

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2003**

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**HOUSE BILL 1694**

Short Title: ESC Exemption For Domestic/Nursing Care. (Public)

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Sponsors: Representatives Allred; Gorman and Capps.

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Referred to: Rules, Calendar, and Operations of the House.

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May 27, 2004

1 A BILL TO BE ENTITLED  
2 AN ACT AMENDING THE EMPLOYMENT SECURITY LAWS OF NORTH  
3 CAROLINA TO EXCLUDE CERTAIN PRIVATE IN-HOME NURSING CARE.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 96-8(5)o. reads as rewritten:

6 "o. With respect to employment on and after January 1, 1978, any  
7 person who during any calendar quarter in the current calendar  
8 year or the preceding calendar year paid wages in cash of one  
9 thousand dollars (\$1,000) or more for domestic service in a  
10 ~~private home~~, local college club, or local chapter of a college  
11 fraternity or sorority."

12 **SECTION 2.** G.S.96-8(6)a. reads as rewritten:

13 "a. "Employment" means service performed including service in interstate  
14 commerce, except employment as defined in the Railroad  
15 Retirement Act and the Railroad Unemployment Insurance Act,  
16 performed for wage or under any contract of hire, written or  
17 oral, express or implied, in which the relationship of the  
18 individual performing such service and the employing unit for  
19 which such service is rendered is, as to such service, the legal  
20 relationship of employer and employee. Provided, however, the  
21 term "employee" includes an officer of a corporation, but such  
22 term does not include (i) any individual who, under the usual  
23 common-law rules applicable in determining the  
24 employer-employee relationship, has the status of an  
25 independent contractor or (ii) any individual (except an officer  
26 of a corporation) who is not an employee under such  
27 common-law rules. Nursing care and domestic services  
28 provided in the home by a single individual to an elderly or  
29 disabled person in the home of the elderly or disabled person

1                   shall not be deemed employment for the purposes of payment  
2                   of unemployment compensation taxes under this Chapter,  
3                   except that the single individual providing the services may opt  
4                   to pay the taxes required to extend unemployment  
5                   compensation coverage to that individual. An employee who is  
6                   on paid vacation or is on paid leave of absence due to illness or  
7                   other reason shall be deemed to be in employment irrespective  
8                   of the failure of such individual to perform services for the  
9                   employing unit during such period."

10                   **SECTION 3.** G.S. 96-8(6)h. reads as rewritten:

11                   " h.       On and after January 1, 1978, the term "employment" includes  
12                   domestic service in a ~~private home,~~ local college club or local  
13                   chapter of a college fraternity or sorority performed for a person  
14                   who pays cash remuneration of one thousand dollars (\$1,000)  
15                   or more on or after January 1, 1978, in any calendar quarter in  
16                   the current calendar year or the preceding calendar year to  
17                   individuals employed in such domestic service."

18                   **SECTION 4.** This act becomes effective July 1, 2004.