

House Bill 250

By: Representatives Taylor of the 173rd, Cheokas of the 151st, Jones of the 25th, Williams of the 148th, and Martin of the 49th

A BILL TO BE ENTITLED
AN ACT

1 To amend Titles 33 and 34 of the Official Code of Georgia Annotated, relating to insurance
2 and labor and industrial relations, respectively, so as to provide for the registration and
3 regulation of professional employer organizations; to provide for certain regulatory powers,
4 duties, and authority of the Commissioner of Insurance over professional employer
5 organizations; to exempt such organizations from certain licensing requirements; to provide
6 for definitions; to provide for the registration of such organizations; to provide for certain
7 fees; to provide for the restriction of the use of certain terms; to provide for complaints; to
8 provide for coordination with the Commissioner of Labor; to provide for a co-employment
9 relationship; to provide for no effect on existing collective bargaining agreements or other
10 contracts; to provide for legislative construction; to clarify rights, duties, and obligations of
11 clients and professional employer organizations; to clarify employer and employee statuses;
12 to clarify tax duties, obligations, and credits; to provide for disciplinary actions; to provide
13 for the applicability of Chapter 8 of Title 34, the "Employment Security Law"; to provide for
14 rules and regulations; to repeal obsolete provisions; to provide for the posting of a surety
15 bond; to provide for conforming changes; to provide for a short title; to provide for related
16 matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

H. B. 250

PART I**SECTION 1-1.**

18
19
20 Title 33 of the Official Code of Georgia Annotated, relating to insurance, is amended in
21 subsections (b) and (c) of Code Section 33-23-1, relating to definitions relative to agents,
22 agencies, subagents, counselors, and adjusters, as follows:

23 "(b) The definitions of agent, subagent, and counselor in subsection (a) of this Code
24 section shall not be deemed to include:

25 (1) An attorney at law admitted to practice in this state, when handling the collections
26 of premiums or advising clients as to insurance as a function incidental to the practice of
27 law or who adjusts losses which are incidental to the practice of his or her profession;

28 (2) Any representative of ocean marine insurers;

29 (3) Any representative of farmers' mutual fire insurance companies as defined in
30 Chapter 16 of this title;

31 (4) A salaried employee of a credit or character reporting firm or agency not engaged in
32 the insurance business who may, however, report to an insurer;

33 (5) A person acting for or as a collection agency;

34 (6) A person who makes the salary deductions of premiums for employees or, under a
35 group insurance plan, a person who serves the master policyholder of group insurance in
36 administering the details of such insurance for the employees or debtors of the master
37 policyholder or of a firm or corporation by which the person is employed and who does
38 not receive insurance commissions for such service; provided, further, that an
39 administration fee not exceeding 5 percent of the premiums collected paid by the insurer
40 to the administration office shall not be construed to be an insurance commission;

41 (7) Persons exempted from licensure as provided in subsection (h) of Code
42 Section 33-23-4; ~~or~~

43 (8) An individual who collects claim information from, or furnishes claim information
 44 to, insureds or claimants, who conducts data entry, and who enters data into an automated
 45 claims adjudication system, provided that the individual is an employee of a licensed
 46 independent adjuster or its affiliate where no more than 25 such persons are under the
 47 supervision of one licensed independent adjuster or licensed agent; or

48 (9) A professional employer organization providing professional employer services to
 49 a client or covered employee pursuant to a professional employer agreement, as such
 50 terms are defined in Code Section 34-11-1, to the extent that such organization collects
 51 information from a client or covered employee; obtains, offers, or provides life, accident
 52 and sickness, disability income, workers' compensation, and other types of insurance
 53 coverage for a client or covered employee; establishes a retirement plan for a client or
 54 covered employee; and has or obtains, offers, or provides other types of employee
 55 benefits and discusses such benefits with a client or covered employee.

56 (c) In addition to paragraphs (2) through ~~(8)~~(9) of subsection (b) of this Code section, the
 57 definitions of public adjuster, independent adjuster, and adjuster in subsection (a) of this
 58 Code section shall not be deemed to include an attorney admitted to practice law in this
 59 state."

60 **SECTION 1-2.**

61 Said title is further amended in subsection (b) of Code Section 33-23-100, relating to
 62 definitions, exemptions, and applicability of Code Section 33-24-59.5 and 33-24-59.14, by
 63 striking "or" at the end of paragraph (12), replacing the period at the end of paragraph (13)
 64 with "; or", and adding a new paragraph to read as follows:

65 "(14) A professional employer organization to the extent that such organization
 66 administers insurance or administers workers' compensation claims pursuant to a
 67 professional employer agreement, as such terms are defined in Code Section 34-11-1."

68

PART II

69

SECTION 2-1.

70 This Act shall be known and may be cited as the "Better Small Business Employee Benefits
71 Act."

72

SECTION 2-2.

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

75

"CHAPTER 11

76 34-11-1.

77 As used in this chapter, the term:

78 (1) 'Client' means any person who enters into a professional employer agreement with
79 a professional employer organization.

80 (2) 'Co-employer' means either a professional employer organization or a client.

81 (3) 'Co-employment relationship' means an arrangement wherein the rights, duties, and
82 obligations of an employer which arise out of an employment arrangement are allocated
83 between the parties to such arrangement.

84 (4) 'Commissioner' means the Commissioner of Insurance.

85 (5) 'Covered employee' means an individual working under a co-employment
86 relationship between a PEO and a client pursuant to a professional employer agreement
87 subject to this chapter.

88 (6) 'Department' means the Department of Insurance.

89 (7) 'Limited registrant' means a PEO that:

90 (A) Is domiciled and registered or licensed in another state;

- 91 (B) Has 50 or fewer covered employees; and
- 92 (C) Maintains no principal place of business in this state.
- 93 (8) 'PEO group' means two or more PEO entities that are majority owned or commonly
94 controlled by the same entity or parent company.
- 95 (9) 'Person' means any individual, corporation, company, association, partnership,
96 limited liability company, or other form of legally recognized entity.
- 97 (10) 'Professional employer agreement' means a written contract between a client and a
98 PEO that provides:
- 99 (A) For the co-employment of covered employees;
- 100 (B) An express allocation of employer rights and obligations regarding covered
101 employees between the client and the PEO; and
- 102 (C) That the PEO and the client assume the responsibilities required by this chapter.
- 103 (11) 'Professional employer organization' or 'PEO' means any person engaged in the
104 business of providing professional employer services. Such term is not required to be in
105 the title of the business. Such term shall include a staff leasing company, registered staff
106 leasing company, employee leasing company, administrative employer, or any other
107 similar name, provided that the person is engaged in the business of providing
108 professional employer services. Such term shall not include:
- 109 (A) A person, whose principal business activity is not entering into professional
110 employer agreements and which does not hold itself out as a PEO, that shares
111 employees with a commonly controlled corporation, trade, or business within the
112 meaning of Section 414(b) and (c) of the federal Internal Revenue Code of 1986;
- 113 (B) A person in an independent contractor arrangement by which such person assumes
114 responsibility for the goods produced or services performed by such person or such
115 person's agents and retains and exercises primary direction and control over the work
116 performed by the individuals whose goods or services are supplied under such
117 arrangement; or

118 (C) A temporary help contracting firm as defined in Code Section 34-8-46.

119 (12) 'Professional employer services' means the service of entering into co-employment
120 relationships in which all or a majority of the employees providing services to a client are
121 covered employees pursuant to a professional employer agreement.

122 (13) 'Registrant' means a PEO registered with the department pursuant to Code
123 Section 34-11-2.

124 34-11-2.

125 (a) Beginning July 1, 2027, except as otherwise provided in this chapter, no person shall
126 provide, advertise, or otherwise hold itself out as providing professional employer services
127 in this state, unless such person is registered with the department in accordance with this
128 chapter. The department shall begin accepting applications for registration no later than
129 January 2, 2026.

130 (b) Each applicant for registration shall provide the department with the following:

131 (1) The name or names under which the PEO conducts business;

132 (2) The address of the principal place of business of the PEO;

133 (3) The address of each office, if any, it maintains in this state;

134 (4) The PEO's taxpayer or employer identification number;

135 (5) A list by jurisdiction of each name under which the PEO has operated in the
136 preceding two years;

137 (6) A statement of ownership, which shall include the name and address of any person
138 that, individually or in a business relationship with one or more other persons, owns or
139 controls at least 25 percent of the equity interests of the PEO;

140 (7) A statement of management, which shall include the name of any person who serves
141 as chief executive officer, president, or secretary or otherwise has been empowered with
142 the authority to act as an officer of the PEO; and

143 (8) A financial statement, prepared in accordance with generally accepted accounting
144 principles by an independent, certified public accountant licensed to practice in the
145 jurisdiction in which such accountant is located. A PEO group may submit combined or
146 consolidated financial statements to meet the requirements of this paragraph. A PEO that
147 has not had sufficient operating history to be able to provide such records shall meet the
148 financial requirements set forth in this Code section and present financial statements as
149 requested by the department.

150 (c) In the event a PEO not registered in this state becomes knowledgeable that a client has
151 covered employees in this state:

152 (1) The PEO shall notify the department within 30 days of such knowledge and file a
153 limited registrant application under subsection (f) of this Code section; or

154 (2) If the number of covered employees exceeds 50, the department may allow for a
155 temporary registration while registration applications are being prepared and evaluated.
156 In its evaluation for such temporary registration, the department may consider whether
157 the PEO is currently registered or licensed in another state and if temporary registration
158 is in the best interests of the covered employees in this state.

159 (d) A registrant shall renew its registration annually by making a filing in a form
160 determined by the department, which shall provide for the registrants to notify the
161 department of any material changes in the information provided in its most recent
162 registration filing. A registrant's existing registration shall remain in effect while such
163 renewal application is under review.

164 (e) A PEO group applying for renewal may satisfy the registration and financial reporting
165 requirements of this chapter by filing combined or consolidated filings, provided that each
166 member of the PEO group attests to being responsible for meeting the requirements set
167 forth in this chapter.

168 (f) A PEO shall be eligible to be a limited registrant if such PEO submits a request for
169 limited registration on a form provided by the department and the department finds that

170 such PEO is domiciled outside this state and is licensed or registered as a professional
171 employer organization in another state. A limited registrant shall not maintain an office
172 in this state or have more than 50 covered employees employed or domiciled in this state
173 at any time. Limited registrants shall be registered for a maximum period of one year and
174 may be considered for renewal as a limited registrant as set forth by the department.

175 (g) The department shall maintain a directory of professional employer organizations
176 registered under this chapter and shall make such directory readily available on the
177 department's public website and by any other means deemed appropriate by the department.

178 (h) The department shall, to the extent practicable, accept electronic filings, including, but
179 not limited to, applications, documents, reports, and other filings required under this
180 chapter. The department may provide for the acceptance of electronic filings and other
181 assurance by an independent and qualified assurance organization approved by the
182 department that provides satisfactory assurance of compliance and security. The
183 department may authorize a PEO to agree that such an approved assurance organization
184 may act on the PEO's behalf in complying with the registration requirements of this
185 chapter.

186 (i) All records, reports, and other information obtained from or on behalf of a PEO, except
187 to the minimum extent necessary for the proper administration by the department or to
188 comply with the provisions of Article 4 of Chapter 18 of Title 50, relating to open records,
189 shall be confidential and shall not be published or open to public inspection other than to
190 public employees in the performance of their official duties.

191 34-11-3.

192 (a) The Commissioner is authorized to assess and collect in advance, and persons so
193 assessed shall pay in advance to the Commissioner, fees for the initial and renewal
194 registration of a PEO, initial and renewal registration of a PEO group, and limited and
195 temporary registration of a PEO or a PEO group.

196 (b) The amount of the fees provided for in subsection (a) of this Code section shall be
197 limited as follows:

198 (1) The initial registration fee of a PEO shall not exceed \$500.00, and the renewal
199 registration fee of a PEO shall not exceed \$250.00;

200 (2) The initial registration fee of a PEO group shall not exceed \$500.00 per group
201 member, and the renewal registration fee of a PEO group shall not exceed \$250.00 per
202 group member;

203 (3) The limited registration fee of a PEO shall not exceed \$250.00, and the limited
204 registration fee of a PEO group shall not exceed \$250.00 per group member;

205 (4) The temporary registration fee of a PEO shall not exceed \$250.00, and the temporary
206 registration fee of a PEO group shall not exceed \$250.00 per group member; and

207 (5) Such fees shall not exceed the amount reasonably necessary for the registration and
208 regulation of professional employer organizations.

209 34-11-4.

210 Any applicant, either for an initial registration or a renewal, shall submit financial
211 statements, in accordance with paragraph (8) of subsection (b) of Code Section 34-11-2,
212 that prove that the applicant has positive working capital.

213 34-11-5.

214 (a) It shall be unlawful for any person to use the term 'PEO,' 'professional employer
215 organization,' 'staff leasing,' 'staff leasing company,' 'registered staff leasing company,'
216 'employee leasing,' 'employee leasing company,' 'administrative employer,' or any other
217 title deemed by the department to be representative of professional employer services and
218 to provide professional employer services without being registered as a PEO with the
219 department.

220 (b) It shall be unlawful for any person to knowingly provide false or otherwise fraudulent
221 information to the department in support of any application for registration or renewal or
222 in any report required under this chapter.

223 (c) Any complaints regarding a professional employer organization shall be filed with the
224 department, and any complaints filed with the Department of Labor shall be forwarded to
225 the department; provided, however, that the department and the Department of Labor shall
226 cooperate in the documentation, investigation, and resolution of any complaints received
227 and in any disciplinary actions.

228 34-11-6.

229 (a) In a co-employment relationship:

230 (1) The client is entitled to enforce the rights and obligated to provide and perform the
231 employer obligations allocated to such client by the professional employer agreement and
232 this chapter;

233 (2) The client is entitled to enforce any right and obligated to perform any obligation of
234 an employer not specifically allocated to the PEO in the professional employer agreement
235 or this chapter;

236 (3) The rights, duties, and obligations of the PEO as co-employer with respect to any
237 covered employee shall be limited to those arising pursuant to the professional employer
238 agreement and this chapter during the term of the co-employment relationship with the
239 PEO of such covered employee;

240 (4) Unless otherwise expressly agreed by the PEO and the client in a professional
241 employer agreement, the client retains the exclusive right to direct and control covered
242 employees as is necessary to conduct the client's business, to discharge any of the client's
243 fiduciary responsibilities, or to comply with any licensure, regulatory, or statutory
244 requirements applicable to the client or covered employees; and

245 (5) For purposes of any law of this state where employer coverage and employee
246 eligibility is determined based on the number of covered employees employed by the
247 employer, the client as an employer shall be required to count only the covered
248 employees of the client, and not the employees of other clients of the PEO or of the PEO
249 itself.

250 (b) Except as specifically provided in this chapter, the co-employment relationship
251 between the client and the PEO, and between each co-employer and each covered
252 employee, shall be governed by a professional employer agreement. Each professional
253 employer agreement shall provide for the following:

254 (1) The allocation of rights, duties, and obligations of each co-employer for each covered
255 employee;

256 (2) The allocation of rights, duties, and obligations to the PEO regarding payment of
257 wages. The PEO shall pay wages to covered employees; shall withhold, collect, and
258 remit payroll and unemployment taxes; and may make payments for employee benefits.
259 Such payment of wages shall not be interpreted as to include any obligation between a
260 client and a covered employee for payments beyond or in addition to the covered
261 employee's salary, draw, or regular rate of pay, including, but not limited to, severance
262 pay, deferred compensation, profit sharing, or vacation, sick, or other paid time off pay,
263 unless the PEO has expressly agreed to assume liability for such payments in the
264 professional employer agreement;

265 (3) A right to hire, discipline, and terminate a covered employee shall be allocated to
266 both the client and the PEO; provided, however, that the PEO's right shall be limited to
267 such employment decisions as may be necessary to fulfill the PEO's responsibilities under
268 this chapter and a valid professional employer agreement; and

269 (4) The responsibility to purchase and obtain adequate workers' compensation coverage
270 for covered employees shall be specifically allocated to either the client or the PEO as
271 provided for in Code Section 34-11-9.

272 (c) A PEO shall provide written notice to each covered employee whose co-employment
273 relationship is made effective by a professional employer agreement of the general nature
274 of the co-employment relationship between and among the PEO, the client, and such
275 covered employee.

276 (d) Except to the extent otherwise provided by the professional employer agreement:

277 (1) A client shall be solely responsible for:

278 (A) The quality, adequacy, or safety of the goods produced or sold or services
279 performed in the client's business; and

280 (B) Directing, supervising, training, and controlling the work of covered employees
281 with respect to the client's business activities, and the acts, errors, or omissions of such
282 covered employees with regard to such activities;

283 (2) A client shall not be liable for the acts, errors, or omissions of a PEO or of a covered
284 employee when such covered employee is acting under the express direction and control
285 of the PEO;

286 (3) A PEO shall not be liable for the acts, errors, or omissions of a client or of a covered
287 employee when such covered employee is acting under the express direction and control
288 of the client;

289 (4) Nothing in this subsection shall serve to limit any contractual liability or obligation
290 specifically provided in the professional employer agreement; and

291 (5) A covered employee is not an employee of the PEO for purposes of general liability
292 insurance, fidelity bonds, surety bonds, employer's liability which is not covered by
293 workers' compensation, or liquor liability insurance carried by the PEO solely as the
294 result of being a covered employee of a PEO unless covered employees are included by
295 specific reference in the professional employer agreement and applicable prearranged
296 employment contract, insurance contract, or bond.

297 (e) A PEO registered with the department and in compliance with this chapter shall not be
298 required to obtain:

299 (1) A license as an agent, subagent, or counselor, provided that such PEO is not selling,
300 soliciting, or negotiating insurance outside of a professional employer agreement as
301 excluded in paragraph (9) of subsection (b) of Code Section 33-23-1;

302 (2) A license as an administrator, provided that such PEO is not administering insurance
303 outside of a professional employer agreement as excluded in paragraph (14) of
304 subsection (b) of Code Section 33-23-100; or

305 (3) A certificate of authority to transact insurance, provided that such PEO is not selling,
306 soliciting, negotiating, administering, inducing, or effectuating insurance outside of a
307 professional employer agreement.

308 (f) For purposes of any tax collected by the state or a county, municipality, or other
309 political subdivision thereof:

310 (1) A covered employee whose goods or services are subject to sales tax shall be deemed
311 the employee of a client for purposes of collecting and levying sales tax on the goods
312 produced or services performed by the covered employee. Nothing contained in this
313 chapter shall relieve a client of any sales tax liability with respect to its goods or services;

314 (2) Any tax or assessment imposed upon professional employer services or any business
315 license or other fee which is based upon gross receipts shall allow a deduction from the
316 gross income or receipts of the business derived from performing professional employer
317 services that is equal to that portion of the fee charged to a client that represents the actual
318 cost of wages and salaries, benefits, workers' compensation, payroll taxes, withholding,
319 or other assessments paid to or on behalf of a covered employee by the PEO under a
320 professional employer agreement;

321 (3) Any tax assessed or assessment or mandated expenditure on a per capita or per
322 employee basis shall be assessed against the client for covered employees and against the
323 professional employer organization for its employees who are not covered employees of
324 a client. Benefits or monetary consideration meeting the requirements of mandates
325 imposed on a client that are received by covered employees through the PEO either

326 through payroll or through benefit plans sponsored by the PEO shall be credited against
327 the client's obligation to fulfill such mandates; and

328 (4) In the case of a tax or an assessment imposed or calculated upon the basis of total
329 payroll, the professional employer organization shall be eligible to apply any small
330 business allowance or exemption available to the client for the covered employees for the
331 purpose of computing such tax or assessment.

332 34-11-7.

333 (a) A professional employer agreement shall have no effect on existing collective
334 bargaining agreements. Nothing in this chapter shall alter the rights or obligations of any
335 client, professional employer organization, or worksite employee under the federal
336 National Labor Relations Act or any state law.

337 (b) Nothing in this chapter or in any professional employer agreement shall:

338 (1) Diminish, abolish, or remove rights of a covered employee to a client or obligations
339 of such client to a covered employee existing prior to the effective date of a professional
340 employer agreement;

341 (2) Affect, modify, or amend any contractual relationship or restrictive covenant between
342 a covered employee and any client in effect at the time a professional employer
343 agreement becomes effective;

344 (3) Prohibit or amend any contractual relationship or restrictive covenant that is entered
345 into subsequently between a client and a covered employee, provided that a PEO shall
346 bear no liability arising from any such contractual relationship or restrictive covenant
347 unless the PEO and the client have each expressly agreed to such an exception, which
348 shall become an addendum to the professional employment agreement; or

349 (4) Create any new or additional enforceable right of a covered employee against a PEO
350 that is not expressly provided by the professional employer agreement or this chapter.

351 (c) Nothing contained in this chapter or any professional employer agreement shall affect,
352 modify, or amend any state, local, or federal licensing, registration, or certification
353 requirement applicable to any client or covered employee or affect, modify, or amend a
354 client's or covered employee's duties and obligations with respect to workplace safety.

355 (d) A covered employee of a client who is required by law or rule or regulation
356 promulgated thereunder to be licensed, registered, or certified shall be deemed to be solely
357 an employee of the client for purposes of such license, registration, or certification
358 requirement.

359 (e) A PEO shall not be deemed to engage in any occupation, trade, profession, or other
360 activity that is subject to licensing, registration, or certification requirements, or is
361 otherwise regulated by a governmental entity, solely by entering into and maintaining a
362 co-employment relationship with a covered employee who is subject to such requirements
363 or regulation.

364 (f) A client shall have the sole right of direction and control of the professional or licensed
365 activities of covered employees and the client's business. Such covered employees and
366 clients shall remain subject to regulation by the regulatory or governmental entity
367 responsible for licensing, registration, or certification of such covered employees or clients.

368 (g) For purposes of determination of tax credits and other economic incentives provided
369 by the state or any other governmental entity and based on employment, covered
370 employees shall be deemed employees solely of the client. A client shall be entitled to the
371 benefit of any tax credit, economic incentive, or other benefit arising as the result of the
372 employment of covered employees of such client. Notwithstanding that the PEO shall be
373 the W-2 reporting employer, the client shall continue to qualify for any such benefit,
374 incentive, or credit. If the grant or amount of any such incentive is based on number of
375 employees, then each client shall be treated as employing only those covered employees.
376 Covered employees working for other clients of the PEO shall not be counted. Each PEO
377 shall provide, upon request by a client or state agency, employment information reasonably

378 required by the state agency responsible for the administration of any such tax credit or
379 economic incentive and necessary to support any request, claim, application, or other action
380 by a client seeking any such tax credit or economic incentive.

381 (h) With respect to a bid, contract, purchase order, or agreement entered into with the state
382 or a political subdivision of the state, a client's status as a small business certified as a
383 minority business enterprise, women owned business, or veteran owned business or as a
384 historically underutilized business shall not be affected because such client has a
385 professional employment agreement with a PEO or otherwise transacts business with a
386 PEO.

387 34-11-8.

388 (a) A client and a PEO operating under a professional employer agreement shall each be
389 deemed an employer for the purposes of sponsoring retirement and welfare benefit plans
390 for its covered employees.

391 (b) A fully insured welfare benefit plan offered to the covered employees of a PEO shall
392 be treated as a single employer welfare benefit plan. A plan shall be considered fully
393 insured only if all benefits payable are guaranteed under a contract or policy of insurance
394 issued by an insurer licensed or otherwise authorized to transact the business of insurance
395 in this state pursuant to Title 33.

396 (c) For purposes of Chapter 60 of Title 33, the 'Small Business Employee Choice of
397 Benefits Health Insurance Plan Act,' a PEO shall be considered the employer of all of its
398 covered employees, and all covered employees of one or more clients who are participating
399 in any health benefit plan sponsored by such PEO shall be considered employees of that
400 PEO.

401 34-11-9.

402 (a) A professional employer agreement shall specify the party responsible for obtaining
403 workers' compensation coverage from a carrier authorized to do business in this state in
404 compliance with Chapter 9 of this title for covered employees.

405 (b) A professional employer agreement shall specify the party responsible for obtaining
406 workers' compensation coverage from a carrier authorized to do business in this state in
407 compliance with Chapter 9 of this title for directly employed workers of the client,
408 provided that such agreement identifies which directly employed workers of the client are
409 included under such coverage.

410 (c) Workers' compensation coverage for the covered employees of a client and for any
411 directly employed workers of the client identified in the professional employer agreement
412 as provided for in subsection (b) of this Code section shall be obtained as follows:

413 (1) In the voluntary market, by either:

414 (A) The client, through a standard workers' compensation policy or through duly
415 authorized self-insurance; or

416 (B) The PEO, through a duly authorized self-insurance program, a master policy issued
417 to the PEO by a carrier authorized to do business in this state, or a multiple coordinated
418 policy issued by a carrier authorized to do business in this state in the name of the PEO
419 or the client. A PEO authorized to self-insure or a carrier providing coverage through
420 the PEO under this subparagraph shall report to the appropriate state and rating
421 authorities such client information as is necessary to maintain the client's experience
422 rating; or

423 (2) In the residual market, by either:

424 (A) The client, through a residual market policy; or

425 (B) The PEO, through a multiple coordinated policy in the name of either the PEO or
426 the client. A PEO obtaining coverage under this subparagraph shall report to the

427 appropriate state and rating authorities the client based information as is necessary to
428 maintain the client's experience rating.

429 (d) The protection of the exclusive remedy provision of Chapter 9 of this title shall apply
430 to the PEO, client, covered employees, and directly employed workers of the client
431 irrespective of which co-employer obtains such workers' compensation coverage. The PEO
432 and the client shall be considered co-employers for purposes of workers' compensation
433 coverage of covered employees and any directly employed workers of the client identified
434 in the professional employer agreement as provided for in subsection (b) of this Code
435 section. The client shall be considered the sole employer for any directly employed
436 workers of the client outside of the professional employer agreement.

437 34-11-10.

438 (a) Upon finding that a PEO, an owner or manager of a PEO, or a person offering
439 professional employer services has committed a violation of a provision of Title 33; Code
440 Section 34-11-2, 34-11-3, 34-11-4, or 34-11-5; or the rules and regulations or an order of
441 the Commissioner, in addition to all other penalties provided for under Title 33, the
442 Commissioner shall have the authority to:

- 443 (1) Deny an application for registration or refuse to renew a registration;
444 (2) Place any registration on probation for any time period and subject to conditions;
445 (3) Suspend, revoke, or restrict a registration;
446 (4) Impose an administrative penalty in an amount not to exceed \$2,000.00 for each and
447 every violation; and
448 (5) Issue an order to cease and desist as provided for in Code Section 33-2-24.

449 (b) Except as provided for in subsection (a) of this Code section, the Commissioner of
450 Labor is authorized to take action against any person in violation of this title or any rule or
451 regulation promulgated under this title.

452 (c) The hearing and any administrative review thereof regarding an action taken pursuant
 453 to this Code section shall be conducted in accordance with Chapter 13 of Title 50, the
 454 'Georgia Administrative Procedure Act.'

455 34-11-11.

456 Nothing contained in this chapter shall affect the rights and obligations established under
 457 Chapter 8 of Title 34, the 'Employment Security Law,' or any rules or regulations
 458 promulgated pursuant to such chapter.

459 34-11-12.

460 This chapter shall not be applicable to:

- 461 (1) Arrangements wherein a person, whose principal business activity is not entering into
 462 professional employer agreements and which does not hold itself out as a PEO, shares
 463 employees with a commonly owned corporation, trade, or business within the meaning
 464 of Section 414(b) and (c) of the federal Internal Revenue Code of 1986; or
 465 (2) Temporary help contracting firms as defined in Code Section 34-8-46.

466 34-11-13.

467 The Commissioner and the Commissioner of Labor shall adopt such rules and regulations
 468 as are reasonable and necessary to effectuate the provisions of this chapter. Reserved."

469

PART III

470

SECTION 3-1.

471 Said title is further amended by revising Code Section 34-7-6, relating to professional
 472 employer organizations and rights, powers, and responsibility, as follows:

473 "34-7-6.

474 ~~(a) As used in this Code section, the term 'professional employer organization' means an~~
475 ~~employee leasing company as defined in Code Section 34-8-32 that has established a~~
476 ~~coemployment relationship with another employer, pays the wages of the employees of the~~
477 ~~coemployer, reserves a right of direction and control over the employees of the~~
478 ~~coemployer, and assumes responsibility for the withholding and payment of payroll taxes~~
479 ~~of the coemployer.~~

480 ~~(b) A professional employer organization may collect information to evaluate costs; may~~
481 ~~obtain life, accident and sickness, disability income, workers' compensation, and other~~
482 ~~types of insurance coverage; may establish retirement plans; may have other types of~~
483 ~~employee benefits; and may discuss such benefits with prospective coemployers and their~~
484 ~~employees.~~

485 ~~(c) A coemployer of a professional employer organization shall retain sufficient direction~~
486 ~~and control over the employees involved in a coemployment relationship as is necessary~~
487 ~~to conduct its business operations and fulfill its obligations to such employees. Unless~~
488 ~~otherwise agreed in writing, such coemployer shall be considered to be the sole employer~~
489 ~~of such employees for licensing purposes, provided that nothing contained in this Code~~
490 ~~section shall be deemed to prohibit a professional employer organization and its~~
491 ~~coemployer from agreeing that the professional employer organization shall be considered~~
492 ~~to be an employer for licensing purposes. The professional employer organization shall~~
493 ~~give written notice of such an agreement to the appropriate licensing agency and to the~~
494 ~~employees involved.~~

495 ~~(d) It is the intent of this Code section that professional employer organizations shall be~~
496 ~~considered to be employers under this title and are required to comply with the provisions~~
497 ~~of Code Sections 34-8-32, 34-8-34, and 34-8-172. Professional employer organizations~~
498 ~~and their coemployer clients are entitled to exclusive remedy under Code Section 34-9-11.~~
499 Reserved."

500 **SECTION 3-2.**

501 Said title is further amended by revising Code Section 34-8-32, relating to employee leasing
502 company, as follows:

503 "34-8-32.

504 ~~(a) As used in this chapter, the term 'employee leasing company' means an independently~~
505 ~~established business entity which engages in the business of providing leased employees~~
506 ~~to any other employing unit under the following conditions:~~

507 ~~(1) Negotiates with clients or customers for such matters as time, place, type of work,~~
508 ~~working conditions, quality, and price of service;~~

509 ~~(2) Determines assignments of individuals to its clients or customers, even if the~~
510 ~~individuals retain the right to refuse specific assignments;~~

511 ~~(3) Sets the rate of pay of the individuals, whether or not through negotiation;~~

512 ~~(4) Pays the individuals from its accounts; and~~

513 ~~(5) Hires and terminates individuals who perform services for the clients or customers.~~

514 ~~(b) Individuals performing services for an employee leasing company shall be considered~~
515 ~~employees of the employee leasing company. The employee leasing company shall file~~
516 ~~required reports in accordance with regulations prescribed by the Commissioner and pay~~
517 ~~contributions on wages paid to such employees.~~

518 ~~(c) Individuals who perform services for temporary help contracting firms as that term is~~
519 ~~defined in Code Section 34-8-46 shall not be considered employees of an employee leasing~~
520 ~~company. Reserved.~~

521 **SECTION 3-3.**

522 Said title is further amended by revising Code Section 34-8-34, relating to employing unit,
523 as follows:

524 "34-8-34.

525 As used in this chapter, the term 'employing unit' means any individual, the legal
526 representative of a deceased individual, or any type of organization, including any
527 partnership, association, trust, estate, joint-stock company, insurance company, or
528 corporation, whether domestic or foreign, ~~employee leasing company~~ professional
529 employer organization as defined in Code Section 34-11-1, common paymaster, or the
530 receiver, trustee in bankruptcy, trustee, or successor thereof which has or had in its employ
531 one or more individuals performing services for it within this state. Each individual
532 performing services within this state for any employing unit which maintains two or more
533 separate establishments within this state shall be deemed to be employed by a single
534 employing unit for all the purposes of this chapter. Each individual employed to perform
535 or to assist in performing the work of any agent or employee of an employing unit shall be
536 deemed to be employed by such employing unit for all the purposes of this chapter,
537 whether such individual was hired or paid directly by such employing unit or by such agent
538 or employee, provided the employing unit had actual or constructive knowledge of such
539 work."

540 **SECTION 3-4.**

541 Said title is further amended by revising Code Section 34-8-172, relating to surety bond
542 required of employee leasing company, as follows:

543 "34-8-172.

544 The Commissioner shall require any ~~employee leasing company, as defined in Code~~
545 ~~Section 34-8-32, professional employer organization or PEO group, as such terms are~~
546 defined in Code Section 34-11-1, to post a surety bond or such equivalent financial
547 securities as approved by the Commissioner in such an amount as needed to cover the total
548 of any potential tax liability which may reasonably be expected to be incurred by such
549 employer. In the event ~~an employee leasing company~~ a professional employer organization

550 or PEO group is unable to procure such bond or security, ~~the employee leasing company~~
551 ~~the professional employer organization or PEO group~~ may report such employees as being
552 in the employment of its client employers, ~~notwithstanding any provision of Code~~
553 ~~Section 34-8-32 to the contrary."~~

554 **SECTION 3-5.**

555 Said title is further amended by revising subsection (c) of Code Section 34-8-195, relating
556 to determination of eligibility for unemployment benefits generally, eligibility while in
557 training, and deductions and withholdings from compensation, as follows:

558 "(c) An individual shall not be deemed to be unemployed in any week such individual
559 refuses an intermittent or temporary assignment without good cause when the assignment
560 offered is comparable to previous work or assignments performed by the individual or
561 meets the conditions of employment previously agreed to between the individual and the
562 employer. Such individual may be considered unemployed with respect to any week an
563 assignment or work is not offered by the employer; provided, however, that an employee
564 of a temporary help contracting firm, ~~an employee leasing company~~, or a professional
565 employer organization as defined in Code Section ~~34-7-6~~ 34-11-1 will be presumed to have
566 voluntarily left employment without good cause if the employee does not contact the
567 temporary help contracting firm, ~~employee leasing company~~, or professional employer
568 organization for reassignment upon completion of an assignment; provided, further, that
569 such failure to contact the temporary help contracting firm, ~~employee leasing company~~, or
570 professional employer organization will not be considered a voluntary departure from
571 employment unless the employee has been advised in writing of the obligation to contact
572 such employer upon completion of assignments and has been advised in writing that
573 unemployment benefits may be denied for failure to do so."

574 **SECTION 3-6.**

575 Said title is further amended by revising subsection (c) of Code Section 34-9-11, relating to
576 exclusivity of rights and remedies granted to employee under chapter and immunity granted
577 to construction design professionals, as follows:

578 "(c) The immunity provided by this subsection shall apply and extend to the businesses
579 using the services of a temporary help contracting firm, as such term is defined in Code
580 Section 34-8-46, or ~~an employee leasing company~~ a professional employer organization,
581 as such term is defined in Code Section ~~34-8-32~~ 34-11-1, when the benefits required by this
582 chapter are provided by either the temporary help contracting firm or the ~~employee leasing~~
583 ~~company~~ professional employer organization or the business using the services of either
584 such firm or ~~company~~ organization. A temporary help contracting firm or ~~an employee~~
585 ~~leasing company~~ a professional employer organization shall be deemed to be a statutory
586 employer for the purposes of this chapter."

587 **PART IV**

588 **SECTION 4-1.**

589 This Act shall become effective upon its approval by the Governor or upon its becoming law
590 without such approval.

591 **SECTION 4-2.**

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