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| <p><b>State of Alaska</b><br/>Michael J. Dunleavy<br/>Governor</p> | <p><b>Alaska Workers' Compensation Division</b><br/>PO Box 115512<br/>Juneau, Alaska 99811-5512</p> |  |  |
| <p><b>Department of Labor and Workforce Development</b></p>        | <p><b>BULLETIN</b></p>  | <p><b>Number</b><br/><b>19-03</b><br/>(Revised)</p>  | <p><b>Date REVISED:</b><br/>October 22, 2019</p> |
| <p><b>Dr. Tamika L. Ledbetter</b><br/>Commissioner</p>             | <p><b>SUBJECT</b><br/><br/><b>REFERENCE</b></p>   | <p>10% Ownership Interest Requirement for Owner Exemption and Executive Officer Waivers<br/>AS 23.30.240, 8 AAC 45.184</p> |  |

The workers' compensation omnibus bill passed by the State of Alaska Legislature on May 11, 2018, (SCS CSHB 79(FIN)) repealed and reenacted AS 23.30.240, effective August 1, 2019, provides that executive officers of corporations and members of limited liability companies with 10% or greater ownership interest are not employees for purposes of workers' compensation liability.

In some situations, executive officers of corporations and members of limited liability companies with less than 10% ownership interest may not be employees for purposes of compliance enforcement with the Alaska Workers' Compensation Act. When investigating failure to insure allegations, the Alaska Division of Workers' Compensation Special Investigations Unit will independently evaluate each owner with less than 10% interest in light of whether or not the owner meets the definition of employee found in AS 23.30.395(19).

If a business entity is owned by a revocable trust, individual beneficiaries with a minimum 10% ownership interest in the business entity through the revocable trust will be considered excluded from coverage under AS 23.30.240 for enforcement purposes.

Policies in effect prior to 8/1/2019 are covered under the previous law, which required executive officers to obtain an Executive Officer Waiver for exemption from coverage requirements. A corporation may amend a previously issued Executive Officer Waiver in connection to policies written before 8/1/19 without constituting a policy change until the policy cancels or expires. To amend and add an executive officer to an existing waiver, a corporation must submit form 07-6131, Petition for Executive Officer Waiver. To remove an executive officer from an existing waiver, or cancel a waiver, the corporation must submit a written request to have the officer removed or the waiver cancelled. The request to remove or cancel must be signed by the person who was covered under the waiver, or by the president of the corporation.

All policies bound or renewed from 8/1/2019 forward are covered under AS 23.30.240 as repealed and reenacted under HB79.

**This bulletin is provided as general guidance only and is not legally binding. Business owners should consult with their insurance brokers about workers' compensation insurance policies applicable to their own factual circumstances. Each employer with one or more employees working in Alaska should secure workers' compensation coverage if there is a potential for liability.**

For additional questions, please contact Velma Thomas at 907-465-2790 or velma.thomas@alaska.gov.