
A BILL FOR AN ACT

RELATING TO WORKERS' COMPENSATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 386, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§386- LLC, member, sole proprietor, or partner fee.

5 (a) A member of a limited liability company, sole proprietor,
6 or partner of a limited liability partnership who, pursuant to
7 paragraph 386-1(10) or (11), initially elects not to purchase
8 workers' compensation insurance, but subsequently elects to
9 purchase workers' compensation insurance, shall pay a fee of
10 \$ _____ that shall be deposited into the special
11 compensation fund established by section 386-151.

12 (b) The fee established by this section shall be increased
13 by an amount of \$ _____ for each subsequent instance in
14 which a person elects pursuant to 386-1(10) or (11) not to
15 purchase workers' compensation insurance, then subsequently
16 elects to purchase workers' compensation insurance. The
17 increase in the fee shall be established by adding \$ _____



1 to the amount of the last fee paid by the person under this
2 section."

3 SECTION 2. Section 386-1, Hawaii Revised Statutes, is
4 amended by amending the definition of "employment" to read as
5 follows:

6 "Employment" means any service performed by an individual
7 for another person under any contract of hire or apprenticeship,
8 express or implied, oral or written, whether lawfully or
9 unlawfully entered into. It includes service of public
10 officials, whether elected or under any appointment or contract
11 of hire express or implied.

12 "Employment" does not include the following service:

13 (1) Service for a religious, charitable, educational, or
14 nonprofit organization if performed in a voluntary or
15 unpaid capacity;

16 (2) Service for a religious, charitable, educational, or
17 nonprofit organization if performed by a recipient of
18 aid therefrom and the service is incidental to or in
19 return for the aid received;

20 (3) Service for a school, college, university, college
21 club, fraternity, or sorority if performed by a
22 student who is enrolled and regularly attending



- 1 classes and in return for board, lodging, or tuition
2 furnished, in whole or in part;
- 3 (4) Service performed by a duly ordained, commissioned, or
4 licensed minister, priest, or rabbi of a church in the
5 exercise of the minister's, priest's, or rabbi's
6 ministry or by a member of a religious order in the
7 exercise of nonsecular duties required by the order;
- 8 (5) Service performed by an individual for another person
9 solely for personal, family, or household purposes if
10 the cash remuneration received is less than \$225
11 during the current calendar quarter and during each
12 completed calendar quarter of the preceding twelve-
13 month period;
- 14 (6) Domestic, which includes attendant care, and day care
15 services authorized by the department of human
16 services under the Social Security Act, as amended,
17 performed by an individual in the employ of a
18 recipient of social service payments;
- 19 (7) Service performed without wages for a corporation
20 without employees by a corporate officer in which the
21 officer is at least a twenty-five per cent
22 stockholder;



1 (8) Service performed by an individual for a corporation
2 if the individual owns at least fifty per cent of the
3 corporation; provided that no employer shall require
4 an employee to incorporate as a condition of
5 employment; [~~and~~]

6 (9) Service performed by an individual for another person
7 as a real estate salesperson or as a real estate
8 broker, if all the service performed by the individual
9 for the other person is performed for remuneration
10 solely by way of commission[~~-~~];

11 (10) Service performed by a member of a limited liability
12 company if the member is an individual and has a
13 distributional interest, as defined in section 428-1,
14 of at least fifty per cent in the company; and

15 (11) Service performed by a sole proprietor or partner of a
16 partnership, within the meaning of chapter 425, if the
17 partner is an individual.

18 As used in this [~~paragraph~~] definition, "religious, charitable,
19 educational, or nonprofit organization" means a corporation,
20 unincorporated association, community chest, fund, or foundation
21 organized and operated exclusively for religious, charitable, or



1 educational purposes, no part of the net earnings of which inure
2 to the benefit of any private shareholder or individual."

3 SECTION 3. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 4. This Act shall take effect upon its approval.
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INTRODUCED BY: Kirk Caldwell

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HB 2643

Report Title:

Workers' Compensation; LLC; Partners; Sole Proprietors

Description:

Excludes from the definition of "employment" under workers' compensation law: (1) service performed by a sole proprietor or a partner of a partnership, as defined in the partnership law, if the partner is an individual; and (2) service performed by a member of a LLC if the member is an individual and has a distributional interest as defined under the Uniform Limited Liability Company Act, of at least 50% in the company. Provides for fees to be charged under certain circumstances.

