

Senate Bill 475

By: Senator Parent of the 42nd

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 34 of the Official Code of Georgia Annotated, relating to labor and industrial
2 relations, so as to provide for certain employment benefits for independent contractors; to
3 provide for funding, administration, and eligibility; to provide for definitions; to provide for
4 the nature of the benefits; to provide for enforcement; to provide for related matters; to repeal
5 conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Title 34 of the Official Code of Georgia Annotated, relating to labor and industrial relations,
9 is amended by revising Chapter 11, which is reserved, as follows:

10 "CHAPTER 11

11 34-11-1.

12 As used in this chapter, the term:

13 (1) 'Contracting agent' means a business, organization, corporation, limited liability
14 company, partnership, sole proprietor, or any other entity that facilitates the provision of
15 services by workers to consumers seeking the services and makes payments to workers,
16 where the provision of services is taxed as an independent contractor and reported using
17 federal Form 1099 of the federal Internal Revenue Service.

18 (2) 'Department' means the Department of Labor.

19 (3) 'Qualified benefit provider' means a nonprofit benefit provider that is eligible to
20 provide benefits to workers of contracting agents pursuant to this chapter.

21 (4) 'Worker' means a person who provides services to consumers through a contracting
22 agent.

23 34-11-2.

24 (a) Contracting agents that have facilitated the provision of services by at least 50
25 individual workers in a consecutive 12 month period shall contribute funds to qualified
26 benefit providers under this chapter to provide benefits to the workers of the contracting
27 agents. The requirement to contribute funds under this chapter shall apply only when the
28 services are provided to consumers located in this state.

29 (b)(1) The contribution amount shall be the lesser of 25 percent of the total fee
30 collected from the consumer for each transaction of services provided or \$6.00 for
31 every hour that the worker provides services to the consumer. If determined per hour,
32 then the determination shall be prorated per minute.

33 (2) The contribution amount required under this Code section may be added to the
34 invoice or billing submitted to the consumer for the services.

35 (c) Contributions shall be made to qualified benefit providers on no less than a monthly
36 basis and no later than 15 days after the end of the month in which the services were
37 provided.

38 (d) Contributions shall indicate the assigned amount per worker per transaction, according
39 to the following:

40 (1) If a single worker provided services for a transaction, the entire contribution is
41 assigned to that worker; or

42 (2) If multiple workers provided services for a transaction, the contribution is assigned
43 proportionately to those workers.

44 34-11-3.

45 (a) Based on the contributions received under Code Section 34-11-2, qualified benefit
46 providers shall ensure that benefits are provided to workers as set forth in this Code
47 section.

48 (b) Qualified benefit providers shall provide workers' compensation insurance pursuant
49 to Chapter 9 of Title 34 to those workers entitled to benefits based on contributions made
50 under Code Section 34-11-2.

51 (c) In addition to workers' compensation insurance, qualified benefit providers shall
52 provide some or all of the benefits set forth in this subsection. Qualified benefit providers
53 shall solicit input from workers on their benefits and shall allow workers to choose from
54 available benefits or allocate the contributions among the following benefits:

55 (1) Health insurance, including, but not limited to, subsidies to purchase health
56 insurance;

57 (2) Paid time off;

58 (3) Retirement benefits; and

59 (4) Other benefits determined by the qualified benefit providers on behalf of the workers.
 60 (d) Qualified benefit providers may use up to 5 percent of the contribution funds received
 61 for administration of benefits.

62 34-11-4.

63 A worker entitled to benefits under this chapter shall select a qualified benefit provider and
 64 shall be given the option to change that selected qualified benefit provider once per year.
 65 Workers shall be provided information regarding available qualified benefit providers in
 66 a format that allows them to easily select a qualified benefit provider.

67 34-11-5.

68 The department shall adopt rules for organizations to become qualified benefit providers.
 69 At a minimum, the rules governing qualified benefit providers shall require that the
 70 following criteria are met:

71 (1) The organization shall be a nonprofit organization, operating under 26 U.S.C.
 72 Section 501(c)(3) federal tax status;

73 (2) At least one-half of the organization's board of directors shall comprise workers of
 74 contracting agents or representatives of bona fide independent organizations of those
 75 workers;

76 (3) The organization shall be independent from all business entities, organizations,
 77 corporations, or individuals that would pursue any financial interest in conflict with that
 78 of the workers;

79 (4) All actions of the organization regarding the provision of benefits shall be for the sole
 80 purpose of maximizing benefits to the covered workers;

81 (5) The board of directors of the organization shall hold a fiduciary duty to the workers
 82 with respect to the provision of benefits; and

83 (6) The organization shall demonstrate adequate viability and financial sufficiency as
 84 determined by the department. At a minimum, the organization shall have:

85 (A) Cash reserves in a sufficient amount as determined by the department;

86 (B) Liability coverage in an amount determined by the department;

87 (C) Access to bonding; and

88 (D) Other demonstrated competencies as determined by the department.

89 34-11-6.

90 The department shall establish rules and regulations to implement and administer this
 91 chapter, including rules and regulations for:

92 (1) Monitoring compliance of contracting agents;

93 (2) Monitoring qualified benefit providers, including the ability to remove providers that
94 are out of compliance with the criteria established under this chapter;
95 (3) Establishing a fee on contracting agents to fund the department's compliance efforts;
96 (4) Administering workers' compensation coverage for workers under this chapter; and
97 (5) Providing procedures for workers to select qualified benefit providers, to change their
98 selections annually, and to receive notices of the right to select different qualified benefit
99 providers.

100 34-11-7.

101 In addition to remedies provided by the department to a worker for a contracting agent's
102 noncompliance, a worker may bring a private cause of action against a contracting agent
103 for the contracting agent's failure to comply with the contribution requirements under Code
104 Section 34-11-2.

105 34-11-8.

106 The requirements on contracting agents and the benefits provided to workers under this
107 chapter shall not be considered in determinations of a worker's employment status or a
108 contracting agent's employment relationship to the worker."

109 **SECTION 2.**

110 All laws and parts of laws in conflict with this Act are repealed.