

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1069 Session of 2011

INTRODUCED BY BROWNE, PIPPY, RAFFERTY, McILHINNEY, TOMLINSON, FOLMER, BREWSTER, FARNESE, STACK AND BLAKE, MAY 16, 2011

SENATOR GORDNER, LABOR AND INDUSTRY, AS AMENDED, OCTOBER 18, 2011

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 STATE; and imposing
4 penalties.



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

CHAPTER 1

PRELIMINARY PROVISIONS

9 Section 101. Short title.

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

12 Section 102. Definitions.

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

16 "Administrative fee." The fee charged to a client by a
17 professional employer organization for professional employer
18 services. The administrative fee shall not be deemed to include

1 any amount of a fee by the professional employer organization
2 that is for wages and salaries, benefits, workers' compensation,
3 payroll taxes, withholding or other assessment paid by the
4 professional employer organization to or on behalf of covered
5 employees under the professional employer agreement.

6 "Client." Any person who enters into a professional employer
7 agreement with a professional employer organization.

8 "Coemployer." A professional employer organization or
9 client.

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

16 "Controlling person." A person that owns, directly or
17 indirectly, 10% or more of the equity interest in a professional
18 employer organization.

19 "Covered employee." An individual coemployed by a
20 professional employer organization and a client who meets the
21 following criteria:

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

24 (2) The individual's coemployment relationship is
25 pursuant to a professional employer agreement subject to this
26 act.

27 Subject to section 504, individuals who are officers, directors,
28 shareholders, partners and managers of the client and who are
29 operational managers or perform day-to-day operational services
30 for the client are covered employees only to the extent that the

1 client and the professional employer organization expressly
2 agree in the professional employer agreement.

3 "Department." The Department of ~~Labor and Industry~~ STATE of ←
4 the Commonwealth.

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

9 "Insurer." A legal entity authorized or licensed to transact
10 insurance business in accordance with the laws of this
11 Commonwealth.

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

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

25 "Multiple coordinated policy basis." An agreement under
26 which a separate workers' compensation policy is issued to the
27 professional employer organization on behalf of each client or
28 group of affiliated clients with payment obligations and certain
29 policy communications related to such workers' compensation
30 policy coordinated through the professional employer

1 organization.

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

5 "Person." Any individual, partnership, corporation, limited
6 liability company, association or any other form of legally
7 recognized entity.

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

10 (1) for the coemployment of covered employees;

11 (2) for the allocation of employer rights and
12 obligations between the client and the professional employer
13 organization with respect to the covered employees; and

14 (3) that the professional employer organization and the
15 client assume the responsibilities required by this act.

16 "Professional employer organization" or "PEO." Any person
17 engaged in the business of providing professional employer
18 services.

19 "Professional employer services." The business of entering
20 into coemployment relationships under this act.

21 "Registrant." A professional employer organization
22 registered under this act.

23 "Secretary." The Secretary of ~~Labor and Industry~~ STATE of ←
24 the Commonwealth.

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

26 (1) recruiting and hiring its own employees;

27 (2) finding other organizations that need the services
28 of those employees;

29 (3) assigning those employees to perform work at or
30 services for the other organizations to support or supplement

1 the other organizations' work forces, or to provide
2 assistance in special work situations, including, but not
3 limited to, employee absences, skill shortages, seasonal
4 workloads or to perform special assignments or projects; and

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

7 Section 103. Scope.

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

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

23 (2) Independent contractor arrangements.

24 (3) Providing temporary help services.

25 Section 104. Construction.

26 (a) Collective bargaining agreements.--Nothing contained in
27 this act or in any professional employer agreement shall affect,
28 modify or amend any existing collective bargaining agreement,
29 specifically limit or affect any future collective bargaining
30 agreement, or affect, modify or amend any rights or obligations

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

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

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

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

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

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

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

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

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

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

24 (d) Tax credits and other incentives.--For purposes of
25 determination of tax credits and other economic incentives
26 provided by the Commonwealth or other government entity and
27 based on employment, covered employees shall be deemed employees
28 solely of the client. A client shall be entitled to the benefit
29 of any tax credit, economic incentive or other benefit arising
30 as the result of the employment of covered employees of the

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

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

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

29 CHAPTER 3

30 REGISTRATION

1 Section 301. Registration.

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

8 (b) Registration information.--An application for
9 registration shall include the following information:

10 (1) The name or names under which the PEO or the PEO
11 group members conduct business and the legal name.

12 (2) The address of the principal place of business of
13 the PEO or the PEO group members and the address of each
14 office maintained in this Commonwealth.

15 (3) The taxpayer or employer identification number of
16 the PEO or the PEO group members.

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

21 (5) A statement of ownership, which shall include the
22 name and evidence of the business experience of any
23 controlling person.

24 (6) A statement of management, which shall include the
25 name and evidence of the business experience of any person
26 who serves as president, chief executive officer or otherwise
27 has the authority to act as senior executive officer of the
28 PEO or PEO group member.

29 (7) A financial statement that sets forth the financial
30 condition of the PEO or PEO group and meets the following

1 requirements:

2 (i) The financial statement shall be prepared in
3 accordance with generally accepted accounting principles.

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

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

24 (8) The provisions of the professional employer
25 agreements in use or that will be used by the PEO or PEO
26 group in this Commonwealth.

27 (9) A complete list of current clients with covered
28 employees who perform services within this Commonwealth at
29 the time of registration.

30 (10) Evidence of current workers' compensation insurance

1 policies issued to or through the PEO insuring covered
2 employees located in this Commonwealth.

3 (11) Designation of a registered agent for acceptance of
4 service of process in this Commonwealth.

5 (12) All additional information required by the
6 department to demonstrate that the PEO or PEO group meets the
7 requirements for the applicable registration.

8 (c) Timely application and duration of registration.--

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

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

19 (ii) Each PEO not operating within this Commonwealth
20 as of the effective date of this act shall receive its
21 initial registration prior to commencement of operations
22 within this Commonwealth.

23 (2) A PEO or PEO group that will continue its operations
24 beyond the termination of its initial registration or its
25 most recent renewal registration shall file an application to
26 renew its registration with the department no later than 90
27 days before the end of the current registration. If a timely
28 application for renewal is filed, the current registration
29 shall remain effective until the department grants or denies
30 the application for renewal.

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

11 (e) Limited registration.--

12 (1) A PEO or PEO group is eligible for a limited
13 registration under this act if the PEO or PEO group meets the
14 following:

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

22 (ii) Does not maintain an office in this
23 Commonwealth.

24 (iii) Does not directly solicit clients with covered
25 employees who may perform services within this
26 Commonwealth.

27 (iv) Does not have more than 50 covered employees
28 who may perform services in this Commonwealth on any
29 given day.

30 (2) Section 303 shall not apply to applicants for

1 limited registration.

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

5 (g) Forms.--Applications for registration shall be made in
6 the manner prescribed by the department. The department may
7 prescribe forms necessary to promote the efficient
8 administration of this section.

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

30 (i) Record confidentiality.--All financial statements, any

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

24 (j) Appeals.--

25 (1) If the department denies an application for
26 registration or revokes a registration under section 701, the
27 PEO or PEO group may appeal the department's determination to
28 the secretary. The appeal must be received by the department
29 within 30 days after the date of the determination.

30 (2) An appeal of a determination by the department

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

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

10 Section 302. Fees.

11 ~~(a) Fees. Except as provided in subsection (b), the~~ ←
12 ~~department shall charge the following fees for applications~~
13 ~~under this act:~~

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

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

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

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

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

26 THE DEPARTMENT MAY PROMULGATE RULES AND REGULATIONS ←
27 ESTABLISHING FEES FOR APPLICATION AND RENEWAL UNDER THIS ACT. NO
28 FEE SHALL EXCEED THE ACTUAL AMOUNT NECESSARY FOR THE
29 ADMINISTRATION OF THIS ACT. FEES SHALL BE RETAINED BY THE
30 DEPARTMENT ONLY FOR THE PURPOSES OF ADMINISTERING THIS ACT.

1 Section 303. Financial capability.

2 (a) Working capital.--Except as provided in section 301(e),
3 each registrant shall maintain either:

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

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

15 (b) Instruments.--The following instruments may be
16 maintained to comply with subsection (a)(2):

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

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

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

1 secure payment as set forth in subsection (a)(2).

2 (2) An instrument held under a trust agreement
3 prescribed by the department and maintained to secure payment
4 as set forth in subsection (a)(2). The following shall apply:

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

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

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

28 (i) At the time of issuance of the letter of credit,
29 the issuing bank or its holding company shall have a B/C
30 or better rating or 2.5 or better score by Thomson

1 BankWatch, or the issuing bank shall have a CD rating of
2 BBB or better by Standard & Poor's Corporation.

3 (ii) The registrant shall replace the letter of
4 credit with a new letter of credit issued by a bank with
5 an acceptable credit rating or with another acceptable
6 form of security if a bank's rating falls below the
7 acceptable rating after the letter of credit is issued.
8 If the letter of credit is not replaced within 60 days,
9 the department shall be entitled to draw on the letter of
10 credit and will deposit the proceeds to secure payment as
11 set forth in subsection (a)(2).

12 (iii) The registrant shall execute a trust agreement
13 on a form prescribed by the department with a
14 Commonwealth chartered bank and trust company or trust
15 company as defined in section 102 of the Banking Code of
16 1965 or a federally chartered bank or foreign bank with a
17 branch office and trust powers in this Commonwealth. The
18 trust agreement must accommodate proceeds from a letter
19 of credit drawn on by the department.

20 (c) Certification.--Within 60 days after the end of each
21 calendar quarter, a registrant shall submit to the department a
22 certification by a senior manager that all applicable Federal,
23 State and local taxes and required insurance premiums have been
24 paid for all covered employees in this Commonwealth on a timely
25 basis for that quarter.

26 CHAPTER 5

27 PEO DUTIES AND AGREEMENTS

28 Section 501. Duties and contractual relationship.

29 (a) Allocation of rights, duties and obligations.--Except as
30 specifically provided in this act, nothing in this act shall be

1 deemed to affect or alter any provision of Pennsylvania law.

2 Specifically:

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

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

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

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

30 (1) The allocation of rights, duties and obligations as

1 described in subsection (a).

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

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

1 (4) That the PEO shall have a right to hire, discipline
2 and terminate a covered employee as may be necessary to
3 fulfill the PEO's responsibilities under this act and the
4 professional employer agreement. The client shall have a
5 right to hire, discipline and terminate a covered employee.

6 (5) The PEO or client has the responsibility to provide
7 workers' compensation coverage for covered employees, in
8 compliance with section 503, which responsibility shall be
9 specifically allocated in the professional employer agreement
10 to either the client or the PEO in accordance with section
11 503(a).

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

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

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

26 (2) If the PEO is providing benefits to covered
27 employees pursuant to a PEO sponsored welfare benefit plan,
28 the PEO shall provide specific notice to the client as to
29 services provided by the PEO concerning those benefits. These
30 responsibilities include those related to administration,

1 which includes Consolidated Omnibus Budget Reconciliation Act
2 (COBRA) administration, plan administration, enrollment and
3 renewal services pursuant to their professional employer
4 agreement. The notice may be contained in the professional
5 employer agreement or in a separate notice.

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

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

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

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

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

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

29 (6) A covered employee is not, solely as the result of
30 being a covered employee of a PEO, an employee of the PEO for

1 purposes of general liability insurance, fidelity bonds,
2 surety bonds, employer's liability which is not covered by
3 workers' compensation or liquor liability insurance carried
4 by the PEO unless the covered employee is included by
5 specific reference in the professional employer agreement and
6 applicable prearranged employment contract, insurance
7 contract or bond.

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

14 (g) Taxation.--

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

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

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

29 (4) In the case of tax imposed or calculated upon the
30 basis of total payroll, the PEO shall be eligible to apply

1 any small business allowance or exemption available to the
2 client for the covered employees for purpose of computing the
3 tax.

4 Section 502. Benefit plans.

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

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

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

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

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

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

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

29 (4) Provide written notice to each covered employee
30 participating in the benefit plan that the plan is self-

1 insured or is not fully insured.

2 (5) PROVIDE WRITTEN NOTICE TO THE CLIENT OF THE AMOUNT
3 OF ANY AGGREGATE STOP LOSS INSURANCE. ←

4 Section 503. Workers' compensation.

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

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

10 (2) The responsibility to provide workers' compensation
11 coverage for the covered employees shall be specifically
12 allocated in the professional employer agreement to either
13 the client or the PEO.

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

19 (4) When the responsibility to provide workers'
20 compensation coverage is specifically allocated in the
21 professional employer agreement to the client, the client
22 must provide coverage pursuant to subsection (b)(1) or (2).

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

28 (1) The client obtaining a standard workers'
29 compensation policy from an insurer authorized to provide
30 workers' compensation coverage covering the client's covered

1 employees. Separate experience modification, risk
2 classifications, merit rating adjustments, construction
3 classification premium adjustments or certified safety
4 committee program credits shall be applied to the exposures
5 of the client covered by a policy obtained under this
6 paragraph based on the client's entire Pennsylvania
7 operations notwithstanding coverage provided under additional
8 professional employer agreements pursuant to paragraphs (3),
9 (4) and (5).

10 (2) The client being approved by the ~~department~~ ←
11 DEPARTMENT OF LABOR AND INDUSTRY to self-insure or group ←
12 self-insure its workers' compensation obligations for the
13 client's covered employees.

14 (3) The PEO purchasing workers' compensation insurance
15 on a multiple coordinated policy basis from an insurer
16 authorized to provide workers' compensation coverage to the
17 PEO and to the client with respect to the covered employees
18 assigned to the client. Each policy written on a multiple
19 coordinated policy basis shall be issued to the PEO as
20 primary named insured and must identify both the PEO and the
21 client as insureds. AT THE WRITTEN REQUEST OF THE CLIENT, A ←
22 PROFESSIONAL EMPLOYER ORGANIZATION SHALL MAKE AVAILABLE
23 EVIDENCE OF WORKERS' COMPENSATION COVERAGE, LOSS HISTORY AND
24 TOTAL WAGES PAID FOR COVERED EMPLOYEES OF THE CLIENT. The
25 following apply:

26 (i) Separate experience data must be reported to the
27 licensed rating organization for workers' compensation
28 insurance for each multiple coordinated policy in a
29 format complying with requirements of the approved
30 statistical plan for workers' compensation coverage.

1 (ii) Risk classifications shall be assigned to each
2 client based on the totality of that client's
3 Pennsylvania operations regardless of whether workers
4 engaged therein are provided under one or more
5 professional employer agreements or are direct hire
6 employees of the client.

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

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

26 (v) Nothing in this paragraph shall prohibit a
27 professional employer organization from participating in
28 a large deductible program, retrospective rating program
29 or any other rating program approved for and written
30 under a workers' compensation policy offered by an

1 insurer. Further, nothing in this paragraph shall
2 restrict an insurer from collecting workers' compensation
3 premium based on the totality of the exposure under these
4 multiple coordinated policies and applying rates and
5 discounts consistent with those approved for the insurer
6 pursuant to the rating program.

7 (4) The PEO being duly qualified and approved by the
8 ~~department~~ DEPARTMENT OF LABOR AND INDUSTRY to self-insure ←
9 its workers' compensation obligations, including direct
10 employees and covered employees.

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

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

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

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

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

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

1 (d) Client obligation.--

2 (1) A client retains the statutory obligation to provide
3 workers' compensation coverage for employees that are not
4 covered employees pursuant to the professional employer
5 agreement. Nothing in this paragraph shall preclude a client
6 from purchasing a workers' compensation policy insuring both
7 its covered employees and its direct hire employees.

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

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

28 (e) Policy issuance permitted.--Subject to subsection (b),
29 and notwithstanding the provisions of section 653 of the act of
30 May 17, 1921 (P.L.682, No.284), known as The Insurance Company

1 Law of 1921, insurers may issue ~~multiple coordinated policies~~ ←
2 ~~and master policies covering fewer than all of a client's~~
3 ~~employees pursuant to subsection (b) (3) and (5)~~ STANDARD ←
4 WORKERS' COMPENSATION POLICIES UNDER SUBSECTION (B) (1), MULTIPLE
5 COORDINATED POLICIES UNDER SUBSECTION (B) (3) OR MASTER POLICIES
6 UNDER SUBSECTION (B) (5) COVERING FEWER THAN ALL OF A CLIENT'S
7 EMPLOYEES.

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

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

12 (i) The client of the PEO has a continuing
13 obligation to provide coverage under the Workers'
14 Compensation Act for direct hire employees of the client
15 who are not covered employees and not otherwise covered
16 under a policy described in this section.

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

30 (2) The written notice to the client shall explicitly

1 state that:

2 (i) If the professional employer organization
3 terminates the professional employment agreement with the
4 client, termination of workers' compensation coverage by
5 the insurer shall be effective the sooner of:

6 (A) Sixty days after notice of intent to
7 terminate workers' compensation coverage by the
8 insurer has been given by the professional employer
9 organization to the client.

10 (B) Fifteen days after notice of intent to
11 terminate workers' compensation coverage by the
12 insurer for nonpayment has been given by the
13 professional employer organization to the client.

14 (C) The date on which workers' compensation
15 coverage for the covered employees is transferred to
16 the client's workers' compensation policy or other
17 coverage.

18 (ii) The requirements under paragraph (1) shall
19 continue to apply to workers' compensation coverage
20 provided by the insurer after the notice is given
21 pursuant to subparagraph (i).

22 (iii) The client shall pay for all workers'
23 compensation coverage provided by the insurer, including
24 reasonable administrative expenses, subsequent to the
25 termination of the professional employer agreement by the
26 professional employer organization.

27 (iv) If workers' compensation coverage is provided
28 through a workers' compensation insurance policy issued
29 to the professional employer organization on behalf of
30 the client who has been given notice pursuant to

1 subparagraph (i), the professional employer organization
2 shall notify the affected insurer of the notice.

3 (g) Notice to ~~department~~ DEPARTMENT OF LABOR AND INDUSTRY.-- ←

4 If the professional employer agreement provides for the PEO to
5 provide workers' compensation insurance for covered employees,
6 the PEO shall:

7 (1) Notify the ~~department~~ DEPARTMENT OF LABOR AND ←
8 INDUSTRY that it has insured covered employees assigned to a
9 client for workers' compensation on a multiple coordinated
10 policy basis pursuant to subsection (b) (3) or through self-
11 insurance in accordance with subsection (b) (4) or on a master
12 policy basis pursuant to subsection (b) (5) within 15 days
13 after the effective date of the professional employer
14 agreement.

15 (2) Notify the ~~department~~ DEPARTMENT OF LABOR AND ←
16 INDUSTRY of any cancellation or termination of a professional
17 employer agreement under which the PEO has assumed the
18 obligation to provide workers' compensation insurance for
19 covered employees within ten days following the date the
20 notification of cancellation or termination of the
21 professional employer agreement is issued to the client.

22 (3) Notify the ~~department~~ DEPARTMENT OF LABOR AND ←
23 INDUSTRY of any cancellation or termination of workers'
24 compensation coverage for covered employees by the PEO's
25 insurer, or any change in insurers for covered employees,
26 within ten days of the effective date of cancellation,
27 termination or change of insurers.

28 (h) Notice by insurer or licensed producer.--The insurer or
29 licensed producer of a workers' compensation policy sponsored by
30 a PEO for covered employees shall provide the ~~department~~ ←



1 DEPARTMENT OF LABOR AND INDUSTRY with copies of all notices of
2 coverage, cancellation or nonrenewal related to that policy. The
3 PEO shall notify the insurer or licensed producer of the
4 requirement under this subsection.

5 (i) Exclusive remedy.--

6 (1) The Workers' Compensation Act shall provide the
7 exclusive remedy for injuries suffered by direct hire and
8 covered employees in the course and scope of their employment
9 or coemployment with the PEO and client where the PEO or
10 client has secured workers' compensation insurance or self-
11 insured their workers' compensation obligations as required
12 by the Workers' Compensation Act, this act and the
13 professional employer agreement. Both the PEO and the client
14 shall be entitled to the exclusiveness of remedy under
15 section 303 of the Workers' Compensation Act regardless of
16 which provided such coverage.

17 (2) Nothing in this act may include within the coverage
18 of the Workers' Compensation Act individuals, services or
19 remuneration that are otherwise excluded from the Workers'
20 Compensation Act.

21 (j) Cost.--The professional employer organization shall not
22 make any materially inaccurate, misleading or fraudulent
23 representations to the client regarding the cost of workers'
24 compensation coverage. If the professional employer organization
25 charges the client an itemized amount for workers' compensation
26 coverage, the professional employer organization shall provide
27 the client with an accurate and concise description of the basis
28 upon which it was calculated and the services that are included.
29 A professional employer organization shall not charge a client
30 an itemized amount for workers' compensation coverage that is

1 materially inconsistent with the actual amounts that the
2 professional employer organization is charged by the insurer,
3 given reasonably anticipated loss-sensitive charges, if
4 applicable, reasonable recognition of the professional employer
5 organization's costs and a margin for profit.

6 (k) Applicability.--This section shall apply to new and
7 renewal workers' compensation policies issued to professional
8 employer organizations on or after the effective date of this
9 act.

10 Section 504. Unemployment compensation insurance.

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

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

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

18 (i) To affect the responsibilities of the client as
19 the employer of covered employees for purposes of the
20 Unemployment Compensation Law.

21 (ii) To affect the responsibility of the PEO to file
22 reports pursuant to section 315(a)(4) of the Unemployment
23 Compensation Law.

24 (iii) To preclude the applicability of section 4(j)
25 (2.1) or any other provisions of the Unemployment
26 Compensation Law to any arrangement or person not
27 governed by this act.

28 (b) Procedure.--

29 (1) A client may authorize a PEO to file employer
30 reports pursuant to section 304 of the Unemployment

1 Compensation Law and pay unemployment compensation
2 contributions, interest and penalties on the client's behalf.

3 (2) An authorization, filing or payment under this
4 subsection shall be made in the manner prescribed by the
5 ~~department~~ DEPARTMENT OF LABOR AND INDUSTRY. ←

6 (3) This subsection shall not be construed to allow
7 multiple employer reports to be filed on a client's
8 unemployment compensation account for a calendar quarter.

9 CHAPTER 7

10 ENFORCEMENT

11 Section 701. Enforcement.

12 (a) Prohibited acts.--A person commits a misdemeanor of the
13 third degree if that person:

14 (1) Offers, provides, advertises or holds itself out as
15 providing professional employer services or uses the names
16 PEO, professional employer organization, staff leasing,
17 employee leasing, administrative employer or other title
18 representing professional employer services without first
19 becoming registered under this act.

20 (2) Knowingly and willingly misrepresents a material
21 fact or fails to disclose a material fact in conjunction with
22 any application, registration, renewal or in any report
23 required under this act.

24 (b) Inspection and disciplinary action.--

25 (1) Upon petition of the department, a court of
26 competent jurisdiction may enjoin a PEO from taking action
27 under or violating this act.

28 (2) The department may conduct audits, inspections and
29 investigations as necessary to administer and enforce this
30 act. The books and records of a PEO and a client shall be

1 available to the department for inspection and copying at
2 reasonable times. The department may examine an individual
3 under oath or affirmation and issue subpoenas to compel the
4 attendance of witnesses and the production of documents.

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

9 (i) Knowingly violates any provision of this act.

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

11 (iii) Knowingly misrepresents a material fact in
12 conjunction with any application, registration or renewal
13 or in any report required under this act.

14 (iv) Fails to disclose a material fact in
15 conjunction with any application, registration or renewal
16 or in any report required under this act.

17 CHAPTER 21

18 MISCELLANEOUS PROVISIONS

19 Section 2101. Effective date.

20 This act shall take effect in 180 days.