

1 State of Arkansas
2 94th General Assembly
3 Regular Session, 2023
4

A Bill

HOUSE BILL 1147

5 By: Representative Vaught
6 By: Senator Hester
7

For An Act To Be Entitled

9 AN ACT TO AMEND THE REAL ESTATE LICENSE LAW; TO
10 CREATE AN EXEMPTION FOR ARKANSAS LICENSED RESIDENTIAL
11 CONSTRUCTION COMPANIES; AND FOR OTHER PURPOSES.
12
13

Subtitle

14 TO AMEND THE REAL ESTATE LICENSE LAW; AND
15 TO CREATE AN EXEMPTION FOR ARKANSAS
16 LICENSED RESIDENTIAL CONSTRUCTION
17 COMPANIES.
18
19
20

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
22

23 SECTION 1. Arkansas Code § 17-42-104(a), concerning exemptions to the
24 Real Estate License Law, is amended to add an additional subdivision to read
25 as follows:

26 (11)(A) A person employed by an Arkansas licensed residential
27 construction company if:

28 (i) The employee provides a written disclosure to
29 any purchaser involved in the possible or actual sale of newly constructed
30 and never occupied residential real estate:

31 (a) Stating that the:

32 (1) Employee is acting exclusively on
33 behalf of his or her employer who is the Arkansas licensed residential
34 construction company; and

35 (2) Purchaser has a right to be
36 represented by his or her own licensed real estate agent or legal counsel;



1 and

2 (b) The employer shall maintain the written
3 disclosure for seven (7) years after delivery;

4 (ii) The primary business activity of the Arkansas
5 licensed residential construction company is not an activity described under
6 § 17-42-103(10);

7 (iii) The employee is not providing real estate
8 services to or on behalf of more than one (1) entity not wholly owned by the
9 Arkansas licensed residential construction company; and

10 (iiv) The Arkansas licensed residential construction
11 company employs a principal broker, as defined under § 17-42-103(10), who
12 shall be responsible for the conduct of any persons identified in this
13 subdivision (a)(11) in the same manner as if such person was a licensee, as
14 defined under § 17-42-103(8).

15 (B) A person or Arkansas licensed residential construction
16 company asserting or utilizing the exemption under subdivision (a)(11)(A) of
17 this section shall have the burden of proving a person is an employee, or is
18 employed by the Arkansas licensed residential construction company as that
19 term is used in state and federal income tax, social security and for other
20 purposes.

21 (C) As used in this section, "Arkansas licensed
22 residential construction company" means:

23 (i) A construction company that:

24 (a) Owns or leases newly constructed and never
25 occupied single family residential real estate;

26 (b) Has the sole business of developing,
27 constructing, or selling newly constructed and never occupied single family
28 residential real estate; and

29 (c) Is licensed in Arkansas; or

30 (ii) An entity wholly owned by the Arkansas licensed
31 residential construction company in connection with the proposed purchase or
32 sale of single family residential real estate that:

33 (a) Is wholly owned by the Arkansas licensed
34 residential construction company or entity;

35 (b) Has the sole business of developing,
36 constructing, or selling newly constructed and never occupied single family

1 residential real estate; and

2 (c) Is licensed in Arkansas.

3
4 SECTION 2. Arkansas Code § 17-42-104, concerning exemptions to the
5 Real Estate License Law, is amended to add an additional subsection to read
6 as follows:

7 (d) The commission may waive certain requirements under § 17-42-101 et
8 seq., for a principal broker employed by an Arkansas residential construction
9 company under this section.

10
11 SECTION 3. DO NOT CODIFY. Rules implementing this act.

12 (a) The Arkansas Real Estate Commission shall promulgate rules
13 necessary to implement this act.

14 (b)(1) When adopting the initial rules to implement this act, the
15 final rule shall be filed with the Secretary of State for adoption under §
16 25-15-204(f):

17 (A) On or before January 1, 2024; or

18 (B) If approval under § 10-3-309 has not occurred by
19 January 1, 2024, as soon as practicable after approval under § 10-3-309.

20 (2) The commission shall file the proposed rule with the
21 Legislative Council under § 10-3-309(c) sufficiently in advance of January 1,
22 2024, so that the Legislative Council may consider the rule for approval
23 before January 1, 2024.

24
25
26 **APPROVED: 2/3/23**