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**HOUSE BILL NO. 2272**

Offered January 14, 2009

Prefiled January 14, 2009

A *BILL to amend and reenact § 65.2-302 of the Code of Virginia, relating to statutory employers; licensed sole proprietors as subcontractors.*

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Patron—Poindexter

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Referred to Committee on Commerce and Labor

**Be it enacted by the General Assembly of Virginia:****1. That § 65.2-302 of the Code of Virginia is amended and reenacted as follows:**

§ 65.2-302. Statutory employer.

A. When any person (referred to in this section as "owner") undertakes to perform or execute any work which is a part of his trade, business or occupation and contracts with any other person (referred to in this section as "subcontractor") for the execution or performance by or under such subcontractor of the whole or any part of the work undertaken by such owner, the owner shall be liable to pay to any worker employed in the work any compensation under this title which he would have been liable to pay if the worker had been immediately employed by him.

B. When any person (referred to in this section as "contractor") contracts to perform or execute any work for another person which work or undertaking is not a part of the trade, business or occupation of such other person and contracts with any other person (referred to in this section as "subcontractor") for the execution or performance by or under the subcontractor of the whole or any part of the work undertaken by such contractor, then the contractor shall be liable to pay to any worker employed in the work any compensation under this title which he would have been liable to pay if that worker had been immediately employed by him.

C. When the subcontractor in turn contracts with still another person (also referred to as "subcontractor") for the performance or execution by or under such last subcontractor of the whole or any part of the work undertaken by the first subcontractor, then the liability of the owner or contractor shall be the same as the liability imposed by subsections A and B of this section.

D. 1. Liability for compensation pursuant to this section may not be imposed against any person who, at the time of an injury sustained by a worker engaged in the maintenance or repair of real property managed by such person, and for which injury compensation is sought:

a. Was engaged in the business of property management on behalf of the owners of such property and was acting merely as an agent of the owner;

b. Did not engage in and had no employees engaged in the same trade, business or occupation as the worker seeking compensation; and

c. Did not seek or obtain from such property's owners, or from any other property owners for whom such person rendered property management services, profit from the services performed by individuals engaged in the same trade, business or occupation as the worker seeking compensation.

2. For purposes of this subsection, "the business of property management" means the oversight, supervision, and care of real property or improvements to real property, on behalf of such property's owners.

3. For purposes of this subsection, "property owners" or "property's owners" means (i) owners in fee of such property or (ii) persons having legal entitlement to the use or occupation of such property at the time of the injury for which liability is sought to be imposed pursuant to this section.

E. *Liability for compensation pursuant to this section shall not be imposed against any owner who contracts with a subcontractor for the execution or performance by the subcontractor of the whole or any part of the work undertaken by such owner for any injury sustained by the subcontractor, and such owner shall have no duty pursuant to Chapter 8 (§ 65.2-800 et seq.) to insure payment of compensation to such subcontractor, if the subcontractor is an individual who conducts business as a sole proprietorship licensed by the Commonwealth to execute or perform the work for which the owner contracted with him and has no employees or subcontractors engaged in the same trade for which he is licensed.*

INTRODUCED

HB2272