

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  
4

As Engrossed: S3/14/07

# A Bill

HOUSE BILL 1700

5 By: Representative Dunn  
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## For An Act To Be Entitled

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

## Subtitle

15  
16 TO GIVE A *SOLE PROPRIETOR, PARTNER,*  
17 PROFESSIONAL ASSOCIATION MEMBER, OR  
18 LIMITED LIABILITY COMPANY MEMBER THE  
19 SAME RIGHT TO WAIVE WORKERS'  
20 COMPENSATION COVERAGE AS A SOLE  
21 PROPRIETOR AND A CORPORATE OFFICER.  
22  
23  
24

25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
26

27 SECTION 1. Arkansas Code § 11-9-108 is amended to read as follows:  
28 11-9-108. Waiver of compensation void - Exception.

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

34 (b)(1) However, any officer of a corporation, sole proprietor, partner  
35 of a partnership, member of a limited liability company, member of a  
36 professional association, or self-employed employer who is not a



1 subcontractor and who owns and operates his or her own business may by  
2 agreement or contract exclude himself or herself from coverage or waive his  
3 or her right to coverage or compensation under this chapter.

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

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

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

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

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

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

