



General Assembly

February Session, 2012

**Raised Bill No. 5439**

LCO No. 1941

\*01941\_\_\_\_\_AGE\*

Referred to Committee on Aging

Introduced by:  
(AGE)

**AN ACT CONCERNING THE EMPLOYMENT STATUS OF PERSONS PROVIDING HOMEMAKER SERVICES, COMPANION SERVICES AND HOMEMAKER-HOME HEALTH AIDE SERVICES.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective January 1, 2013*) For purposes of chapter  
2 567 of the general statutes, a homemaker-companion agency, as  
3 defined in section 20-670 of the general statutes, registry, as defined in  
4 section 20-670 of the general statutes, or homemaker-home health aide  
5 agency, as defined in section 19a-490 of the general statutes, shall be  
6 deemed the employer of an individual such agency or registry  
7 supplied or referred to a consumer to provide (1) homemaker services,  
8 as defined in section 20-670 of the general statutes, (2) companion  
9 services, as defined in section 20-670 of the general statutes, or (3)  
10 homemaker-home health aide services, as defined in section 19a-490 of  
11 the general statutes, and such agency or registry shall be liable for the  
12 payment of unemployment contributions for such individual during  
13 the duration of time he or she provides said services to the consumer.

14 Sec. 2. (NEW) (*Effective January 1, 2013*) For purposes of chapter 558  
15 of the general statutes, a homemaker-companion agency, as defined in

16 section 20-670 of the general statutes, registry, as defined in section 20-  
17 670 of the general statutes, or homemaker-home health aide agency, as  
18 defined in section 19a-490 of the general statutes, shall be deemed the  
19 employer of an individual such agency or registry supplied or referred  
20 to a consumer to provide (1) homemaker services, as defined in section  
21 20-670 of the general statutes, (2) companion services, as defined in  
22 section 20-670 of the general statutes, or (3) homemaker-home health  
23 aide services, as defined in section 19a-490 of the general statutes, and  
24 such agency or registry shall be responsible for the payment of wages  
25 to such individual during the duration of time he or she provides said  
26 services to the consumer.

27 Sec. 3. (NEW) (*Effective January 1, 2013*) (a) As used in this section:

28 (1) "Homemaker-companion agency" means homemaker-  
29 companion agency, as defined in section 20-670 of the general statutes;

30 (2) "Registry" means registry, as defined in section 20-670 of the  
31 general statutes;

32 (3) "Homemaker-home health aide agency" means homemaker-  
33 home health aide agency, as defined in section 19a-490 of the general  
34 statutes;

35 (4) "Homemaker services" means homemaker services, as defined in  
36 section 20-670 of the general statutes;

37 (5) "Companion services" means companion services, as defined in  
38 section 20-670 of the general statutes;

39 (6) "Homemaker-home health aide services" means homemaker-  
40 home health aide services, as defined in section 19a-490 of the general  
41 statutes;

42 (7) "Consumer" means an individual receiving homemaker services,  
43 companion services or homemaker-home health aid services from a  
44 homemaker-companion agency, registry or homemaker-home health

45 aide agency; and

46 (8) "Covered provider" means a homemaker-companion agency,  
47 registry, or homemaker-home health aide agency providing  
48 homemaker services, companion services or homemaker-home health  
49 aid services.

50 (b) For purposes of chapter 568 of the general statutes, an individual  
51 supplied or referred by a covered provider to a consumer to provide  
52 homemaker services, companion services or homemaker-home health  
53 aid services shall be deemed an employee of (1) except as provided in  
54 subdivision (2) of this subsection, such covered provider, regardless of  
55 the number of hours worked, and shall be liable for compensation  
56 under chapter 568 of the general statutes for such individual during  
57 the duration of time he or she provides said services to the consumer,  
58 and (2) such consumer solely for the purposes of subsection (a) of  
59 section 31-284 of the general statutes, and such consumer shall be  
60 deemed to be in compliance with subsection (b) of said section, except  
61 that the requirements of subsection (b) of said section 31-284 shall be  
62 the responsibility of the covered provider.

63 (c) The consumer's exemption from liability under subsection (a) of  
64 section 31-284 of the general statutes, including any liability for third-  
65 party lawsuits commenced pursuant to subsection (a) of section 31-293  
66 of the general statutes, shall be extended to (1) members of the  
67 consumer's immediate family or household, and (2) any individual  
68 acting as a conservator of the person, as defined in section 45a-644 of  
69 the general statutes or acting under other legal authority to make  
70 decisions for the consumer regarding their medical or personal care.

71 Sec. 4. Subdivision (9) of section 31-275 of the 2012 supplement to  
72 the general statutes is repealed and the following is substituted in lieu  
73 thereof (*Effective January 1, 2013*):

74 (9) (A) "Employee" means any person who:

75 (i) Has entered into or works under any contract of service or  
76 apprenticeship with an employer, whether the contract contemplated  
77 the performance of duties within or without the state;

78 (ii) Is a sole proprietor or business partner who accepts the  
79 provisions of this chapter in accordance with subdivision (10) of this  
80 section;

81 (iii) Is elected to serve as a member of the General Assembly of this  
82 state;

83 (iv) Is a salaried officer or paid member of any police department or  
84 fire department;

85 (v) Is a volunteer police officer, whether the officer is designated as  
86 special or auxiliary, upon vote of the legislative body of the town, city  
87 or borough in which the officer serves;

88 (vi) Is an elected or appointed official or agent of any town, city or  
89 borough in the state, upon vote of the proper authority of the town,  
90 city or borough, including the elected or appointed official or agent,  
91 irrespective of the manner in which he or she is appointed or  
92 employed. Nothing in this subdivision shall be construed as affecting  
93 any existing rights as to pensions which such persons or their  
94 dependents had on July 1, 1927, or as preventing any existing custom  
95 of paying the full salary of any such person during disability due to  
96 injury arising out of and in the course of his or her employment;

97 (vii) Is an officer or enlisted person of the National Guard or other  
98 armed forces of the state called to active duty by the Governor while  
99 performing his or her active duty service; or

100 (viii) Is elected to serve as a probate judge for a probate district  
101 established in section 45a-2.

102 (B) "Employee" shall not be construed to include:

103 (i) Any person to whom articles or material are given to be treated  
104 in any way on premises not under the control or management of the  
105 person who gave them out;

106 (ii) One whose employment is of a casual nature and who is  
107 employed otherwise than for the purposes of the employer's trade or  
108 business;

109 (iii) A member of the employer's family dwelling in his house; but,  
110 if, in any contract of insurance, the wages or salary of a member of the  
111 employer's family dwelling in his house is included in the payroll on  
112 which the premium is based, then that person shall, if he sustains an  
113 injury arising out of and in the course of his employment, be deemed  
114 an employee and compensated in accordance with the provisions of  
115 this chapter;

116 (iv) [Any] Except as provided in section 3 of this act, any person  
117 engaged in any type of service in or about a private dwelling provided  
118 he is not regularly employed by the owner or occupier over twenty-six  
119 hours per week;

120 (v) An employee of a corporation who is a corporate officer and  
121 who elects to be excluded from coverage under this chapter by notice  
122 in writing to his employer and to the commissioner; or

123 (vi) Any person who is not a resident of this state but is injured in  
124 this state during the course of his employment, unless such person (I)  
125 works for an employer who has a place of employment or a business  
126 facility located in this state at which such person spends at least fifty  
127 per cent of his employment time, or (II) works for an employer  
128 pursuant to an employment contract to be performed primarily in this  
129 state.

This act shall take effect as follows and shall amend the following sections:		
Section 1	January 1, 2013	New section

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Sec. 2	<i>January 1, 2013</i>	New section
Sec. 3	<i>January 1, 2013</i>	New section
Sec. 4	<i>January 1, 2013</i>	31-275(9)

**Statement of Purpose:**

To designate a homemaker-companion agency, registry or homemaker-home health agency as the employer of individuals providing certain services to consumers for the purposes of unemployment compensation, wages and workers' compensation, and remove liability for such individual's personal injuries arising out of and in the course of employment from the consumer.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*