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**HOUSE BILL NO. 969**

Offered January 10, 2018

Prefiled January 9, 2018

A *BILL to amend and reenact § 65.2-302 of the Code of Virginia, relating to workers' compensation; statutory employers.*

Patron—Davis

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. *However, such an owner shall have no liability under this subsection, 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 not an employer subject to the compensation provisions of this title or otherwise required to insure the payment of compensation to the subcontractor's employees in the manner provided in Chapter 8.*

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. *However, such a contractor shall have no liability under this subsection, and such contractor 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 not an employer subject to the compensation provisions of this title or otherwise required to insure the payment of compensation to the subcontractor's employees in the manner provided in Chapter 8.*

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. *However, such a subcontractor shall have no liability under this subsection, and such subcontractor shall have no duty pursuant to Chapter 8 (§ 65.2-800 et seq.) to insure payment of compensation to such person, if the person with which it contracts is not an employer subject to the compensation provisions of this title or otherwise required to insure the payment of compensation to the person's employees in the manner provided in Chapter 8.*

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.

INTRODUCED

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