



March 17, 2022

The Honorable Frank A. Ciccone III
Chair
Senate Committee on Labor

RE: S 2488 — “An Act Relating to Labor and Labor relations—Payment of Wages—Employee Records”

Dear Chairman Ciccone and Committee Members:

On behalf of the more than 6,000 members of the Rhode Island Association of REALTORS® (RIAR), thank you for accepting testimony and affording our organization with the opportunity to comment on S 2488. The legislation before you would require all employers to provide details and conditions of employment and pay stubs explaining wage calculation. An employee may also take legal action against an employer for violation of the provisions stated in S 2488.

RIAR seeks clarification relative to the intent of S 2488 and how the bill’s provisions will affect the independent contractor status of real estate professionals. The vast majority Rhode Island REALTORS® who are salespeople are classified as independent contractors. This classification is essential to the real estate industry, homeowners across Rhode Island and to the success of our state’s economy.

Our member’s ability to work as independent contractors is recognized in Rhode Island General Laws § 5-20.5-1:

(6) "Real estate salesperson" means and includes any person employed or engaged as an independent contractor by or on behalf of a licensed real estate broker to do or deal in any activity as included or comprehended by the definitions of a real estate broker in subsection (5) of this section, for compensation or otherwise.¹

Furthermore, Rhode Island General Laws § 28-29-2 exempts real estate salespersons who are classified as independent contractors from workers’ compensation and the state’s definition of employee:

(11) "Independent contractor" means a person who has filed a notice of designation as independent contractor with the director pursuant to § 28-29-17.1 or as otherwise found by the workers' compensation court.²

¹ <http://webserver.rilegislature.gov/Statutes/TITLE5/5-20.5/5-20.5-1.htm>

² <http://webserver.rilegislature.gov/Statutes/TITLE28/28-29/28-29-2.htm>

(1) The broker, salesperson, or appraiser, for purposes of workers' compensation, is engaged as an independent contractor associated with the person for whom services are performed;³

Finally, Rhode Island General Laws § 28-42-8 exempts real estate salespersons from the state's definition of "employment" related to employment security:

(10) Notwithstanding any provisions of titles 5 and 27, service performed by an individual as a real estate salesperson if all the service performed by that individual is performed for remuneration solely by way of commission;⁴

As you can see, S 2488 creates confusion and threatens workers' ability to be classified as independent contractors, including most real estate licensees in Rhode Island. While Rhode Island General Law § 28-14-1 exempts independent contractors from the legislation's mandates, an exemption provision for real estate salespersons like the aforementioned laws is missing.

RIAR recommends that the General Assembly either link S 2488 to an existing employee definition that classifies real estate professionals as independent contractors or include a new exemption in the legislation before you. Thus, RIAR opposes S 2488 as drafted.

Sincerely,



David A. Salvatore
Government Affairs Director

³ <http://webserver.rilegislature.gov/Statutes/TITLE28/28-29/28-29-7.1.htm>

⁴ <http://webserver.rilegislature.gov/Statutes/TITLE28/28-42/28-42-8.htm>