

State of Arkansas
94th General Assembly
Regular Session, 2023

A Bill

HOUSE BILL 1147

By: Representative Vaught

By: Senator Hester

For An Act To Be Entitled

AN ACT TO AMEND THE REAL ESTATE LICENSE LAW; TO
CREATE AN EXEMPTION FOR ARKANSAS LICENSED RESIDENTIAL
CONSTRUCTION COMPANIES; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE REAL ESTATE LICENSE LAW; AND
TO CREATE AN EXEMPTION FOR ARKANSAS
LICENSED RESIDENTIAL CONSTRUCTION
COMPANIES.

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

SECTION 1. Arkansas Code § 17-42-104(a), concerning exemptions to the Real Estate License Law, is amended to add an additional subdivision to read as follows:

(11)(A) A person employed by an Arkansas licensed residential construction company if:

(i) The employee provides a written disclosure to any purchaser involved in the possible or actual sale of newly constructed and never occupied residential real estate:

(a) Stating that the:

(1) Employee is acting exclusively on behalf of his or her employer who is the Arkansas licensed residential construction company; and

(2) Purchaser has a right to be represented by his or her own licensed real estate agent or legal counsel;



and

(b) The employer shall maintain the written disclosure for seven (7) years after delivery;

(ii) The primary business activity of the Arkansas licensed residential construction company is not an activity described under § 17-42-103(10);

(iii) The employee is not providing real estate services to or on behalf of more than one (1) entity not wholly owned by the Arkansas licensed residential construction company; and

(iv) The Arkansas licensed residential construction company employs a principal broker, as defined under § 17-42-103(10), who shall be responsible for the conduct of any persons identified in this subdivision (a)(11) in the same manner as if such person was a licensee, as defined under § 17-42-103(8).

(B) A person or Arkansas licensed residential construction company asserting or utilizing the exemption under subdivision (a)(11)(A) of this section shall have the burden of proving a person is an employee, or is employed by the Arkansas licensed residential construction company as that term is used in state and federal income tax, social security and for other purposes.

(C) As used in this section, "Arkansas licensed residential construction company" means:

(i) A construction company that:

(a) Owns or leases newly constructed and never occupied single family residential real estate;

(b) Has the sole business of developing, constructing, or selling newly constructed and never occupied single family residential real estate; and

(c) Is licensed in Arkansas; or

(ii) An entity wholly owned by the Arkansas licensed residential construction company in connection with the proposed purchase or sale of single family residential real estate that:

(a) Is wholly owned by the Arkansas licensed residential construction company or entity;

(b) Has the sole business of developing, constructing, or selling newly constructed and never occupied single family

residential real estate; and

(c) Is licensed in Arkansas.

SECTION 2. Arkansas Code § 17-42-104, concerning exemptions to the Real Estate License Law, is amended to add an additional subsection to read as follows:

(d) The commission may waive certain requirements under § 17-42-101 et seq., for a principal broker employed by an Arkansas residential construction company under this section.

SECTION 3. DO NOT CODIFY. Rules implementing this act.

(a) The Arkansas Real Estate Commission shall promulgate rules necessary to implement this act.

(b)(1) When adopting the initial rules to implement this act, the final rule shall be filed with the Secretary of State for adoption under § 25-15-204(f):

(A) On or before January 1, 2024; or

(B) If approval under § 10-3-309 has not occurred by January 1, 2024, as soon as practicable after approval under § 10-3-309.

(2) The commission shall file the proposed rule with the Legislative Council under § 10-3-309(c) sufficiently in advance of January 1, 2024, so that the Legislative Council may consider the rule for approval before January 1, 2024.