
A BILL FOR AN ACT

RELATING TO WORKERS' COMPENSATION.

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

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

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

10 "Employment" does not include:

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

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



- 1 (3) Service for a school, college, university, college
2 club, fraternity, or sorority if performed by a
3 student who is enrolled and regularly attending
4 classes and in return for board, lodging, or tuition
5 furnished, in whole or in part;
- 6 (4) Service performed by a duly ordained, commissioned, or
7 licensed minister, priest, or rabbi of a church in the
8 exercise of the minister's, priest's, or rabbi's
9 ministry or by a member of a religious order in the
10 exercise of nonsecular duties required by the order;
- 11 (5) Service performed by an individual for another person
12 solely for personal, family, or household purposes if
13 the cash remuneration received is less than \$225
14 during the current calendar quarter and during each
15 completed calendar quarter of the preceding twelve-
16 month period;
- 17 (6) Domestic, in-home and community-based services for
18 persons with developmental disabilities and mental
19 retardation under the medicaid home and
20 community-based services program pursuant to title 42
21 Code of Federal Regulations sections 440.180 and
22 441.300, and title 42 Code of Federal Regulations,



1 part 434, subpart A, as amended, and identified as
2 chore, personal assistance and habilitation,
3 residential habilitation, supported employment,
4 respite, and skilled nursing services, as the terms
5 are defined by the department of human services,
6 performed by an individual whose services are
7 contracted by a recipient of social service payments
8 and who voluntarily agrees in writing to be an
9 independent contractor of the recipient of social
10 service payments;

11 (7) Service performed without wages for a corporation
12 without employees by a corporate officer in which the
13 officer is at least a twenty-five per cent
14 stockholder;

15 (8) Service performed by an individual for a corporation
16 if the individual owns at least fifty per cent of the
17 corporation; provided that no employer shall require
18 an employee to incorporate as a condition of
19 employment; and

20 (9) Service performed by an individual for another person
21 as a real estate salesperson or as a real estate
22 broker, if all the service performed by the individual



1 for the other person is performed for remuneration
2 solely by way of commission[~~-~~];

3 (10) Service performed by a partner of a partnership for
4 the partnership, as defined in section 425-101, if the
5 partner is an individual; provided that no employer
6 shall require an employee to become a partner as a
7 condition of employment;

8 (11) Service performed by a partner of a limited liability
9 partnership, if the partner is an individual and has a
10 transferable interest, within the meaning of section
11 425-127, in the partnership of at least fifty per
12 cent; provided that no employer shall require an
13 employee to form a limited liability partnership as a
14 condition of employment;

15 (12) Service performed by a member of a limited liability
16 company, if the member is an individual and has a
17 distributional interest, within the meaning of section
18 428-501, in the limited liability company of at least
19 fifty per cent; provided that no employer shall
20 require an employee to form a limited liability
21 company as a condition of employment; and



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1 (13) Service performed by a sole proprietor for the sole
 2 proprietorship.

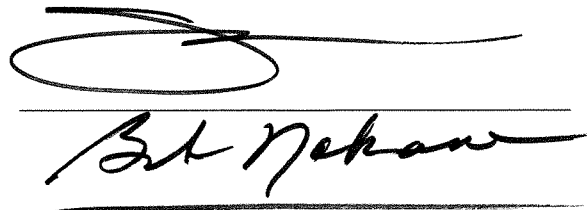
3 As used in this paragraph, "religious, charitable, educational,
 4 or nonprofit organization" means a corporation, unincorporated
 5 association, community chest, fund, or foundation organized and
 6 operated exclusively for religious, charitable, or educational
 7 purposes, no part of the net earnings of which inure to the
 8 benefit of any private shareholder or individual."

9 SECTION 2. Statutory material to be repealed is bracketed
 10 and stricken. New statutory material is underscored.

11 SECTION 3. This Act shall take effect upon its approval.

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INTRODUCED BY:



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JAN 09 2008



Report Title:

Workers' Compensation; Employment Exclusion

Description:

Excludes services for a limited liability company or limited liability partnership from the definition of "employment" if the person performing services has a fifty per cent or higher transferable interest in the limited liability company or limited liability partnership.

