

1 State of Arkansas  
2 80th General Assembly  
3 Regular Session, 1995  
4 By: Representative Dietz

# A Bill

HOUSE BILL 1200

## For An Act To Be Entitled

8 "AN ACT TO EXEMPT REAL ESTATE LICENSEES FROM THE  
9 PROVISIONS OF THE WORKERS\_ COMPENSATION LAW; AND FOR OTHER  
10 PURPOSES."

## Subtitle

13 "TO EXEMPT REAL ESTATE LICENSEES FROM  
14 THE PROVISIONS OF THE WORKERS\_ COMP  
15 LAW."

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

19 SECTION 1. Arkansas Code 11-9-102(12) is amended to read as follows:

20 "(12) Employment means:

21 (A) Every employment in the state in which three (3) or more employees  
22 are regularly employed by the same employer in the course of business,  
23 except: (i) An employee employed as a domestic servant in or about a  
24 private home;

25 (ii) An employee employed to do gardening, maintenance, repair,  
26 remodeling, or similar work in or about the private home of the person  
27 employing the employee;

28 (iii) Agricultural farm labor;

29 (iv) The State of Arkansas and each of the political subdivisions  
30 thereof, except as provided by §§ 6-17-1401 - 6-17-1405, 14-26-101 -  
31 14-26-104, 14-60-101 - 14-60-104, 19-10-101 - 19-10-103, 19-10-202 -  
32 19-10-210, 19-10-401 - 19-10-406, and 21-5-601 - 21-5-610;

33 (v) A person for whom a rule of liability for injury or death arising  
34 out of and in the course of employment is provided by the laws of the United  
35 States;

1 (vi) A person performing services for any nonprofit religious,  
2 charitable, or relief organization;

3 (vii) Any person engaged in the vending, selling, offering for sale,  
4 or delivery directly to the general public of any newspapers, magazines, or  
5 periodicals, or any person acting as sales agent or distributor as an  
6 independent contractor of or for any newspaper, magazine, or periodical;

7 (viii) *Services performed by an individual if the individual is a*  
8 *'qualified real estate agent' as that term is defined in § 3508 of the*  
9 *Internal Revenue Code of 1986, as amended and as may be amended, including*  
10 *all regulations thereunder.*

11 (B) Every employment in which two (2) or more employees are employed  
12 by any person engaged in building or building repair work;

13 (C) Every employment in which one (1) or more employees are employed  
14 by a contractor who subcontracts any part of his contract;

15 (D) Every employment in which one (1) or more employees are employed  
16 by a subcontractor;"

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18 *SECTION 2. Arkansas Code 11-9-102(10) is amended to read as follows:*

19 *"(10) 'Employee' means any person, including a minor, whether lawfully*  
20 *or unlawfully employed in the service of an employer under any contract of*  
21 *hire or apprenticeship, written or oral, expressed or implied; but excluding*  
22 *one whose employment is casual and not in the course of the trade, business,*  
23 *profession, or occupation of his employer, and excluding one who is required*  
24 *to perform work for a municipality, county, or the state or federal*  
25 *government upon being convicted of a criminal offense or while incarcerated.*

26 *The term 'employee' shall also include a sole proprietor or a partner who*  
27 *devotes full time to the proprietorship or partnership. However, any sole*  
28 *proprietor or partner of a partnership who desires not to be included in the*  
29 *definition of employee may file for and receive a certification of*  
30 *noncoverage under this chapter from the commission. The term 'employee'*  
31 *shall not include any individual who is a 'qualified real estate agent' as*  
32 *that term is defined in § 3508 of the Internal Revenue Code of 1986, as*  
33 *amended and as may be amended, including all regulations thereunder. A*  
34 *'qualified real estate agent', as defined in the preceding sentence, shall be*  
35 *entitled to file for and receive a certification of noncoverage under this*

1 chapter from the commission. Any individual receiving a certification of  
2 noncoverage under this chapter from the commission shall thereafter, or until  
3 he elects otherwise, be conclusively presumed not to be an employee for  
4 purposes of this chapter or otherwise. No election by a sole proprietor or  
5 partnership under this subdivision shall affect the rights or the coverage  
6 under this chapter of any employees of those sole proprietors or partners.  
7 Any reference to an employee who has been injured, when that employee is  
8 dead, shall also include his legal representative, dependents, and other  
9 persons to whom compensation may be payable;"

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11 SECTION 3. All provisions of this act of a general and permanent  
12 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas  
13 Code Revision Commission shall incorporate the same in the Code.

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15 SECTION 4. If any provision of this act or the application thereof to  
16 any person or circumstance is held invalid, such invalidity shall not affect  
17 other provisions or applications of the act which can be given effect without  
18 the invalid provision or application, and to this end the provisions of this  
19 act are declared to be severable.

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21 SECTION 5. All laws and parts of laws in conflict with this act are  
22 hereby repealed.

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24 /s/Rep. Dietz

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***As Engrossed: 4/4/95***

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