zip Code

Federal Employer Identification Number -

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Business **has** employee(s) (other than those listed below) – please check here _____

Business **does not have** employee(s) (other than those listed below) – please check here _____

Please check type of business:

- Corporation** Not Subject to Title 30, Chapter 25 (non-construction) – Maximum 8 exclusions
- Corporation** Subject to Title 30, Chapter 25 (construction) – Maximum 4 exclusions
- Limited Liability Company (LLC)** – Maximum ~~4 exclusions~~ 8 exclusions

Signature of Representative of Corporation or LLC

Title

Date

Named below are the executive officer(s)/LLC member(s) electing not to be subject to the Delaware Workers' Compensation Law:

NAME(s) Print Name	Title	MEMBER OFFICER(S) SIGNATURE	STOCKHOLDER YES/NO	DATE

Additional space below cannot be used by Title 30, Chapter 25 corporations, ~~or any limited liability company ies.~~

IMPORTANT: If you have workers compensation insurance, you must submit the original of this completed form to your insurance carrier, together (in case of a corporation) with the shareholders' resolution(s), shareholders' agreement(s), and/or shareholders' written consent(s) evidencing the executive officer status of the electing executive officer(s), or together (in the case of an LLC) with the operating agreement and/or certificate of formation evidencing the member status of the electing member(s). If you are a subcontractor, you must also provide a copy of the same documents to each general contractor by whom you are hired.

**DELAWARE WORKERS COMPENSATION MANUAL OF RULES, CLASSIFICATIONS
AND RATING VALUES FOR WORKERS COMPENSATION AND FOR EMPLOYERS
LIABILITY INSURANCE**

Proposed Effective June 30, 2023

ENDORSEMENT WC 00 03 04, INSURANCE COMPANY AS INSURED ENDORSEMENT, through ENDORSEMENT WC 00 04 14 A, 90-DAY REPORTING REQUIREMENT –NOTIFICATION OF CHANGE IN OWNERSHIP ENDORSEMENT, remain unchanged.

SECTION 4 – RULES AND PROCEDURE GOVERNING THE APPLICATION OF THE RETROSPECTIVE RATING PLANS - DELAWARE remains unchanged.

SECTION 5 – EXPERIENCE RATING PLAN remains unchanged.

SECTION 6 – MERIT RATING PLAN remains unchanged.

**DELAWARE WORKERS COMPENSATION MANUAL OF RULES, CLASSIFICATIONS
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RULE IX – SPECIAL CONDITIONS OR OPERATIONS AFFECTING COVERAGE AND PREMIUM

A. EXECUTIVE OFFICERS

3. Definition remains unchanged.

4. Law And Status

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Signature of Representative of Corporation or LLC

Title

Date

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AGREEMENT BY EXECUTIVE OFFICER(S)/LLC MEMBER(S) NOT TO BE SUBJECT TO THE DELAWARE WORKERS' COMPENSATION LAW

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