

TITLE 72

WORKER'S COMPENSATION AND RELATED LAWS -- INDUSTRIAL COMMISSION

CHAPTER 13

EMPLOYMENT SECURITY LAW

72-1312A.CORPORATE OFFICER -- EMPLOYMENT. (1) A bona fide corporate officer meeting the requirements of section 72-1352A(7) ~~72-1312~~, Idaho Code, whose claim for benefits is based on any wages with a corporation in which the corporate officer or a family member of the corporate officer has an ownership interest shall be:

(a) Not "unemployed" and ineligible for benefits in any week during the corporate officer's term of office with the corporation, even if wages are not being paid.

(b) "Unemployed" in any week the corporate officer is not employed by the corporation for a period of indefinite duration because of circumstances beyond the control of the corporate officer or a family member of the corporate officer with an ownership interest in the corporation, and the period of "unemployment" extends at least through the corporate officer's benefit year end date. If at any time during the benefit year the corporate officer resumes or returns to work for the corporation, it shall be a rebuttable presumption that the corporate officer's unemployment was due to circumstances within the corporate officer's control or the control of a family member with an ownership interest in the corporation, and all benefits paid to the corporate officer during the benefit year shall be considered an overpayment for which the corporate officer shall be liable for repayment.

(2) For purposes of this section, "family member" is a person related by blood or marriage as parent, stepparent, grandparent, spouse, brother, sister, child, stepchild, adopted child or grandchild.

(3) Circumstances beyond a corporate officer's control or the control of a family member with an ownership interest in the corporation are circumstances that last through the corporate officer's benefit year end date and include, without limitation, the following:

(a) Unemployment due to the corporate officer's removal from the corporation under circumstances that satisfy the personal eligibility conditions of section 72-1366, Idaho Code;

(b) Unemployment due to dissolution of the corporation; and

(c) Unemployment due to the sale of the corporation to an unrelated third party.

09.01.30.375.04 Corporate Officer.

a. A corporate officer has the burden of proving by a preponderance of evidence that he is unemployed due to circumstances beyond his control or the control of a family member with an ownership interest in the corporation.

b. Circumstances beyond a corporate officer's control or the control of a family member with an ownership interest in the corporation. Circumstances beyond a corporate officer's or a family

member's control are circumstances that last through the corporate officer's benefit year end date and include, but are not limited to, the following:

- i. Unemployment due to the corporate officer's removal from the corporation under circumstances that satisfy the personal eligibility conditions of Section 72-1366, Idaho Code;
- ii. Unemployment due to dissolution of the corporation; or
- iii. Unemployment due to the sale of the corporation to an unrelated third party.