

1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019
4

A Bill

SENATE BILL 469

5 By: Senator B. Ballinger
6 By: Representative Dalby
7

For An Act To Be Entitled

9 AN ACT CONCERNING THE LIABILITY OF CERTAIN
10 INDIVIDUALS WITH AN INTEREST IN REAL PROPERTY FOR THE
11 CRIMINAL ACTS OF THIRD PARTIES; TO DECLARE AN
12 EMERGENCY; AND FOR OTHER PURPOSES.
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Subtitle

15 CONCERNING THE LIABILITY OF CERTAIN
16 INDIVIDUALS WITH AN INTEREST IN REAL
17 PROPERTY FOR THE CRIMINAL ACTS OF THIRD
18 PARTIES; AND TO DECLARE AN EMERGENCY.
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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24 SECTION 1. DO NOT CODIFY. Legislative intent.

25 The General Assembly finds that:

26 (1) Owners of real property, landlords, tenants, or others
27 having an interest in real property do not have a duty to protect an employee
28 or tenant on the real property from the criminal acts of third parties as
29 held by the Court of Appeals in Park Plaza Mall CMBS, LLC v. Powell, 2018
30 Ark. App. 48.;

31 (2) Criminal acts committed by third parties are not reasonably
32 foreseeable; and

33 (3) The existing public policy of the State of Arkansas is that
34 the owners of real property, landlords, tenants, or others having an interest
35 in real property do not have a duty to protect or safeguard an employee or
36 tenant against the criminal acts of third parties.



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 2 SECTION 2. Arkansas Code Title 18, Chapter 11, Subchapter 1, is
 3 amended to add an additional section to read as follows:

4 18-11-107. Liability for criminal acts.

5 (a) A criminal act committed on real property by a third party is not
 6 foreseeable in any circumstance by a person having an interest in the real
 7 property, including without limitation:

- 8 (1) An owner;
- 9 (2) A landlord;
- 10 (3) A tenant; or
- 11 (4) A lienholder.

12 (b) Except as provided in subsection (c) of this section, a person
 13 having an interest in real property shall not be liable to a licensee,
 14 invitee, trespasser, employee, agent, or any other person for the
 15 unforeseeable criminal acts of a third party committed on his or her real
 16 property.

17 (c) This section does not:

- 18 (1) Establish or repeal the doctrine of infra hospitium, which
 19 means in the care or custody of the innkeeper, or change the liability of an
 20 innkeeper or the operator of a public lodging; and
- 21 (2) Expand or reduce the obligation or liabilities of an
 22 employer or principal for criminal acts committed under the doctrine
 23 of respondeat superior which makes the principal liable to a third party for
 24 any loss caused by the principal's agent.

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 26 SECTION 3. EMERGENCY CLAUSE. It is found and determined by the
 27 General Assembly of the State of Arkansas that this act is necessary to
 28 prevent claims of liability against parties that are exempt from liability as
 29 a matter of public policy of the State of Arkansas. Therefore, an emergency
 30 is declared to exist, and this act being immediately necessary for the
 31 preservation of the public peace, health, and safety shall become effective
 32 on:

- 33 (1) The date of its approval by the Governor;
- 34 (2) If the bill is neither approved nor vetoed by the Governor,
 35 the expiration of the period of time during which the Governor may veto the
 36 bill; or

1 (3) If the bill is vetoed by the Governor and the veto is
2 overridden, the date the last house overrides the veto.

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5 **APPROVED: 3/18/19**
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