



June 14, 2007

BUREAU CIRCULAR NO. 819

To All Members of the Bureau:

Re: **SENATE SUBSTITUTE NUMBER 1 FOR SB 68**
EFFECTIVE JULY 17, 2007

The 144th Delaware General Assembly has passed and the Governor has signed into law Senate Substitute Number 1 for Senate Bill 68. The Bureau understands this law change to be effective July 17, 2007 on a ***new and renewal basis*** (the legislation refers to "*insurance policies issued or renewed on or after July 17, 2007,*" which is being interpreted to mean new and renewal business).

Section 1 of this legislation amends Section 2308 (a) Title 19 of the Delaware Code by extending the exemption from workers' compensation coverage currently afforded to (up to eight) officers who are stockholders of corporations to individuals who are (up to four) members of limited liability companies.

The DCRB understands that Section 1 of the law applies to all businesses and employments.

Section 2 amends Section 2311 (a) (4) Title 19 of the Delaware Code by clarifying the obligations of independent contractors and subcontractors in the construction industry with respect to maintaining workers' compensation insurance, allowing the option for ***up to four*** executive officers who are stockholders of a corporate entity or ***up to four*** individuals who are members of a limited liability company to be exempted from workers' compensation coverage and establishes July 17, 2007 as the date by which the requirements of Section 2311(a)(4) must be met. Section 3 amends Section 2311 (a) (5) Title 19 of the Delaware Code by requiring that a contracting entity obtain from an independent contractor or subcontractor a certificate of insurance or notice of exemption of executive officers or limited liability company members. Additionally, Section 3 clarifies that Section 2311(a)(5) does not create an employer-employee relationship, statutory or otherwise, between the contracting entity and the subcontractor, independent contractor or their employees and only clarifies the obligations of contractors, subcontractors and independent contractors with respect to maintaining workers' compensation insurance.

The DCRB understands that Sections 2 and 3 of the law apply to **construction contractors only**, a term defined as pertaining to those businesses that must be licensed under Title 30 Chapter 25 of the Delaware Code, or that do business that would be subject to those same requirements.

Manual rules and procedures are being developed and will be filed with the Delaware Department of Insurance for approval as expeditiously as possible.

Timothy L. Wisecarver
President

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