



west virginia  
OFFICES OF THE  
**INSURANCE**  
COMMISSIONER

## Application for Exemption

from

## WV Workers' Compensation Coverage

900 Pennsylvania Avenue  
Charleston, WV 25302

### Mail Completed Application To:

**WV OFFICES OF THE INSURANCE COMMISSIONER**  
**Employer Coverage Division**  
**PO Box 11682**  
**Charleston, WV 25339-1682**  
**Telephone: 304-558-6279**

### For Insurance Commission Use Only

Exemption ID #: \_\_\_\_\_

Effective Date: \_\_\_\_\_

Reviewed By: \_\_\_\_\_ Date: \_\_\_\_\_

ALL QUESTIONS ON THIS APPLICATION MUST BE ANSWERED IN FULL. ADDITIONAL PAGES MAY BE ATTACHED IF A SPACE PROVIDED IS INADEQUATE. THE APPLICATION MUST BE NOTARIZED AND A \$25.00 APPLICATION FEE IS REQUIRED OR THE APPLICATION CANNOT BE PROCESSED. IF YOU HAVE ANY QUESTIONS PLEASE CALL 304-558-6279.

With limited exceptions, as set forth more specifically in W. Va. Code § 23-2-1 and W. Va. Code St. R. § 85-8-1, *et. seq.*, workers' compensation coverage is **mandatory** for all employers who employ one or more employees in West Virginia. The Insurance Commissioner will review this application in light of all law in West Virginia relevant to workers' compensation exempt status, and make a decision based upon such law as applies to the information stated herein and any additional information requested. Therefore, it is strongly advised that before submitting an application for exemption, the applicant be familiar with the applicable law as referenced above, and only make application if the applicant or his or her business believes that he or she qualifies for one of the limited exemptions.

### SECTION I: BUSINESS INFORMATION

1. **State the Reason(s) for Filing an Exemption Application.** *This must be a reason or reasons supported by one of the specific exemptions as set forth in W. Va. Code § 23-2-1(b)(1) through (8), or stating otherwise that the employer is exempt from West Virginia workers' compensation laws because it does not fall under the purview of W. Va. Code § 23-2-1(a). Within this section, please account for all of the persons or entities that perform work or services in the State of West Virginia on the employer's behalf, but whom the applying employer does not consider to be an "employee" for the purposes of workers' compensation (i.e., the person(s)/entity(s)) is a subcontractor, independent contractor, etc.).*

**Sufficient documentation in support of the claimed exemption should be provided with this application. If the applicant provides coverage in another state, the applicant must attach proof of coverage from that state. Attach an explanation of why you are requesting an exemption. Please provide the number of your employees, or last date on which you or your business had employees.**

2. **Legal Name of Business:** \_\_\_\_\_

**Trading As/Doing Business As:** \_\_\_\_\_

3. **Primary Business Address:** \_\_\_\_\_  
*Not a Post Office Box* **Street**

\_\_\_\_\_ **City** **County** **State** **Zip**

\_\_\_\_\_ **Name of Contact Person** **Telephone #** **Fax #**

\_\_\_\_\_ **Contact Person's Email Address** **Cell #**

4. **Mailing Address:** \_\_\_\_\_  
**Street**

\_\_\_\_\_ **City** **County** **State** **Zip**

5. **Primary WV Address:** \_\_\_\_\_  
*Not a Post Office Box* **Street**

\_\_\_\_\_ **City** **County** **State** **Zip**

**SECTION I: BUSINESS INFORMATION, Continued**

6. Federal ID #: 

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7. WV Unemployment Compensation Account #: \_\_\_\_\_

8. WV State Tax ID #: \_\_\_\_\_  
*Attach Copy of WV Business Registration Certificate*

9. **Type of Organization:** *Check all that apply*
- |  |   |
|--|---|
| <input type="checkbox"/> Sole Proprietorship           | <input type="checkbox"/> 'S' Corporation            |
| <input type="checkbox"/> Partnership                   | <input type="checkbox"/> Limited Partnership        |
| <input type="checkbox"/> Limited Liability Corporation | <input type="checkbox"/> Joint Venture, Corporation |
| <input type="checkbox"/> Domestic Corporation          | <input type="checkbox"/> Joint Venture, Partnership |
| <input type="checkbox"/> Foreign Corporation           | <input type="checkbox"/> Association                |
| <input type="checkbox"/> State Agency                  | <input type="checkbox"/> County Agency              |
| <input type="checkbox"/> Municipality                  | <input type="checkbox"/> Trustee                    |
| <input type="checkbox"/> Receivership                  | <input type="checkbox"/> For Profit                 |
|  | <input type="checkbox"/> Not for Profit             |

10. Describe in detail the complete business operation and work process, including the primary type of work that is performed by your business and its workers. Please provide sufficient documentation with this application to support the representations in this section (e.g., any professional or industrial licenses, permits, etc.).

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11. State where incorporated: \_\_\_\_\_

Date incorporated: \_\_\_\_\_

12. If you are an out of state employer, how long do you anticipate working or having operations in West Virginia?

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a. First date owner, partners, officers, members began working in WV: \_\_\_\_\_

b. Date employees with workers' compensation coverage in another state began working in WV: \_\_\_\_\_

13. Do you currently have employees who:

a. Work in, or within the past year, have worked in, the State of West Virginia?  Yes  No

b. Are residents of the State of West Virginia?  Yes  No

c. Are covered by a workers' compensation policy for West Virginia Workers' Compensation benefits?  Yes  No

d. If a., b. or c. are "yes," please provide a list of all such employees on a separate page.

e. Do you anticipate hiring any such employees in the future? If so, please provide an estimated date of hire.

Yes Estimated date of hire: \_\_\_\_\_  No

14. List ALL licenses, permits & certificates issued by any State Agency for the purpose of doing business in WV:

*Provide a copy of any certification or license that is required by the state.*

Issuing Agency	Issued To	Type of License, Permit, Certificate	License, Permit, Certificate #

15. Did Applicant Purchase or Lease an Existing Business:  Yes  Purchase or  Lease  No

*If Yes, Answer the Following Questions and Attach a Copy of Purchase/Lease Agreement/Contract*

**SECTION I: BUSINESS INFORMATION, Continued**

Effective Date of Purchase/Lease: \_\_\_\_\_

Name of Business Purchased/Leased: \_\_\_\_\_

Address of Purchased/Leased Business: \_\_\_\_\_  
Street

City County State Zip

Contact Person's Telephone # \_\_\_\_\_

Name of Individual/Contact Person from Whom Business was Purchased/Leased: \_\_\_\_\_

Address of Individual/Contact Person from Whom Business was Purchased/Leased: \_\_\_\_\_

Street City County State Zip

**SECTION II: INDEPENDENT CONTRACTOR INFORMATION**

**WARNING:** The burden of proving independent contractor status of certain individuals is on the employer. In order to receive a letter of exemption based on workers' independent contractor status, the employer must prove that all the employer's workers are independent contractors (i.e., no employees). **Any change in or addition to subcontractor/independent contractor status following an approved exemption application must be supplied to the WV Offices of the Insurance Commissioner immediately.**

16. If your basis for claiming exempt status is that you are an independent contractor and not an employee, please answer the following questions. Please disregard this subsection if you are not claiming to be an independent contractor. If your basis for claiming exempt status is that you are an independent contractor and you fail to answer these questions, your application will be denied.

a. Who owns and/or leases the equipment used to perform your work?

\_\_\_\_\_

b. Who controls your work schedule?

\_\_\_\_\_

c. Does anyone supervise or direct the work you are performing?  Yes  No

If yes, please identify the supervisor and provide details.

\_\_\_\_\_

d. Do you have a written contract for the performance of work?  Yes  No

If yes, please provide a copy of the contract.

e. Do you contract to provide your services to multiple persons or companies, or do you provide your services to just a single person or company?

\_\_\_\_\_

17. If your basis for claiming exempt status is that you do not have employees, and that all workers performing services or work in connection with your business are independent contractors, please answer the following questions.

a. Who owns and/or leases the equipment used by the workers to perform work?

\_\_\_\_\_

b. Who controls the workers' work schedule?

\_\_\_\_\_

c. Does anyone supervise or direct the workers' work?  Yes  No

If yes, please identify the supervisor and provide details.

\_\_\_\_\_

SECTION II: INDEPENDENT CONTRACTOR INFORMATION, Continued

d. Do you have a written contract with the workers for the performance of work?  Yes  No

If so, please provide a copy of the contract.

e. Do you have contracts with multiple workers or companies to perform the work described herein or with just a single person or company?

18. Do you employ or anticipate employing independent contractors?  Yes  No

*If yes,*

*The "Addendum of Application for Exemption from WV Workers' Compensation Coverage for Individual Independent Contractors" must be completed and attached.*

*Complete the following for each subcontractor/independent contractor. Attach additional pages if necessary.*

Name of Independent Contractor # 1:	_____
Subcontractor's Workers' Compensation Policy #:	_____
Subcontractor's State/Federal Tax ID #:	_____
Subcontractor's Address:	_____
	Street
	_____
	City County State Zip
Telephone No.:	_____
Description of Work Performed by Independent Contractor:	_____
	_____
	_____
Estimated Length of Contract:	_____

Name of Independent Contractor # 2:	_____
Subcontractor's Workers' Compensation Policy #:	_____
Subcontractor's State/Federal Tax ID #:	_____
Subcontractor's Address:	_____
	Street
	_____
	City County State Zip
Telephone No.:	_____
Description of Work Performed by Independent Contractor:	_____
	_____
	_____
Estimated Length of Contract:	_____

**NOTE: Pursuant to W. Va. Code §23-2-1d, on or after July 10, 2009, a subcontractor shall provide proof of continuing coverage to the prime contractor by providing a certificate showing current as well as renewal or replacement coverage during the term of the contract between the prime contractor and the subcontractor. The subcontractor shall provide notice to the prime contractor within two business days of cancellation or expiration of coverage.**

**SECTION III: OWNER, PARTNER, OFFICER, MEMBER IDENTIFICATION AND ELECTIONS OF COVERAGE**

*Pursuant to W. Va. Code § 23-2-1(g)(2), workers' compensation coverage is not required for certain sole proprietors, members and officers. For corporations and associations, only the following principal officers are exempt from having to be covered for workers' compensation regardless of whether they also perform the work of an employee: a president, a vice-president, a secretary and a treasurer.*

**19. List ALL owners, partners, officers, directors, and members. List all individuals who own 10% or more of the business entity. List any persons who have a working relationship with the applicant to provide authority, direction or control over the business operations. 'S' Corporations must list ALL individuals legally associated with the 'S' Corporation.**

**Provide the name, title or position, social security number and percent of ownership, if any, for all individuals listed. Indicate whether the individuals elect not to be covered by WV workers' compensation insurance and whether they work in a dual capacity. Dual capacity is defined as any one person who performs duties and has responsibilities typically associated with an officer, but also performs duties associated with a worker, manager or other employee who is not an officer.**

**Please note that the information provided in this section does not, by itself, entitle the employer to a letter of exemption. The information in this section only serves the purpose of showing that certain individuals serving as sole proprietors, partners and officers for the applying company are exempt from coverage. An employer is not entitled to a letter of exemption from West Virginia workers' compensation coverage unless it meets one of the specific exemptions as set forth in W. Va. Code § 23-2-1(b)(1) through (8), or otherwise proves that the employer is exempt from West Virginia workers' compensation laws because it does not fall under the purview of W. Va. Code § 23-2-1(a). For example, if an employer has several employees that meet the exemption under this section, but several that do not, the employer would not be entitled to an exemption letter – it would still need to show its entitlement to an overall exemption under the provisions of 23-2-1(a) or (b).**

Name	Title / Position	Effective Date Title / Position Held	SSN	% Owned	Elect Coverage? (Yes / No)	Dual Capacity? (Yes / No)

**SECTION IV: SIGNATURE AUTHORITY**

**20. This application must be signed and sworn to by the appropriate persons listed below.**

*Signatures of accountants or agents are not acceptable.*

- a. If the applicant is a corporation or a limited corporation this application must be signed by the president or the vice-president and secretary of the corporation.
- b. If the applicant is a partnership, a limited partnership or limited liability company, this application must be signed by all general partners or members.
- c. If the applicant is a sole proprietorship this application must be signed by the sole owner.

I hereby swear or affirm that to the best of my knowledge and belief these statements and representations are true and accurate. I accept the provisions of the WV Workers' Compensation Act and the Rules promulgated thereunder, as amended. I am aware that I **MUST** timely notify the WV Offices of the Insurance Commissioner in writing, of any changes in my business operations, including but not limited to new employment of even one person; entering into contracts with subcontractors or independent contractors; changes in business type; location; ownership; covered/non-covered status of individual owners, partners, officers, and members; and the status of the business as described in this application. I further realize that all businesses are subject to an ongoing right by the WV Offices of the Insurance Commissioner to inspect and audit in order to maintain exempt status. Pursuant to this ongoing right to inspect and audit, I understand that the Insurance Commissioner may, at any time, request for inspection any documents deemed necessary to confirm that the exempt status is valid, including, but not limited to, tax documents, payroll documents, and financial documents. I understand that failure to comply with any request for documents may result in the immediate revocation of exempt status. **I further understand that in accordance with W. Va. Code §61-3-24e(5), it is a felony to knowingly and willingly make false statements respecting any information required to be provided under the WV Workers' Compensation Code Chapter 23. Upon conviction the individual shall be confined in a penitentiary for up to three years, fined up to \$10,000, or both.**

SECTION IV: SIGNATURE AUTHORITY, Continued

Signature # 1: \_\_\_\_\_ Title: \_\_\_\_\_

Print Name of Signatory: \_\_\_\_\_

State of \_\_\_\_\_,

County of \_\_\_\_\_, To Wit:

Subscribed and sworn to before me this

\_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

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Signature # 2: \_\_\_\_\_ Title: \_\_\_\_\_

Print Name of Signatory: \_\_\_\_\_

State of \_\_\_\_\_,

County of \_\_\_\_\_, To Wit:

Subscribed and sworn to before me this

\_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

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Signature # 3: \_\_\_\_\_ Title: \_\_\_\_\_

Print Name of Signatory: \_\_\_\_\_

State of \_\_\_\_\_,

County of \_\_\_\_\_, To Wit:

Subscribed and sworn to before me this

\_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

**SECTION IV: SIGNATURE AUTHORITY, Continued**

Signature # 4: \_\_\_\_\_ Title: \_\_\_\_\_

Print Name of Signatory: \_\_\_\_\_

State of \_\_\_\_\_,

County of \_\_\_\_\_, To Wit:

Subscribed and sworn to before me this

\_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

**REMEMBER TO INCLUDE ALL REQUESTED DOCUMENTATION.**

**Addendum to Application for Exemption from WV Workers' Compensation Coverage for Individual Independent Contractors**

I, \_\_\_\_\_, understand that I am performing  
services for \_\_\_\_\_ as an independent contractor  
and not as an employee. Specifically, I am performing the following independent  
contractor services for \_\_\_\_\_:

State services being performed here: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I understand that if I am injured in performing the above services for  
\_\_\_\_\_, I will not be provided any workers'  
compensation benefits by \_\_\_\_\_, nor from the  
West Virginia Uninsured Employer's Fund, and that if I wish to be provided  
workers' compensation benefits in the event of an injury while working for  
\_\_\_\_\_, I must obtain workers' compensation  
insurance on my own.

Additionally, I state that I have no employees. I understand that if I employ other  
individuals in the future, I will be responsible for providing them coverage for West  
Virginia Workers' Compensation benefits as required by law.

I further understand that as a requirement to being an Independent Contractor, I  
may be required to obtain certain licenses, certificates, etc. from other West  
Virginia State Agencies and otherwise comply with all West Virginia State Laws  
regarding my business.



Finally, I understand that making any false statements or knowingly making misrepresentations to the WV Offices of the Insurance Commissioner pursuant to an application for a letter of exemption from workers' compensation and this Addendum can subject me to civil and criminal penalties, including being convicted of a felony.

\_\_\_\_\_  
Signature (Independent Contractor)

\_\_\_\_\_  
Date

Tax ID# \_\_\_\_\_

Telephone # \_\_\_\_\_

\_\_\_\_\_  
Signature (Primary Contractor)

\_\_\_\_\_  
Date

State of \_\_\_\_\_,

County of \_\_\_\_\_, To Wit:

Subscribed and sworn to before me this  
\_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_

\_\_\_\_\_  
Notary Public

My Commission Expires \_\_\_\_\_