

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 86th General Assembly
3 Regular Session, 2007

A Bill

HOUSE BILL 1700

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5 By: Representative Dunn
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For An Act To Be Entitled

8
9 AN ACT TO GIVE A PARTNER, PROFESSIONAL
10 ASSOCIATION MEMBER, OR LIMITED LIABILITY COMPANY
11 MEMBER THE SAME RIGHT TO WAIVE WORKERS'
12 COMPENSATION COVERAGE AS A SOLE PROPRIETOR AND A
13 CORPORATE OFFICER; AND FOR OTHER PURPOSES.
14

Subtitle

15
16 TO GIVE A PARTNER, PROFESSIONAL
17 ASSOCIATION MEMBER, OR LIMITED LIABILITY
18 COMPANY MEMBER THE SAME RIGHT TO WAIVE
19 WORKERS' COMPENSATION COVERAGE AS A SOLE
20 PROPRIETOR AND A CORPORATE OFFICER.
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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25 SECTION 1. Arkansas Code § 11-9-108 is amended to read as follows:

26 11-9-108. Waiver of compensation void - Exception.

27 (a) No agreement by an employee to waive his or her right to
28 compensation shall be valid, and no contract, regulation, or device
29 whatsoever shall operate to relieve the employer or carrier, in whole or in
30 part, from any liability created by this chapter, except as specifically
31 provided elsewhere in this chapter.

32 (b)(1) However, any officer of a corporation, partner of a
33 partnership, member of a limited liability company, member of a professional
34 association, or self-employed employer who is not a subcontractor and who
35 owns and operates his or her own business may by agreement or contract
36 exclude himself or herself from coverage or waive his or her right to



1 coverage or compensation under this chapter.

2 (2) If the exclusion from coverage of the officer of a
 3 corporation, partner of a partnership, member of a limited liability company
 4 member of a professional association, or self-employed employer reduces the
 5 number of employees of the business to ~~less~~ fewer than three (3), the
 6 employer shall nevertheless continue to provide workers' compensation
 7 coverage for the employees.

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9 SECTION 2. Arkansas Code § 11-9-102(9), concerning the workers'
 10 compensation definition of "employee", is amended to read as follows:

11 (9)(A) "Employee" means any person, including a minor, whether
 12 lawfully or unlawfully employed in the service of an employer under any
 13 contract of hire or apprenticeship, written or oral, expressed or implied,
 14 but excluding one whose employment is casual and not in the course of the
 15 trade, business, profession, or occupation of his or her employer and
 16 excluding one who is required to perform work for a municipality or county or
 17 the state or federal government upon having been convicted of a criminal
 18 offense or while incarcerated.

19 ~~(B) The term "employee" shall also include a sole~~
 20 ~~proprietor, partner, or member who devotes full time to the proprietorship,~~
 21 ~~partnership, or limited liability company. However, any sole proprietor,~~
 22 ~~partner of a partnership, or member of a limited liability company who~~
 23 ~~desires not to be included in the definition of "employee" may file for and~~
 24 ~~receive a certification of noncoverage under this chapter from the~~
 25 ~~commission.~~

26 ~~(C)~~(B) The term "employee" shall not include any
 27 individual who is both a licensee as defined in § 17-42-103(10) and a
 28 qualified real estate agent as that term is defined in § 3508(b)(1) of the
 29 Internal Revenue Code of 1986, including all regulations thereunder.

30 ~~(D)~~(C) Any individual holding from the commission a
 31 current certification of noncoverage under this chapter shall be conclusively
 32 presumed not to be an employee for purposes of this chapter or otherwise
 33 during the term of his or her certification or any renewals thereof or until
 34 he or she elects otherwise, whichever time period is shorter.

35 ~~(E) No election by a sole proprietor, partnership, or~~
 36 ~~limited liability company under this subdivision (9) shall affect the rights~~

1 ~~or the coverage under this chapter of any employees of those sole~~
2 ~~proprietors, partners, or members.~~

3 (F)(D) Any reference to an employee who has been injured,
4 when that employee is dead, shall also include his or her legal
5 representative, dependents, and other persons to whom compensation may be
6 payable;

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