

House Bill 250 (COMMITTEE SUBSTITUTE)

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

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 (SUB)

**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, and other types of insurance coverage for a client or  
 53 covered employee; establishes a retirement plan for a client or covered employee; and has  
 54 or obtains, offers, or provides other types of employee benefits and discusses such  
 55 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 certain claims pursuant to a professional employer agreement,  
 67 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; and

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.

269 (c) A PEO shall provide written notice to each covered employee whose co-employment  
270 relationship is made effective by a professional employer agreement of the general nature

271 of the co-employment relationship between and among the PEO, the client, and such  
272 covered employee.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

317 (3) Any tax assessed or assessment or mandated expenditure on a per capita or per  
318 employee basis shall be assessed against the client for covered employees and against the  
319 professional employer organization for its employees who are not covered employees of  
320 a client. Benefits or monetary consideration meeting the requirements of mandates  
321 imposed on a client that are received by covered employees through the PEO either  
322 through payroll or through benefit plans sponsored by the PEO shall be credited against  
323 the client's obligation to fulfill such mandates; and

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

328 34-11-7.

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

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

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

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

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

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

347 (c) Nothing contained in this chapter or any professional employer agreement shall affect,  
348 modify, or amend any state, local, or federal licensing, registration, or certification

349 requirement applicable to any client or covered employee or affect, modify, or amend a  
350 client's or covered employee's duties and obligations with respect to workplace safety.

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

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

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

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

375 economic incentive and necessary to support any request, claim, application, or other action  
376 by a client seeking any such tax credit or economic incentive.

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

383 34-11-8.

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

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

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

397 34-11-9.

398 (a) Upon finding that a PEO, an owner or manager of a PEO, or a person offering  
399 professional employer services has committed a violation of a provision of Title 33; Code

400 Section 34-11-2, 34-11-3, 34-11-4, or 34-11-5; or the rules and regulations or an order of  
401 the Commissioner, in addition to all other penalties provided for under Title 33, the  
402 Commissioner shall have the authority to:

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

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

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

415 34-11-10.

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

419 34-11-11.

420 This chapter shall not be applicable to:

- 421 (1) Arrangements wherein a person, whose principal business activity is not entering into  
422 professional employer agreements and which does not hold itself out as a PEO, shares  
423 employees with a commonly owned corporation, trade, or business within the meaning  
424 of Section 414(b) and (c) of the federal Internal Revenue Code of 1986; or

425 (2) Temporary help contracting firms as defined in Code Section 34-8-46.

426 34-11-12.

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

429 **PART III**

430 **SECTION 3-1.**

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

433 "34-7-6.

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

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

445 ~~(c) A coemployer of a professional employer organization shall retain sufficient direction~~  
 446 ~~and control over the employees involved in a coemployment relationship as is necessary~~  
 447 ~~to conduct its business operations and fulfill its obligations to such employees. Unless~~  
 448 ~~otherwise agreed in writing, such coemployer shall be considered to be the sole employer~~

449 ~~of such employees for licensing purposes, provided that nothing contained in this Code~~  
 450 ~~section shall be deemed to prohibit a professional employer organization and its~~  
 451 ~~coemployer from agreeing that the professional employer organization shall be considered~~  
 452 ~~to be an employer for licensing purposes. The professional employer organization shall~~  
 453 ~~give written notice of such an agreement to the appropriate licensing agency and to the~~  
 454 ~~employees involved.~~

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

460 **SECTION 3-2.**

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

463 "34-8-32.

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

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

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

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

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

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

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

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

481 **SECTION 3-3.**

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

484 "34-8-34.

485 As used in this chapter, the term 'employing unit' means any individual, the legal  
486 representative of a deceased individual, or any type of organization, including any  
487 partnership, association, trust, estate, joint-stock company, insurance company, or  
488 corporation, whether domestic or foreign, ~~employee leasing company~~ professional  
489 employer organization as defined in Code Section 34-11-1, common paymaster, or the  
490 receiver, trustee in bankruptcy, trustee, or successor thereof which has or had in its employ  
491 one or more individuals performing services for it within this state. Each individual  
492 performing services within this state for any employing unit which maintains two or more  
493 separate establishments within this state shall be deemed to be employed by a single  
494 employing unit for all the purposes of this chapter. Each individual employed to perform  
495 or to assist in performing the work of any agent or employee of an employing unit shall be  
496 deemed to be employed by such employing unit for all the purposes of this chapter,  
497 whether such individual was hired or paid directly by such employing unit or by such agent  
498 or employee, provided the employing unit had actual or constructive knowledge of such  
499 work."

500 **SECTION 3-4.**

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

503 "34-8-172.

504 The Commissioner shall require any ~~employee leasing company, as defined in Code~~  
505 ~~Section 34-8-32, professional employer organization or PEO group, as such terms are~~  
506 defined in Code Section 34-11-1, to post a surety bond or such equivalent financial  
507 securities as approved by the Commissioner in such an amount as needed to cover the total  
508 of any potential tax liability which may reasonably be expected to be incurred by such  
509 employer. In the event ~~an employee leasing company~~ a professional employer organization  
510 or PEO group is unable to procure such bond or security, ~~the employee leasing company~~  
511 the professional employer organization or PEO group may report such employees as being  
512 in the employment of its client employers, ~~notwithstanding any provision of Code~~  
513 ~~Section 34-8-32 to the contrary."~~

514 **SECTION 3-5.**

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

518 "(c) An individual shall not be deemed to be unemployed in any week such individual  
519 refuses an intermittent or temporary assignment without good cause when the assignment  
520 offered is comparable to previous work or assignments performed by the individual or  
521 meets the conditions of employment previously agreed to between the individual and the  
522 employer. Such individual may be considered unemployed with respect to any week an  
523 assignment or work is not offered by the employer; provided, however, that an employee  
524 of a temporary help contracting firm, ~~an employee leasing company~~, or a professional  
525 employer organization as defined in Code Section ~~34-7-6~~ 34-11-1 will be presumed to have

526 voluntarily left employment without good cause if the employee does not contact the  
527 temporary help contracting firm, ~~employee leasing company~~, or professional employer  
528 organization for reassignment upon completion of an assignment; provided, further, that  
529 such failure to contact the temporary help contracting firm, ~~employee leasing company~~, or  
530 professional employer organization will not be considered a voluntary departure from  
531 employment unless the employee has been advised in writing of the obligation to contact  
532 such employer upon completion of assignments and has been advised in writing that  
533 unemployment benefits may be denied for failure to do so."

534 **SECTION 3-6.**

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

538 "(c) The immunity provided by this subsection shall apply and extend to the businesses  
539 using the services of a temporary help contracting firm, as such term is defined in Code  
540 Section 34-8-46, or ~~an employee leasing company~~ a professional employer organization,  
541 as such term is defined in Code Section ~~34-8-32~~ 34-11-1, when the benefits required by this  
542 chapter are provided by either the temporary help contracting firm or the ~~employee leasing~~  
543 ~~company~~ professional employer organization or the business using the services of either  
544 such firm or ~~company~~ organization. A temporary help contracting firm or ~~an employee~~  
545 ~~leasing company~~ a professional employer organization shall be deemed to be a statutory  
546 employer for the purposes of this chapter."

547

**PART IV**

548

**SECTION 4-1.**

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

551

**SECTION 4-2.**

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