

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1055 Session of 2011

INTRODUCED BY MUSTIO, BRENNAN, MILLER, GEIST, PETRI, KILLION, KOTIK, TAYLOR, FARRY, MAHONEY, MURT, J. EVANS, PICKETT, BEAR, READSHAW, M. SMITH, BLOOM, BUXTON, CALTAGIRONE, CARROLL, D. COSTA, DAVIDSON, DAVIS, DeLUCA, DePASQUALE, FABRIZIO, GERGELY, GIBBONS, GOODMAN, HALUSKA, HARKINS, JOSEPHS, MANN, MATZIE, MIRABITO, MUNDY, MURPHY, D. O'BRIEN, PASHINSKI, PAYTON, REICHLEY, SAINATO, SANTONI, SCAVELLO, WATSON, WHITE AND YOUNGBLOOD, MARCH 14, 2011

SENATOR GORDNER, LABOR AND INDUSTRY, IN SENATE, AS AMENDED, MAY 22, 2012

AN ACT

1 Providing for ~~the registration and regulation of professional~~ ←
2 ~~employer organizations and for powers and duties of the~~ ←
3 ~~Department of Labor and Industry; and imposing penalties.~~

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 CHAPTER 1

7 PRELIMINARY PROVISIONS

8 Section 101. Short title.

9 This act shall be known and may be cited as the Professional
10 Employer Organization ~~Registration and Recognition~~ Act. ←

11 Section 102. Definitions.

12 The following words and phrases when used in this act shall
13 have the meanings given to them in this section unless the
14 context clearly indicates otherwise:

1 "Administrative fee." The fee charged to a client by a  
2 professional employer organization for professional employer  
3 services. The administrative fee shall not be deemed to include  
4 any amount of a fee by the professional employer organization  
5 that is for wages and salaries, benefits, workers' compensation,  
6 payroll taxes, withholding or other assessment paid by the  
7 professional employer organization to or on behalf of covered  
8 employees under the professional employer agreement.

9 "Client." Any person who enters into a professional employer  
10 agreement with a professional employer organization.

11 "Coemployer." A professional employer organization or  
12 client.

13 "Coemployment relationship." A relationship which is  
14 intended to be an ongoing relationship rather than a temporary  
15 or project specific one, wherein the rights, duties and  
16 obligations of an employer which arise out of an employment  
17 relationship have been allocated between coemployers pursuant to  
18 a professional employer agreement and this act.

19 "Controlling person." A person that owns, directly or  
20 indirectly, 10% or more of the equity interest in a professional  
21 employer organization.

22 "Covered employee." An individual coemployed by a  
23 professional employer organization and a client who meets the  
24 following criteria:

25 (1) The individual has received written notice of co-  
26 employment with the professional employer organization.

27 (2) The individual's coemployment relationship is  
28 pursuant to a professional employer agreement subject to this  
29 act.

30 Subject to section ~~504~~ 304, individuals who are officers,



1 directors, shareholders, partners and managers of the client and  
2 who are operational managers or perform day-to-day operational  
3 services for the client are covered employees only to the extent  
4 that the client and the professional employer organization  
5 expressly agree in the professional employer agreement.

6 "Department." The Department of Labor and Industry of the  
7 Commonwealth.

8 "Direct hire employee." An individual who is an employee of  
9 either the client or the PEO within the meaning of the act of  
10 June 2, 1915 (P.L.736, No.338), known as the Workers'  
11 Compensation Act, and who is not a covered employee.

12 "Insurer." A legal entity authorized or licensed to transact  
13 insurance business in accordance with the laws of this  
14 Commonwealth.

15 "Licensed producer." An individual or business entity that  
16 is licensed as an insurance producer by the Insurance Department  
17 in accordance with the provisions of Article VI-A of the act of  
18 May 17, 1921 (P.L.789, No.285), known as The Insurance  
19 Department Act of 1921.

20 "Master policy basis." An agreement under which a single  
21 workers' compensation policy issued to the professional employer  
22 organization provides coverage for more than one client and may  
23 provide coverage to the professional employer organization with  
24 respect to its direct hire employees. Two or more clients that  
25 are insured under the same policy solely because they are under  
26 common ownership are considered a single client for purposes of  
27 this definition.

28 "Multiple coordinated policy basis." An agreement under  
29 which a separate workers' compensation policy is issued to the  
30 professional employer organization on behalf of each client or

1 group of affiliated clients with payment obligations and certain  
2 policy communications related to such workers' compensation  
3 policy coordinated through the professional employer  
4 organization.

5 "PEO group." Two or more professional employer organizations  
6 that are majority owned or commonly controlled by the same  
7 entity, parent or controlling person.

8 "Person." Any individual, partnership, corporation, limited  
9 liability company, association or any other form of legally  
10 recognized entity.

11 "Professional employer agreement." A contract by and between  
12 a client and a professional employer organization that provides:

- 13 (1) for the coemployment of covered employees;  
14 (2) for the allocation of employer rights and  
15 obligations between the client and the professional employer  
16 organization with respect to the covered employees; and  
17 (3) that the professional employer organization and the  
18 client assume the responsibilities required by this act.

19 "Professional employer organization" or "PEO." Any person  
20 engaged in the business of providing professional employer  
21 services.

22 "Professional employer services." The business of entering  
23 into coemployment relationships under this act.

24 ~~"Registrant." A professional employer organization~~ ←  
25 ~~registered under this act.~~

26 ~~"Secretary." The Secretary of Labor and Industry of the~~  
27 ~~Commonwealth.~~

28 "Temporary help services." Services consisting of a person:

- 29 (1) recruiting and hiring its own employees;  
30 (2) finding other organizations that need the services

1 of those employees;

2 (3) assigning those employees to perform work at or  
3 services for the other organizations to support or supplement  
4 the other organizations' work forces, or to provide  
5 assistance in special work situations, including, but not  
6 limited to, employee absences, skill shortages, seasonal  
7 workloads or to perform special assignments or projects; and

8 (4) customarily attempting to reassign the employees to  
9 other organizations when they finish each assignment.

10 Section 103. Scope.

11 A person engaged in the business of providing professional  
12 employer services shall be subject to ~~registration and~~ ←  
13 ~~regulation under~~ this act regardless of its use of the term or  
14 conducting business as a professional employer organization,  
15 PEO, staff leasing company, registered staff leasing company,  
16 employee leasing company, administrative employer or any other  
17 name. The following shall not be deemed to be professional  
18 employer organizations or the providing of professional  
19 employment services for purposes of this act:

20 (1) Arrangements wherein a person, whose principal  
21 business activity is not entering into professional employer  
22 arrangements and which does not hold itself out as a PEO,  
23 shares employees with a commonly owned company within the  
24 meaning of section 414(b) and (c) of the Internal Revenue  
25 Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.).

26 (2) Independent contractor arrangements.

27 (3) Providing temporary help services.

28 Section 104. Construction.

29 (a) Collective bargaining agreements.--Nothing contained in  
30 this act or in any professional employer agreement shall affect,

1 modify or amend any existing collective bargaining agreement,  
2 specifically limit or affect any future collective bargaining  
3 agreement, or affect, modify or amend any rights or obligations  
4 of any client, PEO or covered employee under the National Labor  
5 Relations Act (49 Stat. 449, 29 U.S.C. § 151 et seq.), the  
6 Railway Labor Act (Public Law 69-257, 44 Stat. 577) or the act  
7 of June 1, 1937 (P.L.1168, No.294), known as the Pennsylvania  
8 Labor Relations Act. For purposes of determining the number of  
9 workers for existing and prospective collective bargaining  
10 agreements, each client shall be treated as employing its direct  
11 hire employees and only those covered employees coemployed by  
12 the client.

13 (b) Employment arrangements.--Nothing in this act or in any  
14 professional employer agreement shall:

15 (1) Diminish, abolish or remove rights of covered  
16 employees of a client or obligations of such client to a  
17 covered employee existing prior to the effective date of the  
18 professional employer agreement.

19 (2) Affect, modify or amend any contractual relationship  
20 or restrictive covenant between a covered employee and any  
21 client in effect at the time a professional employer  
22 agreement becomes effective, nor shall it prohibit or amend  
23 any contractual relationship or restrictive covenant that is  
24 entered into subsequently between a client and a covered  
25 employee. A PEO shall have no responsibility or liability in  
26 connection with, or arising out of, any existing or new  
27 contractual relationship or restrictive covenant unless the  
28 PEO has specifically agreed otherwise in writing.

29 (3) Eliminate any right otherwise existing in law,  
30 except as provided in this act.

1           (4) Create any right or cause of action not otherwise  
2 existing in law except as specifically set forth in the  
3 professional employer agreement or this act.

4       (c) Licensing.--Nothing contained in this act or any  
5 professional employer agreement shall affect, modify or amend  
6 any Federal, State or local licensing, registration or  
7 certification requirement applicable to any client or covered  
8 employee. The following apply:

9           (1) A covered employee who must be licensed, registered  
10 or certified according to law or regulation is deemed solely  
11 an employee of the client for purposes of the license,  
12 registration or certification requirement.

13          (2) A PEO shall not be deemed to engage in any  
14 occupation, trade, profession or other activity that is  
15 subject to licensing, registration or certification  
16 requirements, or is otherwise regulated by a governmental  
17 entity, solely by entering into and maintaining a  
18 coemployment relationship with a covered employee who is  
19 subject to such requirements or regulation.

20          (3) A client shall have the sole right of direction and  
21 control of the professional or licensed activities of covered  
22 employees and of the client's business. Covered employees and  
23 clients shall remain subject to regulation by the regulatory  
24 or governmental entity responsible for licensing,  
25 registration or certification of the covered employees or  
26 clients.

27       (d) Tax credits and other incentives.--For purposes of  
28 determination of tax credits and other economic incentives  
29 provided by the Commonwealth or other government entity and  
30 based on employment, covered employees shall be deemed employees

1 solely of the client. A client shall be entitled to the benefit  
2 of any tax credit, economic incentive or other benefit arising  
3 as the result of the employment of covered employees of the  
4 client. If the grant or amount of any incentive is based on the  
5 number of employees, then each client shall be treated as  
6 employing its direct hire employees and those covered employees  
7 coemployed by the client. Covered employees working for other  
8 clients of the PEO shall not be counted. Each PEO will provide,  
9 upon request by a client or an agency or department of the  
10 Commonwealth, employment information reasonably required by any  
11 agency or department of the Commonwealth responsible for  
12 administration of a tax credit or economic incentive and  
13 necessary to support any request, claim, application or other  
14 action by a client seeking the tax credit or economic incentive.

15 (e) Disadvantaged business.--With respect to a bid,  
16 contract, purchase order or agreement entered into with the  
17 Commonwealth or a political subdivision of the Commonwealth, a  
18 client company's status or certification as a small, minority-  
19 owned, disadvantaged or woman-owned business enterprise or as a  
20 historically underutilized business is not affected because the  
21 client company has entered into an agreement with a PEO or uses  
22 the services of a PEO.

23 (f) Other entity as employer.--Nothing in this act shall be  
24 construed to designate any entity other than the client as the  
25 employer of any employee performing services for or on its  
26 behalf while employed directly or indirectly by a PEO for any  
27 purposes other than those specifically designated in this act.  
28 Persons performing services for or on behalf of a client shall  
29 be deemed to be employees of the client for all purposes other  
30 than those specifically designated in this act where persons may



1 be considered employees of a PEO.

2 CHAPTER 3  
3 REGISTRATION



4 ~~Section 301. Registration.~~

5 ~~(a) Registration requirements. The department shall~~  
6 ~~register a PEO or PEO group only if the PEO or the PEO group~~  
7 ~~meets all requirements of this act. A PEO seeking limited~~  
8 ~~registration pursuant to subsection (e) shall provide the~~  
9 ~~department with information and documentation necessary to show~~  
10 ~~that the PEO qualifies for limited registration.~~

11 ~~(b) Registration information. An application for~~  
12 ~~registration shall include the following information:~~

13 ~~(1) The name or names under which the PEO or the PEO~~  
14 ~~group members conduct business and the legal name.~~

15 ~~(2) The address of the principal place of business of~~  
16 ~~the PEO or the PEO group members and the address of each~~  
17 ~~office maintained in this Commonwealth.~~

18 ~~(3) The taxpayer or employer identification number of~~  
19 ~~the PEO or the PEO group members.~~

20 ~~(4) A list by state of each name under which the PEO or~~  
21 ~~the PEO group members has operated in the preceding five~~  
22 ~~years, including any alternative names, names of predecessors~~  
23 ~~and, if known, successor business entities.~~

24 ~~(5) A statement of ownership, which shall include the~~  
25 ~~name and evidence of the business experience of any~~  
26 ~~controlling person.~~

27 ~~(6) A statement of management, which shall include the~~  
28 ~~name and evidence of the business experience of any person~~  
29 ~~who serves as president, chief executive officer or otherwise~~  
30 ~~has the authority to act as senior executive officer of the~~

1 ~~PEO or PEO group member.~~

2 ~~(7) A financial statement that sets forth the financial~~  
3 ~~condition of the PEO or PEO group and meets the following~~  
4 ~~requirements:~~

5 ~~(i) The financial statement shall be prepared in~~  
6 ~~accordance with generally accepted accounting principles.~~

7 ~~(ii) The financial statement shall be audited by an~~  
8 ~~independent certified public accountant licensed to~~  
9 ~~practice in the jurisdiction in which the accountant is~~  
10 ~~located and shall be without qualification as to the~~  
11 ~~going concern status of the PEO. A PEO or PEO group may~~  
12 ~~submit a combined or consolidated audited financial~~  
13 ~~statement to meet the requirements of this subparagraph.~~

14 ~~(iii) The financial statement shall cover the PEO or~~  
15 ~~PEO group's most recent fiscal year. If a financial~~  
16 ~~statement for the most recent fiscal year is not~~  
17 ~~available at the time the application is filed, the~~  
18 ~~department may grant the PEO or PEO group an extension of~~  
19 ~~time to submit the financial statement, allow the PEO or~~  
20 ~~PEO group to submit the immediately preceding financial~~  
21 ~~statement or, if the PEO or PEO group does not have~~  
22 ~~sufficient operating history to have a financial~~  
23 ~~statement for a complete fiscal year, allow the PEO or~~  
24 ~~PEO group to submit a financial statement for a shorter~~  
25 ~~period of time that is reviewed by a certified public~~  
26 ~~accountant.~~

27 ~~(8) The provisions of the professional employer~~  
28 ~~agreements in use or that will be used by the PEO or PEO~~  
29 ~~group in this Commonwealth.~~

30 ~~(9) A complete list of current clients with covered~~

1 ~~employees who perform services within this Commonwealth at~~  
2 ~~the time of registration.~~

3 ~~(10) Evidence of current workers' compensation insurance~~  
4 ~~policies issued to or through the PEO insuring covered~~  
5 ~~employees located in this Commonwealth.~~

6 ~~(11) Designation of a registered agent for acceptance of~~  
7 ~~service of process in this Commonwealth.~~

8 ~~(12) All additional information required by the~~  
9 ~~department to demonstrate that the PEO or PEO group meets the~~  
10 ~~requirements for the applicable registration.~~

11 ~~(c) Timely application and duration of registration.~~

12 ~~(1) An initial registration, if granted by the~~  
13 ~~department, shall be effective through the end of the~~  
14 ~~calendar year following the year in which the application for~~  
15 ~~registration is filed with the department. All other~~  
16 ~~registrations shall be effective for 12 months from the~~  
17 ~~effective date indicated by the department.~~

18 ~~(i) Each PEO or PEO group operating within this~~  
19 ~~Commonwealth as of the effective date of this act shall~~  
20 ~~file its application for initial registration no later~~  
21 ~~than 30 days after the effective date of this act.~~

22 ~~(ii) Each PEO not operating within this Commonwealth~~  
23 ~~as of the effective date of this act shall receive its~~  
24 ~~initial registration prior to commencement of operations~~  
25 ~~within this Commonwealth.~~

26 ~~(2) A PEO or PEO group that will continue its operations~~  
27 ~~beyond the termination of its initial registration or its~~  
28 ~~most recent renewal registration shall file an application to~~  
29 ~~renew its registration with the department no later than 90~~  
30 ~~days before the end of the current registration. If a timely~~

1 ~~application for renewal is filed, the current registration~~  
2 ~~shall remain effective until the department grants or denies~~  
3 ~~the application for renewal.~~

4 ~~(d) PEO group registration. PEOs in a PEO group may satisfy~~  
5 ~~the application, reporting and financial requirements of this~~  
6 ~~act on a combined or consolidated basis, provided that each~~  
7 ~~member of the PEO group guarantees the obligations under this~~  
8 ~~act of each other member of the PEO group. In the case of a PEO~~  
9 ~~group that submits a combined or consolidated audited financial~~  
10 ~~statement, including entities that are not PEOs or that are not~~  
11 ~~in the PEO group, a controlling person of the PEO group under~~  
12 ~~the consolidated or combined statement must guarantee the~~  
13 ~~obligations of the PEOs in the PEO group.~~

14 ~~(e) Limited registration.~~

15 ~~(1) A PEO or PEO group is eligible for a limited~~  
16 ~~registration under this act if the PEO or PEO group meets the~~  
17 ~~following:~~

18 ~~(i) Is domiciled outside this Commonwealth and is~~  
19 ~~licensed or registered as a PEO or PEO group in another~~  
20 ~~jurisdiction having PEO registration or licensing~~  
21 ~~requirements, including those related to financial~~  
22 ~~capability as set forth in section 303, that, in the~~  
23 ~~estimation of the department, are at least as stringent~~  
24 ~~as those set forth in this act.~~

25 ~~(ii) Does not maintain an office in this~~  
26 ~~Commonwealth.~~

27 ~~(iii) Does not directly solicit clients with covered~~  
28 ~~employees who may perform services within this~~  
29 ~~Commonwealth.~~

30 ~~(iv) Does not have more than 50 covered employees~~

1           ~~who may perform services in this Commonwealth on any~~  
2           ~~given day.~~

3           ~~(2) Section 303 shall not apply to applicants for~~  
4           ~~limited registration.~~

5           ~~(f) List. The department shall maintain a list of PEOs and~~  
6           ~~PEO groups registered under this act that is readily available~~  
7           ~~to the public by electronic or other means.~~

8           ~~(g) Forms. Applications for registration shall be made in~~  
9           ~~the manner prescribed by the department. The department may~~  
10           ~~prescribe forms necessary to promote the efficient~~  
11           ~~administration of this section.~~

12           ~~(h) Electronic filing and compliance. The department may to~~  
13           ~~the extent practical provide for the acceptance of electronic~~  
14           ~~filings in conformance with the act of December 16, 1999~~  
15           ~~(P.L.971, No.69), known as the Electronic Transactions Act,~~  
16           ~~including applications, documents, reports and other filings~~  
17           ~~required by this act. The department may provide for the~~  
18           ~~acceptance of electronic filings and other assurance from an~~  
19           ~~independent and qualified assurance organization approved by the~~  
20           ~~department that provides satisfactory assurance of compliance~~  
21           ~~acceptable to the department in lieu of the requirements of this~~  
22           ~~section and section 303 and other requirements of this act or~~  
23           ~~the rules promulgated pursuant to this act. If the department~~  
24           ~~provides for the acceptance of electronic filings under this~~  
25           ~~section, a PEO or PEO group may authorize an assurance~~  
26           ~~organization, approved by the department, to act on the PEO's or~~  
27           ~~PEO group's behalf in complying with the registration~~  
28           ~~requirements of this act, including electronic filings of~~  
29           ~~information and payment of registration fees. Nothing in this~~  
30           ~~subsection shall limit or change the department's authority to~~

1 ~~register or terminate registration of a PEO or PEO group or to~~  
2 ~~investigate or enforce any provision of this act.~~

3 ~~(i) Record confidentiality.— All financial statements, any~~  
4 ~~person's personal identifying information, employer~~  
5 ~~identification numbers, a Federal employment identification~~  
6 ~~number, provisions of the professional employer agreements and~~  
7 ~~client lists obtained by the department from a PEO or PEO group~~  
8 ~~under this act shall not be public records under the act of~~  
9 ~~February 14, 2008 (P.L.6, No.3), known as the Right to Know Law.~~  
10 ~~The department shall make available such personal identifying~~  
11 ~~information, employer identification numbers, a Federal~~  
12 ~~employment identification number, provisions of the professional~~  
13 ~~employer agreements and client lists obtained by the department~~  
14 ~~from a PEO or PEO group under this act to a rating organization~~  
15 ~~licensed pursuant to section 712(a) of the act of June 2, 1915~~  
16 ~~(P.L.736, No.338), known as the Workers' Compensation Act, as~~  
17 ~~required to comply with that rating organization's statutory~~  
18 ~~obligations. Information obtained under this subsection shall~~  
19 ~~only be used by the rating organization to comply with those~~  
20 ~~statutory duties either prescribed under the Workers'~~  
21 ~~Compensation Act or required by the Insurance Department~~  
22 ~~pursuant to its statutory authority under the act of May 17,~~  
23 ~~1921 (P.L.789, No.285), known as The Insurance Department Act of~~  
24 ~~1921, or the act of May 17, 1921 (P.L.682, No.284), known as The~~  
25 ~~Insurance Company Law of 1921, and shall not be considered~~  
26 ~~public records under the Right to Know Law.~~

27 ~~(j) Appeals.—~~

28 ~~(1) If the department denies an application for~~  
29 ~~registration or revokes a registration under section 701, the~~  
30 ~~PEO or PEO group may appeal the department's determination to~~

1 ~~the secretary. The appeal must be received by the department~~  
2 ~~within 30 days after the date of the determination.~~

3 ~~(2) An appeal of a determination by the department~~  
4 ~~denying an application for a renewal registration or revoking~~  
5 ~~a registration shall operate as a supersedeas while the~~  
6 ~~appeal is pending. The effective date of a denial or~~  
7 ~~revocation subject to this subsection shall not be prior to~~  
8 ~~the expiration of the appeal period under paragraph (1).~~

9 ~~(3) Proceedings under this section are subject to 2~~  
10 ~~Pa.C.S. Ch. 5 Subch. A (relating to practice and procedure of~~  
11 ~~Commonwealth agencies) and Ch. 7 Subch. A (relating to~~  
12 ~~judicial review of Commonwealth agency action).~~

13 ~~Section 302. Fees.~~

14 ~~(a) Fees. Except as provided in subsection (b), the~~  
15 ~~department shall charge the following fees for applications~~  
16 ~~under this act:~~

17 ~~(1) Initial PEO registration, \$500.~~

18 ~~(2) Initial PEO group registration, \$750.~~

19 ~~(3) Renewal registration, \$250.~~

20 ~~(4) Limited registration, \$250.~~

21 ~~(b) Amended fees. No less than 60 days after publishing~~  
22 ~~notice of an intent to revise fees in the Pennsylvania Bulletin,~~  
23 ~~the department may revise the fees to be charged under~~  
24 ~~subsection (a) or establish additional fees. Fees as revised or~~  
25 ~~established by the department shall not exceed amounts~~  
26 ~~reasonably necessary for the administration of this act. The~~  
27 ~~department shall retain the application fees for the purposes of~~  
28 ~~administering this act.~~

29 ~~Section 303. Financial capability.~~

30 ~~(a) Working capital. Except as provided in section 301(e),~~

1 ~~each registrant shall maintain either:~~

2 ~~(1) positive working capital at registration or renewal~~  
3 ~~as reflected in the financial statements provided under~~  
4 ~~section 301(b)(7); or~~

5 ~~(2) if the registrant does not meet the requirement in~~  
6 ~~paragraph (1), the registrant shall provide one or more of~~  
7 ~~the instruments set forth in subsection (b) with a minimum~~  
8 ~~aggregate value sufficient to establish positive working~~  
9 ~~capital plus \$100,000. The instruments shall secure payment~~  
10 ~~by the registrant of all taxes, wages, benefits or other~~  
11 ~~entitlements due to or with respect to covered employees if~~  
12 ~~the registrant fails to make payment when due.~~

13 ~~(b) Instruments. The following instruments may be~~  
14 ~~maintained to comply with subsection (a)(2):~~

15 ~~(1) A surety bond on a form prescribed by the department~~  
16 ~~issued by an insurer authorized to transact surety business~~  
17 ~~in this Commonwealth by the Insurance Department. The~~  
18 ~~following shall apply:~~

19 ~~(i) The surety company shall possess a current A.M.~~  
20 ~~Best Rating of B+ or better or a Standard and Poor's~~  
21 ~~rating of claims paying ability of A or better.~~

22 ~~(ii) The PEO shall replace the bond with a new bond~~  
23 ~~issued by a surety company with an acceptable rating or~~  
24 ~~with another instrument under this subsection if the~~  
25 ~~surety company's rating falls below the acceptable rating~~  
26 ~~after the bond is issued. If the bond is not replaced~~  
27 ~~within 60 days, the department may draw on the surety~~  
28 ~~bond and deposit the proceeds with the State Treasurer to~~  
29 ~~secure payment as set forth in subsection (a)(2).~~

30 ~~(2) An instrument held under a trust agreement~~



1 ~~prescribed by the department and maintained to secure payment~~  
2 ~~as set forth in subsection (a) (2). The following shall apply:~~

3 ~~(i) The deposit shall consist of cash, bonds or~~  
4 ~~other evidence of indebtedness issued, assumed or~~  
5 ~~guaranteed by the United States of America or by an~~  
6 ~~agency or instrumentality of the United States;~~  
7 ~~investments in common funds or regulated investment~~  
8 ~~companies which invest primarily in Federal Government or~~  
9 ~~State government agency obligations; or bonds or other~~  
10 ~~security issued by the Commonwealth and backed by the~~  
11 ~~Commonwealth's full faith and credit.~~

12 ~~(ii) The securities shall be held in a Commonwealth~~  
13 ~~chartered bank and trust company or trust company as~~  
14 ~~defined in section 102 of the act of November 30, 1965~~  
15 ~~(P.L.847, No.356), known as the Banking Code of 1965, or~~  
16 ~~a federally chartered bank or foreign bank with a branch~~  
17 ~~office and trust powers in this Commonwealth.~~

18 ~~(3) An irrevocable letter of credit using provisions~~  
19 ~~required by the department issued by and payable at a branch~~  
20 ~~office of a commercial bank located in the United States. The~~  
21 ~~letter of credit shall state that the terms of the letter of~~  
22 ~~credit automatically renew annually unless the letter of~~  
23 ~~credit is specifically nonrenewed by the issuing bank 60 days~~  
24 ~~or more prior to the anniversary date of its issuance. The~~  
25 ~~following shall apply:~~

26 ~~(i) At the time of issuance of the letter of credit,~~  
27 ~~the issuing bank or its holding company shall have a B/C~~  
28 ~~or better rating or 2.5 or better score by Thomson~~  
29 ~~BankWatch, or the issuing bank shall have a CD rating of~~  
30 ~~BBB or better by Standard & Poor's Corporation.~~



1           (1) The client shall be entitled to exercise all rights,  
2 and shall be obligated to perform all duties and  
3 responsibilities, otherwise applicable to an employer in an  
4 employment relationship.

5           (2) The PEO shall be entitled to exercise only those  
6 rights, and obligated to perform only those duties and  
7 responsibilities, specifically required by this act or set  
8 forth in the professional employer agreement. The rights,  
9 duties and obligations of the PEO as coemployer with respect  
10 to any covered employee shall be limited to those arising  
11 pursuant to the professional employer agreement and this act  
12 during the term of coemployment by the PEO of the covered  
13 employee.

14           (3) Unless otherwise expressly agreed by the PEO and the  
15 client in a professional employer agreement, the client  
16 retains the exclusive right to direct and control the covered  
17 employees as is necessary to conduct the client's business,  
18 to discharge any of client's fiduciary responsibilities or to  
19 comply with any licensure requirements applicable to the  
20 client or to the covered employees.

21           (b) Contractual relationship.--Except as provided by law,  
22 the coemployment relationship between the client and the PEO,  
23 and between each coemployer and each covered employee, shall be  
24 governed by the professional employer agreement. The PEO shall  
25 ensure that each professional employer agreement is reduced to  
26 writing and signed by both the client and the PEO, and each  
27 professional employer agreement shall provide:

28           (1) The allocation of rights, duties and obligations as  
29 described in subsection (a).

30           (2) That the PEO shall have responsibility to pay wages

1 to covered employees; to withhold, collect, report and remit  
2 payroll-related taxes and may remit unemployment taxes in  
3 accordance with section ~~504~~ 304; and, to the extent the PEO ←  
4 has assumed responsibility in the professional employer  
5 agreement, to make payments for employee benefits for covered  
6 employees. As used in this paragraph, the term "wages" does  
7 not include any obligation between a client and a covered  
8 employee for payments beyond or in addition to the covered  
9 employee's salary, draw or regular rate of pay, such as  
10 bonuses, commissions, severance pay, deferred compensation,  
11 profit sharing or vacation, sick or other paid time off pay,  
12 unless the PEO has expressly agreed to assume liability for  
13 these payments in the professional employer agreement.

14 (3) Nothing in this act or in a professional employer  
15 agreement shall relieve a client from compliance with the  
16 Commonwealth's wage and labor laws, including the act of May  
17 13, 1915 (P.L.286, No.177), known as the Child Labor Law, the  
18 act of August 15, 1961 (P.L.987, No.442), known as the  
19 Pennsylvania Prevailing Wage Act, the act of July 14, 1961  
20 (P.L.637, No.329), known as the Wage Payment and Collection  
21 Law, and the act of January 17, 1968 (P.L.11, No.5), known as  
22 The Minimum Wage Act of 1968. If the client is a health care  
23 facility as defined in section 2 of the act of October 9,  
24 2008 (P.L.1376, No.102), known as the Prohibition of  
25 Excessive Overtime in Health Care Act, the client shall  
26 comply with that act. No professional employer organization  
27 shall knowingly engage in or assist in the violation of the  
28 statutes referenced in this paragraph.

29 (4) That the PEO shall have a right to hire, discipline  
30 and terminate a covered employee as may be necessary to

1 fulfill the PEO's responsibilities under this act and the  
2 professional employer agreement. The client shall have a  
3 right to hire, discipline and terminate a covered employee.

4 (5) The PEO or the client has the responsibility to  
5 provide workers' compensation coverage for covered employees,  
6 in compliance with section ~~503~~ 303, which responsibility ←  
7 shall be specifically allocated in the professional employer  
8 agreement to either the client or the PEO in accordance with  
9 section ~~503(a)~~ 303(A). ←

10 (c) Notice to terminate.--With respect to each professional  
11 employer agreement entered into by the PEO, the PEO shall  
12 provide the procedures by which the client or PEO may terminate  
13 the professional employer agreement, including any fees or costs  
14 payable upon termination, and that except as otherwise expressly  
15 provided or required by law, all services provided by the PEO to  
16 the client shall cease immediately as of the effective date of  
17 the termination.

18 (d) Notice to covered employees and clients.--

19 (1) With respect to each professional employer agreement  
20 entered into by a PEO, the PEO shall provide written notice  
21 to each covered employee affected by the agreement of the  
22 general nature of the coemployment relationship between and  
23 among the PEO, the client and the covered employee.

24 (2) If the PEO is providing benefits to covered  
25 employees pursuant to a PEO sponsored welfare benefit plan,  
26 the PEO shall provide specific notice to the client as to  
27 services provided by the PEO concerning those benefits. These  
28 responsibilities include those related to administration,  
29 which includes Consolidated Omnibus Budget Reconciliation Act  
30 (COBRA) administration, plan administration, enrollment and

1 renewal services pursuant to their professional employer  
2 agreement. The notice may be contained in the professional  
3 employer agreement or in a separate notice.

4 (e) Specific responsibilities.--Except to the extent  
5 otherwise expressly provided by the applicable professional  
6 employer agreement:

7 (1) A client shall be solely responsible for the  
8 quality, adequacy or safety of the goods or services produced  
9 or sold in client's business.

10 (2) A client shall be solely responsible for directing,  
11 supervising, training and controlling the work of the covered  
12 employees with respect to the business activities of the  
13 client and solely responsible for the acts, errors or  
14 omissions of the covered employees with regard to these  
15 activities.

16 (3) A client shall not be liable for the acts, errors or  
17 omissions of a PEO or of any covered employee of the client  
18 and a PEO when the covered employee is acting under the  
19 express direction and control of the PEO.

20 (4) A PEO shall not be liable for the acts, errors or  
21 omissions of a client or of any covered employee of the  
22 client when the covered employee is acting under the express  
23 direction and control of the client.

24 (5) Nothing in this subsection shall serve to limit any  
25 contractual liability or obligation specifically provided in  
26 the written professional employer agreement.

27 (6) A covered employee is not, solely as the result of  
28 being a covered employee of a PEO, an employee of the PEO for  
29 purposes of general liability insurance, fidelity bonds,  
30 surety bonds, employer's liability which is not covered by

1 workers' compensation or liquor liability insurance carried  
2 by the PEO unless the covered employee is included by  
3 specific reference in the professional employer agreement and  
4 applicable prearranged employment contract, insurance  
5 contract or bond.

6 (f) Professional employer services not insurance.--A PEO  
7 under this act is not engaged in the sale of insurance or in  
8 acting as a third party administrator by offering, marketing,  
9 selling, administering or providing professional employer  
10 services which include services and employee benefit plans for  
11 covered employees.

12 (g) Taxation.--

13 (1) Covered employees whose services are subject to  
14 sales tax shall be deemed the employees of the client for  
15 purposes of collecting and levying sales tax on the services  
16 performed by the covered employee. Nothing contained in this  
17 act shall relieve a client of any sales tax liability with  
18 respect to its goods or services.

19 (2) Any tax upon professional employer services or any  
20 business license or other fee which is based upon gross  
21 receipts shall be limited to the administrative fee of the  
22 PEO.

23 (3) Any tax assessed on a per capita or per employee  
24 basis shall be assessed against the client for covered  
25 employees and against the PEO for its employees who are not  
26 covered employees coemployed with a client.

27 (4) In the case of tax imposed or calculated upon the  
28 basis of total payroll, the PEO shall be eligible to apply  
29 any small business allowance or exemption available to the  
30 client for the covered employees for purpose of computing the

1 tax.

2 Section ~~502~~ 302. Benefit plans. ←

3 (a) Retirement and welfare benefit plans.--A client and a  
4 PEO shall each be deemed an employer for purposes of sponsoring  
5 retirement and welfare benefit plans for its covered employees.

6 (b) Construction.--A fully insured welfare benefit plan  
7 offered to the covered employees of a single PEO shall be  
8 considered for purposes of Commonwealth law and regulation to be  
9 a single employer welfare benefit plan and shall not be  
10 considered a multiple employer welfare arrangement.

11 (c) Insurance Company Law.--For purposes of section 621.2 of  
12 the act of May 17, 1921 (P.L.682, No.284), known as The  
13 Insurance Company Law of 1921, a PEO shall be considered the  
14 employer of all of its covered employees, and all covered  
15 employees of one or more clients participating in a health  
16 benefit plan sponsored by a single PEO shall be considered  
17 employees of the PEO.

18 (d) Plans not fully insured.--If a PEO offers to its covered  
19 employees any health benefit plan which is not fully insured by  
20 an insurer, the plan shall:

21 (1) Utilize a third-party administrator licensed to do  
22 business in this Commonwealth.

23 (2) Hold all plan assets, including participant  
24 contributions, in a trust account.

25 (3) Provide sound reserves as determined by an actuary  
26 using generally accepted actuarial standards of practice.

27 (4) Provide written notice to each covered employee  
28 participating in the benefit plan that the plan is self-  
29 insured or is not fully insured.

30 Section ~~503~~ 303. Workers' compensation. ←



1 (a) Requirement for coverage of covered employees.--

2 (1) Both the PEO and the client shall be an employer of  
3 covered employees assigned to the client for purposes of this  
4 act and the act of June 2, 1915 (P.L.736, No.338), known as  
5 the Workers' Compensation Act.

6 (2) The responsibility to provide workers' compensation  
7 coverage for the covered employees shall be specifically  
8 allocated in the professional employer agreement to either  
9 the client or the PEO.

10 (3) When the responsibility to provide workers'  
11 compensation coverage is specifically allocated in the  
12 professional employer agreement to the PEO, the PEO must  
13 elect to provide coverage for all covered employees assigned  
14 to that client pursuant to subsection (b) (3), (4) or (5).

15 (4) When the responsibility to provide workers'  
16 compensation coverage is specifically allocated in the  
17 professional employer agreement to the client, the client  
18 must provide coverage pursuant to subsection (b) (1) or (2).

19 (b) Methods of coverage.--A client and a registered PEO that  
20 have entered into a professional employer agreement may meet  
21 their statutory obligation under the Workers' Compensation Act  
22 for coverage as employers for the covered employees by any of  
23 the following:

24 (1) The client obtaining a standard workers'  
25 compensation policy from an insurer authorized to provide  
26 workers' compensation coverage covering the client's covered  
27 employees. Separate experience modification, risk  
28 classifications, merit rating adjustments, construction  
29 classification premium adjustments or certified safety  
30 committee program credits shall be applied to the exposures

1 of the client covered by a policy obtained under this  
2 paragraph based on the client's entire Pennsylvania  
3 operations notwithstanding coverage provided under additional  
4 professional employer agreements pursuant to paragraphs (3),  
5 (4) and (5).

6 (2) The client being approved by the department to self-  
7 insure or group self-insure its workers' compensation  
8 obligations for the client's covered employees.

9 (3) The PEO purchasing workers' compensation insurance  
10 on a multiple coordinated policy basis from an insurer  
11 authorized to provide workers' compensation coverage to the  
12 PEO and to the client with respect to the covered employees  
13 assigned to the client. Each policy written on a multiple  
14 coordinated policy basis shall be issued to the PEO as the  
15 primary named insured and must identify both the PEO and the  
16 client as insureds. At the written request of the client, a  
17 professional employer organization shall make available  
18 evidence of workers' compensation coverage, loss history and  
19 total wages paid for covered employees of the client. The  
20 following apply:

21 (i) Separate experience data must be reported to the  
22 licensed rating organization for workers' compensation  
23 insurance for each multiple coordinated policy in a  
24 format complying with requirements of the approved  
25 statistical plan for workers' compensation coverage.

26 (ii) Risk classifications shall be assigned to each  
27 client based on the totality of that client's  
28 Pennsylvania operations regardless of whether workers  
29 engaged therein are provided under one or more  
30 professional employer agreements or are direct hire

1 employees of the client.

2 (iii) If applicable, separate experience  
3 modification, merit rating adjustments, construction  
4 classification premium adjustment or certified safety  
5 committee program credits shall be applied to the  
6 exposures of each client covered by a multiple  
7 coordinated policy based on the client's entire  
8 Pennsylvania operations whether coverage is being  
9 provided for the client's exposures under the client's  
10 own policy or on a master policy basis or multiple  
11 coordinated policy basis under one or more professional  
12 employer agreements, or some combination thereof.

13 (iv) Policies written in accordance with this  
14 paragraph by the same insurer with the PEO as named  
15 insured may be combinable for premium discount and other  
16 purposes including a retrospective rating program or any  
17 other approved pricing program. Such programs may be  
18 based on the combined total standard premium and losses  
19 of all such policies issued to the PEO as the primary  
20 named insured.

21 (v) Nothing in this paragraph shall prohibit a  
22 professional employer organization from participating in  
23 a large deductible program, retrospective rating program  
24 or any other rating program approved for and written  
25 under a workers' compensation policy offered by an  
26 insurer. Further, nothing in this paragraph shall  
27 restrict an insurer from collecting workers' compensation  
28 premium based on the totality of the exposure under these  
29 multiple coordinated policies and applying rates and  
30 discounts consistent with those approved for the insurer

1           pursuant to the rating program.

2           (4) The PEO being duly qualified and approved by the  
3 department to self-insure its workers' compensation  
4 obligations, including direct employees and covered  
5 employees.

6           (5) The PEO purchasing workers' compensation insurance  
7 on a master policy basis from an insurer authorized to  
8 provide workers' compensation coverage. The insurer or  
9 licensed producer shall provide a certificate of insurance  
10 evidencing workers' compensation coverage to each client and  
11 to the PEO with respect to the covered employees of that  
12 client. The following apply:

13           (i) When coverage is provided under a master policy,  
14 the insurer must report separate experience data to the  
15 licensed rating organization for workers' compensation  
16 insurance for each client insured within any master  
17 policy in a format complying with the requirements of the  
18 approved statistical plan for workers' compensation  
19 coverage.

20           (ii) Risk classifications shall be assigned to each  
21 client based on the totality of that client's  
22 Pennsylvania operations regardless of whether workers  
23 engaged therein are provided under one or more  
24 professional employer agreements or are direct hire  
25 employees of the client.

26           (iii) If applicable, separate experience  
27 modification, merit rating adjustments, construction  
28 classification premium adjustments or certified safety  
29 committee program credits shall be applied to the  
30 exposures of each client covered by a master policy based

1 on the client's entire Pennsylvania operations whether  
2 coverage is being provided for the client's exposures  
3 under the client's own policy or on a master policy basis  
4 or multiple coordinated policy basis under one or more  
5 professional employer agreements, or some combination  
6 thereof.

7 (iv) Nothing in this paragraph shall prohibit a  
8 professional employer organization from participating in  
9 a large deductible program, retrospective rating program  
10 or any other rating program approved for and written  
11 under a workers' compensation policy offered by an  
12 insurer. Further, nothing in this paragraph shall  
13 restrict an insurer from collecting workers' compensation  
14 premium based on the totality of the exposure under the  
15 master policy and applying rates and discounts consistent  
16 with those approved for the insurer pursuant to the  
17 rating program.

18 (c) Employee coverage.--Direct hire employees of and covered  
19 employees assigned to a client shall all be collectively covered  
20 either by the State Workers' Insurance Fund or by insurers  
21 authorized to transact workers' compensation insurance in the  
22 voluntary market. Covered employees insured by the State  
23 Workers' Insurance Fund may only be covered pursuant to a policy  
24 issued to the client under subsection (b)(1) or on a multiple  
25 coordinated policy basis issued pursuant to subsection (b)(3).

26 (d) Client obligation.--

27 (1) A client retains the statutory obligation to provide  
28 workers' compensation coverage for employees that are not  
29 covered employees pursuant to the professional employer  
30 agreement. Nothing in this paragraph shall preclude a client

1 from purchasing a workers' compensation policy insuring both  
2 its covered employees and its direct hire employees.

3 (2) If a client's insurer or the client, if self-  
4 insured, has issued coverage for direct hire employees, and  
5 an injured employee is entitled to workers' compensation  
6 benefits but there is a dispute as to whether the employee is  
7 a direct hire employee of the client or a covered employee of  
8 the PEO, the client's insurer or the client, if self-insured,  
9 shall pay the benefits, subject to reimbursement of claims  
10 costs and loss adjustment expenses by the PEO's insurer or  
11 the PEO, if self-insured, if it is determined that the  
12 claimant is a covered employee of the PEO.

13 (3) If the client does not have coverage for direct hire  
14 employees, either through an insurer or by self-insurance,  
15 and an injured employee is entitled to workers' compensation  
16 benefits but there is a dispute as to whether the employee is  
17 a direct hire employee of the client or a covered employee of  
18 the PEO, the PEO's insurer or the PEO, if self-insured, shall  
19 pay the benefits, subject to reimbursement of claims costs  
20 and loss adjustment expenses by the client, if it is  
21 determined that the claimant is not a covered employee of the  
22 PEO.

23 (e) Policy issuance permitted.--Subject to subsection (b),  
24 and notwithstanding the provisions of section 653 of the act of  
25 May 17, 1921 (P.L.682, No.284), known as The Insurance Company  
26 Law of 1921, insurers may issue standard workers' compensation  
27 policies under subsection (b)(1), multiple coordinated policies  
28 under subsection (b)(3) or master policies under subsection (b)  
29 (5) covering fewer than all of a client's employees.

30 (f) Notice of coverage to the client.--

1 (1) If coverage is provided under a policy issued to the  
2 PEO for covered employees of the PEO, the PEO shall give  
3 clear and conspicuous written notice to the client that:

4 (i) The client of the PEO has a continuing  
5 obligation to provide coverage under the Workers'  
6 Compensation Act for any direct hire employees of the  
7 client who are not covered employees and not otherwise  
8 covered under a policy described in this section.

9 (ii) While coverage provided under a policy issued  
10 to the PEO is in force, the PEO will be responsible for  
11 paying all premium obligations, including any audit  
12 adjustments and policyholder assessments, and will be  
13 entitled to any premium refunds. The written notice to  
14 the client shall further explain that although the PEO  
15 will charge the client amounts that reflect or include  
16 the cost of coverage, these charges are not considered  
17 insurance premium obligations of the client. If there is  
18 a policy deductible, the written notice to the client  
19 shall further explain that the PEO is responsible for  
20 reimbursing the insurer for the deductible and may not  
21 seek recovery from the client.

22 (2) The written notice to the client shall explicitly  
23 state that:

24 (i) If the professional employer organization  
25 terminates the professional employment agreement with the  
26 client, termination of workers' compensation coverage by  
27 the insurer shall be effective the sooner of:

28 (A) Sixty days after notice of intent to  
29 terminate workers' compensation coverage by the  
30 insurer has been given by the professional employer

1 organization to the client.

2 (B) Fifteen days after notice of intent to  
3 terminate workers' compensation coverage by the  
4 insurer for nonpayment has been given by the  
5 professional employer organization to the client.

6 (C) The date on which workers' compensation  
7 coverage for the covered employees is transferred to  
8 the client's workers' compensation policy or other  
9 coverage.

10 (ii) The requirements under paragraph (1) shall  
11 continue to apply to workers' compensation coverage  
12 provided by the insurer after the notice is given  
13 pursuant to subparagraph (i).

14 (iii) The client shall pay for all workers'  
15 compensation coverage provided by the insurer, including  
16 reasonable administrative expenses, subsequent to the  
17 termination of the professional employer agreement by the  
18 professional employer organization.

19 (iv) If workers' compensation coverage is provided  
20 through a workers' compensation insurance policy issued  
21 to the professional employer organization on behalf of  
22 the client who has been given notice pursuant to  
23 subparagraph (i), the professional employer organization  
24 shall notify the affected insurer of the notice.

25 (g) Notice to department.--If the professional employer  
26 agreement provides for the PEO to provide workers' compensation  
27 insurance for covered employees, the PEO shall:

28 (1) Notify the department that it has insured covered  
29 employees assigned to a client for workers' compensation on a  
30 multiple coordinated policy basis pursuant to subsection (b)



1 (3) or through self-insurance in accordance with subsection  
2 (b) (4) or on a master policy basis pursuant to subsection (b)  
3 (5) within 15 days after the effective date of the  
4 professional employer agreement.

5 (2) Notify the department of any cancellation or  
6 termination of a professional employer agreement under which  
7 the PEO has assumed the obligation to provide workers'  
8 compensation insurance for covered employees within ten days  
9 following the date the notification of cancellation or  
10 termination of the professional employer agreement is issued  
11 to the client.

12 (3) Notify the department of any cancellation or  
13 termination of workers' compensation coverage for covered  
14 employees by the PEO's insurer, or any change in insurers for  
15 covered employees, within ten days of the effective date of  
16 cancellation, termination or change of insurers.

17 (h) Notice by insurer or licensed producer.--The insurer or  
18 licensed producer of a workers' compensation policy sponsored by  
19 a PEO for covered employees shall provide the department with  
20 copies of all notices of coverage, cancellation or nonrenewal  
21 related to that policy. The PEO shall notify the insurer or  
22 licensed producer of the requirement under this subsection.

23 (i) Exclusive remedy.--

24 (1) The Workers' Compensation Act shall provide the  
25 exclusive remedy for injuries suffered by direct hire and  
26 covered employees in the course and scope of their employment  
27 or coemployment with the PEO and client where the PEO or  
28 client has secured workers' compensation insurance or self-  
29 insured their workers' compensation obligations as required  
30 by the Workers' Compensation Act, this act and the

1 professional employer agreement. Both the PEO and the client  
2 shall be entitled to the exclusiveness of remedy under  
3 section 303 of the Workers' Compensation Act regardless of  
4 which provided such coverage.

5 (2) Nothing in this act may include within the coverage  
6 of the Workers' Compensation Act individuals, services or  
7 remuneration that are otherwise excluded from the Workers'  
8 Compensation Act.

9 ~~(j) Cost. The professional employer organization shall not~~ ←  
10 ~~make any materially inaccurate, misleading or fraudulent~~  
11 ~~representations to the client regarding the cost of workers'~~  
12 ~~compensation coverage. If the professional employer organization~~  
13 ~~charges the client an itemized amount for workers' compensation~~  
14 ~~coverage, the professional employer organization shall provide~~  
15 ~~the client with an accurate and concise description of the basis~~  
16 ~~upon which it was calculated and the services that are included.~~  
17 ~~A professional employer organization shall not charge a client~~  
18 ~~an itemized amount for workers' compensation coverage that is~~  
19 ~~materially inconsistent with the actual amounts that the~~  
20 ~~professional employer organization is charged by the insurer,~~  
21 ~~given reasonably anticipated loss sensitive charges, if~~  
22 ~~applicable, reasonable recognition of the professional employer~~  
23 ~~organization's costs and a margin for profit.~~

24 (J) RECORD CONFIDENTIALITY.--UPON REQUEST, A PEO OR PEO ←  
25 GROUP SHALL MAKE AVAILABLE PERSONAL IDENTIFYING INFORMATION,  
26 EMPLOYER IDENTIFICATION NUMBERS, A FEDERAL EMPLOYMENT  
27 IDENTIFICATION NUMBER, PROVISIONS OF THE PROFESSIONAL EMPLOYER  
28 AGREEMENTS AND CLIENT LISTS TO A RATING ORGANIZATION LICENSED  
29 UNDER SECTION 712(A) OF THE ACT OF JUNE 2, 1915 (P.L.736,  
30 NO.338), KNOWN AS THE WORKERS' COMPENSATION ACT, AS REQUIRED TO

1 COMPLY WITH THE RATING ORGANIZATION'S STATUTORY OBLIGATIONS.  
2 INFORMATION OBTAINED UNDER THIS SUBSECTION SHALL ONLY BE USED BY  
3 THE RATING ORGANIZATION TO COMPLY WITH THOSE STATUTORY DUTIES  
4 EITHER PRESCRIBED UNDER THE WORKERS' COMPENSATION ACT OR AS  
5 REQUIRED BY THE ACT OF MAY 17, 1921 (P.L.789, NO.285), KNOWN AS  
6 THE INSURANCE DEPARTMENT ACT OF 1921, OR THE ACT OF MAY 17, 1921  
7 (P.L.682, NO.284), KNOWN AS THE INSURANCE COMPANY LAW OF 1921,  
8 AND SHALL NOT BE CONSIDERED PUBLIC RECORDS UNDER THE ACT OF  
9 FEBRUARY 14, 2008 (P.L.6, NO.3), KNOWN AS THE RIGHT-TO-KNOW LAW.

10 (k) Applicability.--This section shall apply to new and  
11 renewal workers' compensation policies issued to professional  
12 employer organizations on or after the effective date of this  
13 act.

14 Section ~~504~~ 304. Unemployment compensation insurance. ←

15 (a) Employer.--Notwithstanding any other provision of this  
16 act, the following shall apply:

17 (1) A professional employer agreement under this act  
18 shall constitute an arrangement included in section 4(j)(2.1)  
19 of the act of December 5, 1936 (2nd Sp.Sess., 1937 P.L.2897,  
20 No.1), known as the Unemployment Compensation Law.

21 (2) Nothing in this act shall be construed:

22 (i) To affect the responsibilities of the client as  
23 the employer of covered employees for purposes of the  
24 Unemployment Compensation Law.

25 (ii) To affect the responsibility of the PEO to file  
26 reports pursuant to section 315(a)(4) of the Unemployment  
27 Compensation Law.

28 (iii) To preclude the applicability of section 4(j)  
29 (2.1) or any other provisions of the Unemployment  
30 Compensation Law to any arrangement or person not



1 ~~under or violating this act.~~

2 ~~(2) The department may conduct audits, inspections and~~  
3 ~~investigations as necessary to administer and enforce this~~  
4 ~~act. The books and records of a PEO and a client shall be~~  
5 ~~available to the department for inspection and copying at~~  
6 ~~reasonable times. The department may examine an individual~~  
7 ~~under oath or affirmation and issue subpoenas to compel the~~  
8 ~~attendance of witnesses and the production of documents.~~

9 ~~(3) The department may revoke the registration of a PEO~~  
10 ~~or PEO group, or may impose an administrative penalty in an~~  
11 ~~amount not to exceed \$1,000 for each violation, or both, if~~  
12 ~~after notice and hearing, the PEO or PEO group:~~

13 ~~(i) Knowingly violates any provision of this act.~~

14 ~~(ii) Ceases to meet any requirement of this act.~~

15 ~~(iii) Knowingly misrepresents a material fact in~~  
16 ~~conjunction with any application, registration or renewal~~  
17 ~~or in any report required under this act.~~

18 ~~(iv) Fails to disclose a material fact in~~  
19 ~~conjunction with any application, registration or renewal~~  
20 ~~or in any report required under this act.~~

21 CHAPTER 21

22 MISCELLANEOUS PROVISIONS

23 Section 2101. Effective date.

24 This act shall take effect in 180 days.