



May 28, 2009

Circular 2009-05

To: All Members

HB 1701 – Sole Corporate Officer Election

Effective May 13, 2009, [House Enrolled Act 1701](#) revised the definition of an executive officer of a corporation under [IC 22-3-6-1\(b\) \(1\)](#). It added a provision that an officer who is the sole officer of the corporation may elect not to be an employee.

"An executive officer elected or appointed and empowered in accordance with the charter and bylaws of a corporation, other than a municipal corporation or governmental subdivision or a charitable, religious, educational, or other nonprofit corporation, is an employee of the corporation under IC 22-3-2 through IC 22-3-6. An officer of a corporation who is the sole officer of the corporation is an employee of the corporation under IC 22-3-2 through IC 22-3-6, but may elect not to be an employee of the corporation under IC 22-3-2 through IC 22-3-6. If an officer makes this election, the officer must serve written notice of the election on the corporation's insurance carrier and the board. An officer of a corporation who is the sole officer of the corporation may not be considered to be excluded as an employee under IC 22-3-2 through IC 22-3-6 until the notice is received by the insurance carrier and the board."

The Workers Compensation Board of Indiana (“[Board](#)”) is currently revising [State Form 36097 \(R4 / 3-09\)](#) “Notice For Workers Compensation and Occupational Diseases Coverage” for sole corporate officers to complete when they elect to exclude themselves.

In the meantime, in lieu of a form, sole corporate officers electing to exclude themselves may submit a signed letter to the insurance carrier and Board. Also for insurers, it would be appropriate to attach endorsement WC 00 03 08 (Partners, Officers and Others Exclusion Endorsement) and insert wording to identify the excluded officer.

Sincerely,

Ronald W. Cooper, CWCP
President