



2015-2016 General Assembly

HOUSE BILL 765: Regulatory Reform Act of 2015, Sec. 2.1: Exempt Small Business Entities Buying or Selling Entity- Owned Property

Committee:

Introduced by:

Analysis of: Sec. 2.1 of S.L. 2015-286

Date:

Prepared by: Trina Griffin
Staff Attorney

SUMMARY: *Sec. 2.1 of S.L. 2015-286 exempts from the real estate licensure requirement certain small businesses that are buying or selling entity-owned property. Current law prohibits a person or business entity from acting as a real estate broker without being licensed by the North Carolina Real Estate Commission. There are a number of exceptions to this requirement, such as for (i) businesses acting in the regular course of managing or investing property owned or leased by the business, including their officers and employees, general partners, and managers when those persons are engaged in acts for which the business entity would be exempt; (ii) certain services performed by an attorney; (iii) a trustee acting under the direction of a trust agreement; and (iv) an individual owner who personally leases or sells the person's own property.*

This section does two things with regard to the real estate licensure exemptions:

1) It provides that with regard to officers, employees, general partners, and managers of an exempt business entity, the exemption applies only to those individuals whose income is reported on IRS Form W-2 of the exempt corporation, partnership, or limited liability company.

2) It expands the exception for individuals associated with a business entity to include the following:

- Natural person owners of an exempt closely held business entity, defined as an LLC or a corporation that does not have more than two legal owners, at least one of whom is a natural person.*
- Officers, employees, managers, and member-managers whose income is reported on IRS Form W-2 of a closely held business entity if the entity is owned by a natural person either (i) owning 50% or more ownership interest in the closely held business entity and the exempt business entity, or (ii) owning 50% or more of a closely held business entity that owns 50% or more ownership interest in the exempt business entity.*

The provision further requires that a person conducting a real estate transaction under this exemption must provide written disclosure to all parties to the transaction.

This section became effective October 22, 2015.

Karen Cochrane-
Brown
Director



Research Division
(919) 733-2578