

S.B. NO. 2833

JAN 25 2012

A BILL FOR AN ACT

RELATING TO EMPLOYMENT EXEMPTION FOR DOMESTIC SERVICES FOR PERSONS WITH DEVELOPMENTAL AND INTELLECTUAL DISABILITIES.

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

1 SECTION 1. Section 383-7, Hawaii Revised Statutes, is
2 amended by amending by amending subsection (a) to read as
3 follows:

4 "(a) "Employment" shall not include:

5 (1) Agricultural labor as defined in section 383-9 if it
6 is performed by an individual who is employed by an
7 employing unit:

8 (A) That, during each calendar quarter in both the
9 current and the preceding calendar years, paid
10 less than \$20,000 in cash remuneration to
11 individuals employed in agricultural labor,
12 including labor performed by an alien referred to
13 in subparagraph (C); and

14 (B) That had, in each of the current and the
15 preceding calendar years:

16 (i) No more than nineteen calendar weeks,
17 whether consecutive or not, in which

- 1 agricultural labor was performed by its
2 employees, including labor performed by an
3 alien referred to in subparagraph (C); or
4 (ii) No more than nine individuals in its employ
5 performing agricultural labor in any one
6 calendar week, whether or not the same
7 individuals performed the labor in each
8 week, including labor performed by an alien
9 referred to in subparagraph (C); or
10 (C) If such agricultural labor is performed by an
11 individual who is an alien admitted to the United
12 States to perform agricultural labor pursuant to
13 sections 214(c) and 101(a)(15)(H) of the
14 Immigration and Nationality Act;
15 (2) Domestic service in a private home, local college
16 club, or local chapter of a college fraternity or
17 sorority as set forth in section 3306(c)(2) of the
18 Internal Revenue Code of 1986, as amended;
19 (3) Service not in the course of the employing unit's
20 trade or business performed in any calendar quarter by
21 an individual, unless the cash remuneration paid for
22 the service is \$50 or more and the service is
23 performed by an individual who is regularly employed

1 by the employing unit to perform the service. For the
2 purposes of this paragraph, an individual shall be
3 deemed to be regularly employed to perform service not
4 in the course of an employing unit's trade or business
5 during a calendar quarter if:

6 (A) On each of some twenty-four days during the
7 quarter the individual performs the service for
8 some portion of the day; or

9 (B) The individual was regularly employed as
10 determined under subparagraph (A) by the
11 employing unit in the performance of the service
12 during the preceding calendar quarter;

13 (4) (A) Service performed on or in connection with a
14 vessel not an American vessel, if the individual
15 performing the service is employed on and in
16 connection with the vessel when outside the
17 United States;

18 (B) Service performed by an individual in (or as an
19 officer or member of the crew of a vessel while
20 it is engaged in) the catching, taking,
21 harvesting, cultivating, or farming of any kind
22 of fish, shellfish, crustacea, sponges, seaweeds,
23 or other aquatic forms of animal and vegetable

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1 life, including service performed as an ordinary
2 incident thereto, except:

3 (i) The service performed in connection with a
4 vessel of more than ten net tons (determined
5 in the manner provided for determining the
6 register tonnage of merchant vessels under
7 the laws of the United States);

8 (ii) The service performed in connection with a
9 vessel of ten net tons or less (determined
10 in the manner provided for determining the
11 register tonnage of merchant vessels under
12 the laws of the United States) by an
13 individual who is employed by an employing
14 unit which had in its employ one or more
15 individuals performing the service for some
16 portion of a day in each of twenty calendar
17 weeks all occurring, whether consecutive or
18 not, in either the current or the preceding
19 calendar year; and

20 (iii) Service performed in connection with the
21 catching or taking of salmon or halibut for
22 commercial purposes;

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- 1 (5) Service performed by an individual in the employ of
2 the individual's son, daughter, or spouse, and service
3 performed by a child under the age of twenty-one in
4 the employ of the child's father or mother;
- 5 (6) Service performed in the employ of the United States
6 government or an instrumentality of the United States
7 exempt under the Constitution of the United States
8 from the contributions imposed by this chapter, except
9 that to the extent that the Congress of the United
10 States permits states to require any instrumentalities
11 of the United States to make payments into an
12 unemployment fund under a state unemployment
13 compensation law, all of the provisions of this
14 chapter shall apply to those instrumentalities, and to
15 services performed for those instrumentalities, in the
16 same manner, to the same extent, and on the same terms
17 as to all other employers, employing units,
18 individuals, and services; provided that if this State
19 is not certified for any year by the Secretary of
20 Labor under section 3304(c) of the federal Internal
21 Revenue Code, the payments required of those
22 instrumentalities with respect to that year shall be
23 refunded by the department of labor and industrial

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1 relations from the fund in the same manner and within
2 the same period as is provided in section 383-76 with
3 respect to contributions erroneously collected;

4 (7) Service performed in the employ of any other state, or
5 any political subdivision thereof, or any
6 instrumentality of any one or more of the foregoing
7 which is wholly owned by one or more states or
8 political subdivisions; and any service performed in
9 the employ of any instrumentality of one or more other
10 states or their political subdivisions to the extent
11 that the instrumentality is, with respect to the
12 service, exempt from the tax imposed by section 3301
13 of the Internal Revenue Code of 1986, as amended;

14 (8) Service with respect to which unemployment
15 compensation is payable under an unemployment system
16 established by an act of Congress;

17 (9) (A) Service performed in any calendar quarter in the
18 employ of any organization exempt from income tax
19 under section 501(a) of the federal Internal Revenue
20 Code (other than an organization described in section
21 401(a) or under section 521 of the Internal Revenue
22 Code), if:

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- 1 (i) The remuneration for the service is less
- 2 than \$50; or
- 3 (ii) The service is performed by a fully
- 4 ordained, commissioned, or licensed minister
- 5 of a church in the exercise of the
- 6 minister's ministry or by a member of a
- 7 religious order in the exercise of duties
- 8 required by the order;
- 9 (B) Service performed in the employ of a school,
- 10 college, or university, if the service is
- 11 performed by a student who is enrolled and is
- 12 regularly attending classes at the school,
- 13 college, or university; or
- 14 (C) Service performed by an individual who is
- 15 enrolled at a nonprofit or public educational
- 16 institution which normally maintains a regular
- 17 faculty and curriculum and normally has a
- 18 regularly organized body of students in
- 19 attendance at the place where its educational
- 20 activities are carried on as a student in a full-
- 21 time program, taken for credit at the
- 22 institution, which combines academic instruction
- 23 with work experience, if the service is an

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1 integral part of such program, and the
2 institution has so certified to the employer,
3 except that this subparagraph shall not apply to
4 service performed in a program established for or
5 on behalf of an employer or group of employers;

6 (10) Service performed in the employ of a foreign
7 government, including service as a consular or other
8 officer or employee of a nondiplomatic representative;

9 (11) Service performed in the employ of an instrumentality
10 wholly owned by a foreign government:

11 (A) If the service is of a character similar to that
12 performed in foreign countries by employees of
13 the United States government or of an
14 instrumentality thereof; and

15 (B) If the United States Secretary of State has
16 certified or certifies to the United States
17 Secretary of the Treasury that the foreign
18 government, with respect to whose instrumentality
19 exemption is claimed, grants an equivalent
20 exemption with respect to similar service
21 performed in the foreign country by employees of
22 the United States government and of
23 instrumentalities thereof;

- 1 (12) Service performed as a student nurse in the employ of
2 a hospital or a nurses' training school by an
3 individual who is enrolled and is regularly attending
4 classes in a nurses' training school chartered or
5 approved pursuant to state law; and service performed
6 as an intern in the employ of a hospital by an
7 individual who has completed a four-year course in a
8 medical school chartered or approved pursuant to state
9 law;
- 10 (13) Service performed by an individual for an employing
11 unit as an insurance producer, if all service
12 performed by the individual for the employing unit is
13 performed for remuneration solely by way of
14 commission;
- 15 (14) Service performed by an individual under the age of
16 eighteen in the delivery or distribution of newspapers
17 or shopping news, not including delivery or
18 distribution to any point for subsequent delivery or
19 distribution;
- 20 (15) Service covered by an arrangement between the
21 department and the agency charged with the
22 administration of any other state or federal
23 unemployment compensation law pursuant to which all

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1 services performed by an individual for an employing
2 unit during the period covered by the employing unit's
3 duly approved election, are deemed to be performed
4 entirely within the agency's state;

5 (16) Service performed by an individual who, pursuant to
6 the Federal Economic Opportunity Act of 1964, is not
7 subject to the federal laws relating to unemployment
8 compensation;

9 (17) Service performed by an individual for an employing
10 unit as a real estate salesperson, if all service
11 performed by the individual for the employing unit is
12 performed for remuneration solely by way of
13 commission;

14 (18) Service performed by a registered sales representative
15 for a registered travel agency, when the service
16 performed by the individual for the travel agent is
17 performed for remuneration by way of commission;

18 (19) Service performed by a vacuum cleaner salesperson for
19 an employing unit, if all services performed by the
20 individual for the employing unit are performed for
21 remuneration solely by way of commission;

22 (20) Service performed for a family-owned private
23 corporation organized for profit that employs only

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1 members of the family who each own at least fifty per
2 cent of the shares issued by the corporation; provided
3 that:

4 (A) The private corporation elects to be excluded
5 from coverage under this chapter;

6 (B) The election for exclusion shall apply to all
7 shareholders and under the same circumstances;

8 (C) No more than two members of a family may be
9 eligible per entity for exclusion under this
10 paragraph;

11 (D) The exclusion shall be irrevocable for five
12 years;

13 (E) The family-owned private corporation presents to
14 the department proof that it has paid federal
15 unemployment insurance taxes as required by
16 federal law; and

17 (F) The election to be excluded from coverage shall
18 be effective the first day of the calendar
19 quarter in which the application and all
20 substantiating documents requested by the
21 department are filed with the department;

22 (21) Service performed by a direct seller as defined in
23 section 3508 of the Internal Revenue Code of 1986;

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- 1 (22) Service performed by an election official or election
2 worker as defined in section 3309(b)(3)(F) of the
3 Internal Revenue Code of 1986, as amended;
- 4 (23) Service performed by an inmate or any person committed
5 to a penal institution[; and]
- 6 (24) Domestic in-home and community-based services for
7 persons with developmental and intellectual
8 disabilities under the medicaid home and
9 community-based services program pursuant to Title 42
10 Code of Federal Regulations sections 440.180 and
11 441.300, and Title 42 Code of Federal Regulations,
12 Part 434, Subpart A, as amended, or when provided
13 through state funded medical assistance to individuals
14 ineligible for medicaid, and identified as chore,
15 personal assistance and habilitation, residential
16 habilitation, supported employment, respite, and
17 skilled nursing services, as the terms are defined and
18 amended from time to time by the department of human
19 services, performed by an individual whose services
20 are contracted by a recipient of social service
21 payments and who voluntarily agrees in writing to be
22 an independent contractor of the recipient of social
23 service payments unless the individual is an employee

1 and not an independent contractor of the recipient of
2 social service payments under the Federal Unemployment
3 Tax Act."

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

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

13 "Employment" does not include:

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

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

21 (3) Service for a school, college, university, college
22 club, fraternity, or sorority if performed by a
23 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, in-home and community-based services for
15 persons with developmental and intellectual
16 disabilities under the medicaid home and community-
17 based services program pursuant to Title 42 Code of
18 Federal Regulations sections 440.180 and 441.300, and
19 Title 42 Code of Federal Regulations, Part 434,
20 Subpart A, as amended, or when provided through state
21 funded medical assistance to individuals ineligible
22 for medicaid, and identified as chore, personal
23 assistance and habilitation, residential habilitation,

1 supported employment, respite, and skilled nursing
2 services, as the terms are defined by the department
3 of human services, performed by an individual whose
4 services are contracted by a recipient of social
5 service payments and who voluntarily agrees in writing
6 to be an independent contractor of the recipient of
7 social service payments;

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

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

17 (9) Service performed by an individual for another person
18 as a real estate salesperson or as a real estate
19 broker, if all the service performed by the individual
20 for the other person is performed for remuneration
21 solely by way of commission;

22 (10) Service performed by a member of a limited liability
23 company if the member is an individual and has a

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1 distributonal interest, as defined in section 428-
2 101, of not less than fifty per cent in the company;
3 provided that no employer shall require an employee to
4 form a limited liability company as a condition of
5 employment;

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

11 (12) Service performed by a partner of a limited liability
12 partnership if the partner is an individual and has a
13 transferable interest as described in section 425-127
14 in the partnership of not less than fifty per cent;
15 provided that no employer shall require an employee to
16 form a limited liability partnership as a condition of
17 employment; and

18 (13) Service performed by a sole proprietor.

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

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

3 SECTION 3. Section 392-5, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "§392-5 Excluded services. "Employment" as defined in
6 section 392-3 shall not include:

7 (1) Domestic service in a private home, local college
8 club, or local chapter of a college fraternity or
9 sorority, performed in any calendar quarter by an
10 individual if the cash remuneration paid by the
11 employer for such service is less than \$225;

12 (2) Service not in the course of the employer's trade or
13 business performed in any calendar quarter by an
14 individual, unless the cash remuneration paid for the
15 service is \$50 or more and the service is performed by
16 an individual who is regularly employed by the
17 employer to perform the service. An individual shall
18 be deemed to be regularly employed to perform service
19 not in the course of the employer's trade or business
20 during a calendar quarter only if:

21 (A) On each of some twenty-four days during the
22 quarter the individual performs the service for
23 some portion of the day; or

- 1 (B) The individual was regularly employed, as
2 determined under subparagraph (A), by the
3 employer in the performance of the service during
4 the preceding calendar quarter;
- 5 (3) Service performed on or in connection with a vessel
6 not an American vessel, if the individual performing
7 the service is employed on and in connection with the
8 vessel when outside the United States;
- 9 (4) Service performed by an individual in (or as an
10 officer or member of the crew of a vessel while it is
11 engaged in) the catching, taking, harvesting,
12 cultivating, or farming of any kind of fish,
13 shellfish, crustacea, sponges, seaweeds, or other
14 aquatic forms of animal and vegetable life, including
15 service performed as an ordinary incident thereto,
16 except:
- 17 (A) The service performed in connection with a vessel
18 of more than ten net tons (determined in the
19 manner provided for determining the register
20 tonnage of merchant vessels under the laws of the
21 United States);
- 22 (B) The service performed in connection with a vessel
23 of ten net tons or less (determined in the manner

1 provided for determining the register tonnage of
2 merchant vessels under the laws of the United
3 States) by an individual who is employed by an
4 employer who, for some portion in each of twenty
5 different calendar weeks in either the current or
6 preceding calendar year, had in the employer's
7 employ one or more persons performing the
8 service, whether or not the weeks were
9 consecutive and whether or not the same
10 individuals performed the service in each week;
11 and

12 (C) The service performed in connection with the
13 catching or taking of salmon or halibut for
14 commercial purposes;

15 (5) Service performed by an individual in the employ of
16 the individual's son, daughter, or spouse, and service
17 performed by a child under the age of twenty-one in
18 the employ of the child's father or mother;

19 (6) Service performed in the employ of the United States
20 government or an instrumentality of the United States
21 exempt under the Constitution of the United States
22 from the contributions imposed by this chapter;

1 (7) Service performed in the employ of any other state, or
2 any political subdivision thereof, or any
3 instrumentality of any one or more of the foregoing
4 that is wholly owned by one or more such states or
5 political subdivisions; and any service performed in
6 the employ of any instrumentality of one or more other
7 states or their political subdivisions to the extent
8 that the instrumentality is, with respect to such
9 service, exempt from the tax imposed by section 3301
10 of the Internal Revenue Code of 1986;

11 (8) Service with respect to which temporary disability
12 compensation is payable for sickness under a temporary
13 disability insurance system established by an act of
14 Congress;

15 (9) Service performed in any calendar quarter in the
16 employ of any nonprofit organization exempt from
17 income tax under section 501 of the Internal Revenue
18 Code of 1986, if:

19 (A) The remuneration for such service is less than
20 \$50;

21 (B) The service is performed by a student who is
22 enrolled and is regularly attending classes at a
23 school, college, or university;

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- 1 (C) The service is performed by a duly ordained,
2 commissioned, or licensed minister or licensed
3 minister of a church in the exercise of the
4 minister's ministry or by a member of a religious
5 order in the exercise of nonsecular duties
6 required by the order; or
- 7 (D) The service is performed for a church by an
8 employee who fails to meet the eligibility
9 requirements of section 392-25;
- 10 (10) Service performed in the employ of a voluntary
11 employees' beneficiary association providing for the
12 payment of life, sick, accident, or other benefits to
13 the members of the association or their dependents,
14 if:
- 15 (A) No part of its net earnings inures (other than
16 through such payments) to the benefit of any
17 private shareholder or individual; and
- 18 (B) Eighty-five per cent or more of its income
19 consists of amounts collected from members and
20 amounts contributed by the employer of the
21 members for the sole purpose of making such
22 payments and meeting expenses;

- 1 (11) Service performed in the employ of a voluntary
2 employee's beneficiary association providing for the
3 payment of life, sick, accident, or other benefits to
4 the members of the association or their dependents or
5 their designated beneficiaries, if:
- 6 (A) Admission to membership in the association is
7 limited to individuals who are officers or
8 employees of the United States government; and
- 9 (B) No part of the net earnings of the association
10 inures (other than through such payments) to the
11 benefit of any private shareholder or individual;
- 12 (12) Service performed in the employ of a school, college,
13 or university, not exempt from income tax under
14 section 501 of the Internal Revenue Code of 1986, if
15 the service is performed by a student who is enrolled
16 and is regularly attending classes at the school,
17 college, or university;
- 18 (13) Service performed in the employ of any instrumentality
19 wholly owned by a foreign government, if:
- 20 (A) The service is of a character similar to that
21 performed in foreign countries by employees of
22 the United States government or of an
23 instrumentality thereof; and

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- 1 (B) The United States Secretary of State has
2 certified or certifies to the United States
3 Secretary of the Treasury that the foreign
4 government, with respect to whose instrumentality
5 exemption is claimed, grants an equivalent
6 exemption with respect to similar service
7 performed in the foreign country by employees of
8 the United States government and of
9 instrumentalities thereof;
- 10 (14) Service performed as a student nurse in the employ of
11 a hospital or a nurses' training school by an
12 individual who is enrolled and is regularly attending
13 classes in a nurses' training school chartered or
14 approved pursuant to state law; and service performed
15 as an intern in the employ of a hospital by an
16 individual who has completed a four years' course in a
17 medical school chartered or approved pursuant to state
18 law;
- 19 (15) Service performed by an individual for an employer as
20 an insurance producer, if all such service performed
21 by the individual for the employer is performed for
22 remuneration solely by way of commission;

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- 1 (16) Service performed by an individual under the age of
2 eighteen in the delivery or distribution of newspapers
3 or shopping news, not including delivery or
4 distribution to any point for subsequent delivery or
5 distribution;
- 6 (17) Service covered by an arrangement between the
7 department and the agency charged with the
8 administration of any other state or federal
9 unemployment compensation law pursuant to which all
10 services performed by an individual for an employer
11 during the period covered by the employer's duly
12 approved election, are deemed to be performed entirely
13 within the agency's state;
- 14 (18) Service performed by an individual who, pursuant to
15 the Federal Economic Opportunity Act of 1964, is not
16 subject to the federal laws relating to unemployment
17 compensation;
- 18 (19) Domestic in-home and community-based services for
19 persons with developmental and intellectual
20 disabilities under the medicaid home and community-
21 based services program pursuant to Title 42 Code of
22 Federal Regulations sections 440.180 and 441.300, and
23 Title 42 Code of Federal Regulations, Part 434,

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1 Subpart A, as amended, or when provided through state
2 funded medical assistance to individuals ineligible
3 for medicaid, and identified as chore, personal
4 assistance and habilitation, residential habilitation,
5 supported employment, respite, and skilled nursing
6 services, as the terms are defined by the department
7 of human services, performed by an individual whose
8 services are contracted by a recipient of social
9 service payments and who voluntarily agrees in writing
10 to be an independent contractor of the recipient of
11 social service payments;

12 (20) Service performed by a vacuum cleaner salesperson for
13 an employing unit, if all such services performed by
14 the individual for such employing unit are performed
15 for remuneration solely by way of commission; or

16 (21) Service performed by an individual for an employer as
17 a real estate salesperson or as a real estate broker,
18 if all the service performed by the individual for the
19 employer is performed for remuneration solely by way
20 of commission."

21 SECTION 4. Section 393-5, Hawaii Revised Statutes, is
22 amended to read as follows:

1 "§393-5 Excluded services. "Employment" as defined in
2 section 393-3 does not include:

3 (1) Service performed by an individual in the employ of an
4 employer who, by the laws of the United States, is
5 responsible for care and cost in connection with such
6 service;

7 (2) Service performed by an individual in the employ of
8 individual's spouse, son, or daughter, and service
9 performed by an individual under the age of twenty-one
10 in the employ of the individual's father or mother;

11 (3) Service performed in the employ of a voluntary
12 employee's beneficiary association providing for the
13 payment of life, sick, accident, or other benefits to
14 the members of the association or their dependents or
15 their designated beneficiaries, if:

16 (A) Admission to membership in the association is
17 limited to individuals who are officers or
18 employees of the United States government; and

19 (B) No part of the net earnings of the association
20 inures (other than through such payments) to the
21 benefits of any private shareholder or
22 individual;

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- 1 (4) Service performed by an individual for an employer as
2 an insurance agent or as an insurance solicitor if all
3 service performed by the individual for the employer
4 is performed for remuneration by way of commission;
- 5 (5) Service performed by an individual for an employer as
6 a real estate salesperson or as a real estate broker
7 if all service performed by the individual for the
8 employer is performed for remuneration by way of
9 commission;
- 10 (6) Service performed by an individual who, pursuant to
11 the Federal Economic Opportunity Act of 1964, is not
12 subject to the provisions of law relating to federal
13 employment, including unemployment compensation; [and]
- 14 (7) Domestic in-home and community-based services for
15 persons with developmental and intellectual
16 disabilities under the medicaid home and community-
17 based services program pursuant to Title 42 Code of
18 Federal Regulations sections 440.180 and 441.300, and
19 Title 42 Code of Federal Regulations, Part 434,
20 Subpart A, as amended, or when provided through state
21 funded medical assistance to individuals ineligible
22 for medicaid, and identified as chore, personal
23 assistance and habilitation, residential habilitation,

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1 supported employment, respite, and skilled nursing
2 services, as the terms are defined and amended from
3 time to time by the department of human services,
4 performed by an individual whose services are
5 contracted by a recipient of social service payments
6 and who voluntarily agrees in writing to be an
7 independent contractor of the recipient of social
8 service payments."

9 SECTION 5. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 6. This Act shall take effect upon its approval.

12

13

INTRODUCED BY:



14

BY REQUEST

15

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Report Title:

Employment Exemption for Domestic Services.

Description:

Amends the definition of "employment" in various sections of the Hawaii Revised Statutes by clarifying the "domestic services" exclusion for services to persons with developmental and intellectual disabilities.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

JUSTIFICATION SHEET

DEPARTMENT: Health

TITLE: A BILL FOR AN ACT RELATING TO EMPLOYMENT EXEMPTION FOR DOMESTIC SERVICES FOR PERSONS WITH DEVELOPMENTAL AND INTELLECCUTAL DISABILITIES.

PURPOSE: To clarify the language relating to the exclusion of home and community based services from the definition of "employment" for purposes of unemployment insurance, workers compensation, temporary disability insurance, and the prepaid health care act.

MEANS: Amend sections 383-7, 386-1, 392-5, and 393-5, Hawaii Revised Statutes.

JUSTIFICATION: Sections 383-7, 386-1, 392-5, and 393-5, Hawaii Revised Statutes, exempt recipients of federally funded social service payments with developmental and intellectual disabilities from providing unemployment insurance, workers compensation, temporary disability insurance, and pre-paid health care. This bill will provide clarification by exempting recipients of DHS state-funded home and community based services, from having to provide unemployment insurance, workers compensation, temporary disability insurance, and pre-paid health care. This exemption will allow greater access to home and community based services to needy individuals.

Impact on the public: Client to fill in.

Impact on the department and other agencies: Client to fill in.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: HTH

OTHER AFFECTED AGENCIES: Department of Labor and Industrial Relations.

EFFECTIVE DATE: July 1, 2012.