
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~~] shall 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~~]
21 Title 42 Code of Federal Regulations [~~sections~~]
22 Sections 440.180 and 441.300, and [~~title~~] Title 42



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

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

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

21 (9) Service performed by an individual for another person
22 as a real estate salesperson or as a real estate



1 broker, if all the service performed by the individual
2 for the other person is performed for remuneration
3 solely by way of commission[-];

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

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

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



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 on July 1, 2059.



Report Title:

Workers' Compensation; Employment Exclusion

Description:

Excludes services for a limited liability company (LLC) or limited liability partnership (LLP) from the definition of "employment" in the workers' compensation law if the person performing services has a 50 percent or higher transferable interest in the LLC or LLP. Effective 07/01/2059. (HB1969 HD1)

