

POLICY 61.21

Section: Coverage and Jurisdiction **Effective:** 5-1-15

Title: Determining Coverage Requirements for Members/Managers of a Limited Liability Company (LLC) **Cancels:** Policy 61.21 dated 4-18-12

See Also: [Chapter 25.15 RCW](#) (Limited Liability Companies)
[Chapter 26.60 RCW](#) (State registered domestic partnerships)
[RCW 51.12.020\(5\)](#) (sole proprietors or partners)
[RCW 51.12.020\(8\)](#) (corporate officers)
[RCW 51.12.020\(13\)](#) (Members of a Limited Liability Company)
[RCW 51.12.110](#) (Elective adoption - Withdrawal)
[RCW 51.12.183](#) (For hire vehicle businesses and operators – Mandatory coverage – Definitions)
[WAC 296-17-31007](#) (Owner/corporate officer coverage)
[WAC 296-17-31018](#) (Exception classifications)
[WAC 296-17-35203\(9\)](#) (Special reporting instruction)
[Policy 61.04](#) (Processing Applications for Elective Coverage)
[Policy 61.11](#) (Determining Industrial Insurance Coverage of Partners)
[Policy 61.18](#) (Industrial Insurance for Corporate Officers)

Approved by: _____
Sandi Haerling for the Insurance Services Policy Council

Mike Ratko, Acting Program Manager for Employer Services

This policy identifies which members of a limited liability company (LLC) are exempt from mandatory coverage, how optional coverage can be elected, how hours are to be reported, and how coverage may be waived or canceled on the members of the LLC.

1. The following definitions apply to LLCs:

LLC is a business entity in which members' responsibilities for debts, expenses, or liabilities of the LLC may be limited to the members' investment interest in the LLC.

Members are individuals who have an investment interest in the LLC, who have been approved by the other members of the LLC, who may or may not have management authority for the day to day operations of the LLC, and who are listed as members on the Certificate of Formation or its amendment or other documentation of the LLC. (Members are similar to owners/partners/stockholders).

Managers have authority to manage the business affairs of an LLC if so specified in the Certificate of Formation. (Managers are similar to officers). [Certificate of Formation](#) is the document used to register the LLC with the Secretary of State.

NOTE: Staff will need to determine that the members who have management authority of the day to day operations of the LLC, **DO IN FACT** have and exercise these management activities in the day to day operations of the LLC.

Members who do not have and exercise authority in the management of the day to day operations of the LLC are not exempt from mandatory coverage.

2. LLC members and member/managers in the taxi industry are mandatorily covered while operating a licensed for hire vehicle as a result of [RCW 51.12.183](#) effective January 1, 2012.

LLC members and member/managers who hold a for-hire license in the taxi, limousine or cabulance industries are required to purchase industrial insurance.

3. Limited liability companies may be structured in two "models."

3a. Members exercise control over the business operations – no managers.
(What L&I refers to as the "partnership model.")

- To be considered exempt, members must have substantial management responsibilities in the company.
- All members are exempt unless there is an agreement designating which members have control over the business. Then only those designated members are exempt.

Example: One member may be given approval for full responsibilities to manage the general operations of the LLC, then he/she will be the only exempt member; or

The duties may be split among several members who have approval to perform management duties such as finance, purchasing, operations manager, etc. Then they will be the only exempt members.

- In the "partnership model," optional coverage may be elected (or waived) individually as in a sole proprietorship or partnership.

3b. Member/managers exercise control over the business operations.
(What L&I refers to as the "corporate model.")

- Up to eight (8) people of the business operations who are members **and** managers may be exempt (even if performing manual labor) if they have substantial control over management.
- Family LLCs may exempt any number of member/managers if all are related by blood (3rd degree), legally married, or a registered domestic partnership. (1st degree = parent/child; 2nd degree = grandchild/brother/sister/grandparent; 3rd degree = great grandchild/nephew/niece/uncle/aunt/great grandparent.)

Member/managers of family LLCs are not required to have and [exercise](#) authority in the management of the day to day operations of the LLC in order to be exempt.

- In the "corporate model," an LLC *can elect a manager who is not a member*. These managers are not exempt from coverage.
- **All or None:** In the "corporate model," if optional coverage is elected (or waived) it must be for all who are exempt from coverage, not individually.

4. LLC members or member/managers who elect optional coverage shall report hours as follows:

- 4a. LLC members or member/managers who have elected coverage and perform only administrative, clerical, and outside sales duties shall report in class [7101](#).
- 4b. LLC members or member/managers who perform duties directly related to the operational activities of the company must be reported in the basic classification applicable to the work being performed.

NOTE: Under no circumstances is classification [4904](#) to be assigned to any exempt member or member/manager of an LLC. Any member or member/manager of an LLC who has elected coverage and is engaged exclusively in outside sales is to be reported separately in class [6303](#).

- 4c. LLC members or member/managers, who have elected coverage, shall report hours in one of the following two ways:
- Actual hours worked supported by accurate time book entries or,
 - 480 hours per quarter for each member or member/manager who has elected coverage.

5. The department may cancel coverage in certain situations. (See Policy 61.04)

For technical questions please contact Employer Services Technical Support Unit at (360) 902-4741.