

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
92nd General Assembly
Regular Session, 2019

A Bill

SENATE BILL 469

By: Senator B. Ballinger
By: Representative Dalby

For An Act To Be Entitled

AN ACT CONCERNING THE LIABILITY OF CERTAIN
INDIVIDUALS WITH AN INTEREST IN REAL PROPERTY FOR THE
CRIMINAL ACTS OF THIRD PARTIES; TO DECLARE AN
EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

CONCERNING THE LIABILITY OF CERTAIN
INDIVIDUALS WITH AN INTEREST IN REAL
PROPERTY FOR THE CRIMINAL ACTS OF THIRD
PARTIES; AND TO DECLARE AN EMERGENCY.

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

SECTION 1. DO NOT CODIFY. Legislative intent.

The General Assembly finds that:

(1) Owners of real property, landlords, tenants, or others having an interest in real property do not have a duty to protect an employee or tenant on the real property from the criminal acts of third parties as held by the Court of Appeals in Park Plaza Mall CMBS, LLC v. Powell, 2018 Ark. App. 48.;

(2) Criminal acts committed by third parties are not reasonably foreseeable; and

(3) The existing public policy of the State of Arkansas is that the owners of real property, landlords, tenants, or others having an interest in real property do not have a duty to protect or safeguard an employee or tenant against the criminal acts of third parties.



SECTION 2. Arkansas Code Title 18, Chapter 11, Subchapter 1, is amended to add an additional section to read as follows:

18-11-107. Liability for criminal acts.

(a) A criminal act committed on real property by a third party is not foreseeable in any circumstance by a person having an interest in the real property, including without limitation:

- (1) An owner;
- (2) A landlord;
- (3) A tenant; or
- (4) A lienholder.

(b) Except as provided in subsection (c) of this section, a person having an interest in real property shall not be liable to a licensee, invitee, trespasser, employee, agent, or any other person for the unforeseeable criminal acts of a third party committed on his or her real property.

(c) This section does not:

- (1) Establish or repeal the doctrine of infra hospitium, which means in the care or custody of the innkeeper, or change the liability of an innkeeper or the operator of a public lodging; and
- (2) Expand or reduce the obligation or liabilities of an employer or principal for criminal acts committed under the doctrine of respondeat superior which makes the principal liable to a third party for any loss caused by the principal's agent.

SECTION 3. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that this act is necessary to prevent claims of liability against parties that are exempt from liability as a matter of public policy of the State of Arkansas. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

- (1) The date of its approval by the Governor;
- (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.