

House Bill 1515

By: Representatives Taylor of the 173rd and Cheokas of the 151st

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 and the Commissioner of Labor over
5 professional employer organizations; to exclude such organizations from certain definitions
6 related to insurance; to provide for definitions; to provide for the registration of such
7 organizations with the Commissioner of Insurance; to provide for certain fees; to provide for
8 the restriction of the use of certain terms; to provide for complaints; to provide for rules and
9 regulations; to provide for a co-employment relationship; to provide for no effect on existing
10 collective bargaining agreements or other contracts; to provide for legislative construction;
11 to clarify rights, duties, and obligations of clients and professional employer organizations;
12 to clarify employer and employee statuses; to provide for the disciplinary actions; to provide
13 for the applicability of Chapter 8 of Title 34, the "Employment Security Law"; to repeal
14 obsolete provisions; to provide for the posting of a surety bond; to provide for conforming
15 changes; to provide for a short title; to provide for related matters; to provide an effective
16 date; to repeal conflicting laws; and for other purposes.

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

H. B. 1515

- 1 -

PART I**SECTION 1-1.**

18
19
20 Title 33 of the Official Code of Georgia Annotated, relating to insurance, is amended in Code
21 Section 33-2-11, relating to examination of insurers and organizations and effect of insurer's
22 change of domicile from Georgia, by revising subsection (c) as follows:

23 "(c) The Commissioner shall in like manner examine each insurer or rating organization
24 applying for authority to do business in this state or any professional employer organization
25 registering with the department to do business in this state."

SECTION 1-2.

26
27 Said title is further amended in Code Section 33-23-1, relating to definitions relative to
28 agents, agencies, subagents, counselors, and adjusters, by revising subsection (b) as follows:

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

- 31 (1) An attorney at law admitted to practice in this state, when handling the collections
32 of premiums or advising clients as to insurance as a function incidental to the practice of
33 law or who adjusts losses which are incidental to the practice of his or her profession;
- 34 (2) Any representative of ocean marine insurers;
- 35 (3) Any representative of farmers' mutual fire insurance companies as defined in
36 Chapter 16 of this title;
- 37 (4) A salaried employee of a credit or character reporting firm or agency not engaged in
38 the insurance business who may, however, report to an insurer;
- 39 (5) A person acting for or as a collection agency;
- 40 (6) A person who makes the salary deductions of premiums for employees or, under a
41 group insurance plan, a person who serves the master policyholder of group insurance in
42 administering the details of such insurance for the employees or debtors of the master

43 policyholder or of a firm or corporation by which the person is employed and who does
 44 not receive insurance commissions for such service; provided, further, that an
 45 administration fee not exceeding 5 percent of the premiums collected paid by the insurer
 46 to the administration office shall not be construed to be an insurance commission;

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

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

54 (9) A professional employer organization to the extent that such organization collects
 55 information; obtains, offers, or provides life, accident and sickness, disability income,
 56 workers' compensation, and other types of insurance coverage; establishes retirement
 57 plans; and has or obtains, offers, or provides other types of employee benefits and
 58 discusses such benefits."

59 **PART II**

60 **SECTION 2-1.**

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

63 **SECTION 2-2.**

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

66

"CHAPTER 11

67 34-11-1.

68 As used in this chapter:69 (1) 'Client' means any person who enters into a professional employer agreement with
70 a professional employer organization.71 (2) 'Co-employer' means either a professional employer organization or a client.72 (3) 'Co-employment relationship' means an arrangement wherein the rights, duties, and
73 obligations of an employer which arise out of an employment arrangement are allocated
74 between the parties to such arrangements.75 (4) 'Commissioner' means the Commissioner of Labor.76 (5) 'Covered employee' means an individual working under a co-employment
77 relationship between a PEO and a client pursuant to a professional employer agreement
78 subject to this chapter.79 (6) 'Department' means the Department of Labor.80 (7) 'Limited registrant' means a PEO that:81 (A) Is domiciled and registered or licensed in another state;82 (B) Has 50 or fewer covered employees; and83 (C) Maintains no principal place of business in this state.84 (8) 'PEO group' means two or more PEO entities that are majority owned or commonly
85 controlled by the same entity or parent company.86 (9) 'Professional employer agreement' means a contract between a client and a PEO
87 which provides:88 (A) For the co-employment of covered employees;89 (B) An express allocation of the client's rights and obligations as an employer to the
90 co-employee and allocation of such rights and obligations to the co-employee assigned
91 to the PEO; and

- 92 (C) That the PEO and the client assume the responsibilities required by this chapter.
93 (10) 'Professional employer organization' or 'PEO' means any person engaged in the
94 business of providing professional employer services.
95 (11) 'Professional employer services' means the service of entering into co-employment
96 relationships in which all or a majority of the employees providing services to a client are
97 covered employees pursuant to a professional employer agreement.
98 (12) 'Registrant' means a PEO registered with the Department of Insurance pursuant to
99 Code Section 34-11-2.

100 34-11-2.

101 (a) As used in this Code section, the term:

102 (1) 'Commissioner' means the Commissioner of Insurance.

103 (2) 'Department' means the Department of Insurance.

104 (b) Beginning July 1, 2026, except as otherwise provided in this chapter, no person shall
105 provide, advertise, or otherwise hold itself out as providing professional employer services
106 in this state, unless such person is registered with the department in accordance with this
107 chapter. The department shall begin accepting applications for registration no later than
108 January 2, 2025. Only a firm, corporation, professional corporation, partnership,
109 association, or other entity may apply with the department for registration to provide
110 professional employer services in this state.

111 (c) Each applicant for registration shall provide the department with the following:

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

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

114 (3) The address of each office it maintains in this state;

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

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

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

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

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

131 (d) In the event a PEO not registered in this state becomes knowledgeable that a client has
132 covered employees in this state, the PEO shall:

133 (1) Notify the department within 30 days of such knowledge and file a limited
134 registration application under subsection (g) of this Code section; or

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

140 (e) A registrant shall renew its registration annually by making a filing in a form
141 determined by the department, which shall provide for the registrants to notify the
142 department of any changes in the information provided in its most recent registration filing.
143 A registrant's existing registration shall remain in effect while such renewal application is
144 under review.

145 (f) A PEO group applying for renewal may satisfy the registration and financial reporting
146 requirements of this chapter by filing combined or consolidated filings, provided that each
147 member of the PEO group attests to be responsible for meeting the requirements set forth
148 in this chapter on behalf of each member of the group.

149 (g) A PEO shall be eligible to be a limited registrant if such PEO submits a request for
150 limited registration on a form provided by the department and the department finds that
151 such PEO is domiciled outside this state and is licensed or registered as a professional
152 employer organization in another state. A limited registrant shall not maintain an office
153 in this state or have more than 50 covered employees employed or domiciled in this state
154 at any time. Limited registrants shall be registered for a maximum period of one year and
155 may be considered for renewal as a limited registrant as set forth by the department.

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

159 (i) The department shall, to the extent practical, accept electronic filings, including, but not
160 limited to, applications, documents, reports, and other filings required under this chapter.
161 The department may provide for the acceptance of electronic filings and other assurance
162 by an independent and qualified assurance organization approved by the department that
163 provides satisfactory assurance of compliance and security. The department may permit
164 a PEO to be authorized to agree that such an approved assurance organization may act on
165 the PEO's behalf in complying with the registration requirements of this chapter.

166 (j) All records, reports, and other information obtained from or on behalf of a PEO, except
167 to the minimum extent necessary for the proper administration by the department or to
168 comply with the provisions of Article 4 of Chapter 18 of Title 50 shall be confidential and
169 shall not be published or open to public inspection other than to public employees in the
170 performance of their public duties.

171 (k) The Commissioner of Insurance shall adopt such and regulations as are reasonable and
172 necessary to effectuate the provisions of this Code section.

173 34-11-3.

174 (a) The Commissioner of Insurance shall establish by rules and regulations the amount of
175 the fees for the initial and renewal registration of a PEO, initial and renewal registration of
176 a PEO group, and limited and temporary registration of a PEO or a PEO group.

177 (b) The amount of the fees established by the Commissioner of Insurance shall be limited
178 as follows:

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

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

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

186 (4) The temporary registration fee of a PEO shall not exceed \$500.00, and the temporary
187 registration fee of a PEO group shall not exceed \$500.00 per group member; and

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

190 34-11-4.

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

194 (b) The Commissioner of Insurance shall adopt such and regulations as are reasonable and
195 necessary to effectuate the provisions of this Code section.

196 34-11-5.

197 (a) It shall be unlawful for any person to use the term 'PEO,' 'professional employer
198 organization,' 'staff leasing,' 'staff leasing company,' 'registered staff leasing company,'
199 'employee leasing,' 'employee leasing company,' 'administrative employer,' or any other
200 title deemed by the Department of Insurance to be representative of professional employer
201 services without being registered as a PEO with the Department of Insurance.

202 (b) It shall be unlawful for any person to knowingly provide false or otherwise fraudulent
203 information to the Department of Insurance in support of any application for registration,
204 renewal, or in any report required under this chapter.

205 (c) Any complaints regarding a professional employer organization shall be filed with the
206 Department of Insurance, and any complaints filed with the Department of Labor shall be
207 forwarded to the Department of Insurance; provided, however that the Department of
208 Insurance and the Department of Labor shall cooperate in the documentation, investigation,
209 and resolution of any complaints received and in any disciplinary actions.

210 (d) The Commissioner of Insurance shall adopt such and regulations as are reasonable and
211 necessary to effectuate the provisions of this Code section.

212 34-11-6.

213 (a) In a co-employment relationship:

214 (1) The client is entitled to enforce those rights, and obligated to provide and perform
215 those employer obligations, allocated to such client by the professional employer
216 agreement and this chapter;

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

220 (3) For purposes of any law of this state where employer coverage and employee
221 eligibility is determined based on the number of covered employees employed by the

222 employer, the client as an employer shall only be required to count covered employees
223 of the client, and not employees of other clients of the PEO or of the PEO itself.

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

228 (1) The allocation of rights, duties, and obligations of each co-employer for each
229 co-employee;

230 (2) The allocation of rights, duties, and obligations to the PEO regarding payroll
231 processing. The PEO shall pay wages to covered employees; shall withhold, collect, and
232 remit payroll related and unemployment taxes; and may make payments for employee
233 benefits. This shall not be interpreted as to include any obligation between a client and
234 a covered employee for payments beyond or in addition to the covered employee's salary,
235 draw, or regular rate of pay, including, but not limited to, severance pay, deferred
236 compensation, profit sharing, vacation, sick, or other paid time off pay, unless the PEO
237 has expressly agreed to assume liability for such payments in the professional employer
238 agreement;

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

243 (4) The responsibility to purchase and obtain adequate workers' compensation coverage
244 for covered employees shall be specifically allocated to either the client or the PEO in the
245 professional employer agreement.

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

249 employee. Such notice shall be delivered as designated within the professional employer
250 agreement but shall not exceed 60 days.

251 (d) A PEO registered with the Department of Insurance and in compliance with this
252 chapter shall not be required to obtain a license from the Commissioner of Insurance under
253 Chapter 23 of Title 33 unless such PEO is selling, soliciting, or negotiating insurance
254 outside of the exclusion provided for in Code Section 33-23-1. A PEO registered with the
255 Department of Insurance and in compliance with this chapter shall not be considered to be
256 engaged in the sale, solicitation, or negotiation of an insurance contract or acting as a
257 third-party administrator by marketing, selling, or administering professional employer
258 services including employee benefits to co-employees. Such employee benefits may
259 include, but are not limited to, health and other insurance products procured by the PEO
260 from a licensed agent and carrier for the benefit of co-employees.

261 34-11-7.

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

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

267 (1) Diminish, abolish, or remove rights of covered employees to a client or obligations
268 of such client to a covered employee existing prior to the effective date of a professional
269 employer agreement;

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

273 (3) Prohibit or amend any contractual relationship or restrictive covenant that is entered
274 into subsequently between a client and a covered employee, provided that a PEO shall

275 bear no liability arising from any such contractual relationship or restrictive covenant
276 unless the PEO and the client have each expressly agreed to such an exception, which
277 shall become an addendum to the professional employment agreement; or
278 (4) Create any new or additional enforceable right of a covered employee against a PEO
279 that is not expressly provided by the professional employer agreement or this chapter.
280 (c) Nothing contained in this chapter or any professional employer agreement shall affect,
281 modify, or amend any state, local, or federal licensing, registration, or certification
282 requirement applicable to any client or covered employee.
283 (d) A covered employee who is required by law or any rule or regulation promulgated
284 thereunder to be licensed, registered, or certified shall be deemed to be solely an employee
285 of the client for purposes of any such license, registration, or certification requirement.
286 (e) A PEO shall not be deemed to engage in any occupation, trade, profession, or other
287 activity that is subject to licensing, registration, or certification requirements, or is
288 otherwise regulated by a governmental entity solely by entering into and maintaining a
289 co-employment relationship with a covered employee who is subject to such requirements
290 or regulation.
291 (f) A client shall have the sole right of direction and control of the professional or licensed
292 activities of covered employees. Such covered employees and clients shall remain subject
293 to regulation by the regulatory or governmental entity responsible for licensing,
294 registration, or certification of such covered employees or clients.
295 (g) For purposes of determination of tax credits and other economic incentives provided
296 by this state or other governmental entity and based on employment, covered employees
297 shall be deemed employees solely of the client. A client shall be entitled to the benefit of
298 any tax credit, economic incentive, or other benefit arising as the result of the employment
299 of covered employees of such client. Notwithstanding that the PEO shall be the W-2
300 reporting employer, the client shall continue to qualify for any such benefit, incentive, or

301 credit. If the grant or amount of any such incentive is based on number of employees, then
302 each client shall be treated as employing only those covered co-employees.

303 (h) With respect to a bid, contract, purchase order, or agreement entered into with this state
304 or a political subdivision of this state, a client company's status as a small business certified
305 as a minority business enterprise, women owned business, or veteran owned business or
306 as a historically underutilized business shall not be affected because such client has a
307 professional employment agreement with a PEO or otherwise transacts business with a
308 PEO.

309 34-11-8.

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

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

318 (c) For purposes of Chapter 60 of Title 33, the 'Small Business Employee Choice of
319 Benefits Health Insurance Plan Act,' a PEO shall be considered the employer of all of its
320 covered employees and all covered co-employees of one or more clients who are
321 participating in any health benefit plan sponsored by such single PEO shall be considered
322 employees of that PEO.

323 (d) If a PEO offers any health benefit plan to its covered employees which is not fully
324 insured by an authorized insurer, the plan shall:

325 (1) Utilize a third-party administrator licensed to do business in this state;

326 (2) Hold all plan assets, including participant contributions, in a trust account consistent
327 with the requirements of Section 403 of the federal Employee Retirement Income
328 Security Act of 1974, 29 U.S.C. Section 1001, et seq.;

329 (3) Provide sound reserves for such plan as determined using generally accepted
330 actuarial standards of practice and consistent with the prudence and loyalty standards of
331 care for fiduciaries provided for under the federal Employee Retirement Income Security
332 Act of 1974, 29 U.S.C. Section 1001, et seq.; and

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

335 34-11-9.

336 (a) The party to which the duty belongs to obtain workers' compensation coverage from
337 a carrier authorized to do business in this state for covered employees in compliance with
338 Chapter 9 of this title shall be expressed in the professional employer agreement.

339 (b) Both the client and the PEO shall be considered the employer for purposes of workers'
340 compensation coverage. The protection of the exclusive remedy provision of Chapter 9 of
341 this title shall apply to the PEO, the client, and to all covered employees and other
342 employees of the client irrespective of which co-employer obtains such workers'
343 compensation coverage.

344 34-11-10.

345 (a) Upon finding that a PEO, an owner or manager of a PEO, or a person offering PEO
346 services has committed a violation of a provision in Title 33, Code Sections 34-11-2,
347 34-11-3, 34-11-4, or 34-11-5, or the rules and regulations or an order of the Commissioner
348 of Insurance, in addition to all other penalties provided for under Title 33, the
349 Commissioner of Insurance shall have the authority to:

350 (1) Deny an application for registration or refuse to renew a registration;

351 (2) Place any registration on probation for a time period and subject to conditions;

352 (3) Suspend, revoke, or restrict a registration;

353 (4) Impose an administrative penalty in an amount not to exceed \$2,000.00 for each and
354 every violation; and

355 (5) Issue an order to cease and desist and provided for in Code Section 33-2-24.

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

359 (c) The hearing and any administrative review thereof shall be conducted in accordance
360 with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'

361 34-11-11.

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

365 34-11-12.

366 This chapter shall not be applicable to:

367 (1) Arrangements wherein a person, whose principal business activity is not entering into
368 professional employer agreements, does not hold itself out as a PEO, shares employees
369 with a commonly owned company within the meaning of Section 414(b) and (c) of the
370 Internal Revenue Code of 1986; or

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

372 34-11-13.

373 The commissioner may adopt such regulations as are reasonable and necessary to
374 effectuate the provisions of this chapter. Reserved."

375

PART III

376

SECTION 3-1.

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

379 "34-7-6.

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

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

391 ~~(c) A coemployer of a professional employer organization shall retain sufficient direction~~
392 ~~and control over the employees involved in a coemployment relationship as is necessary~~
393 ~~to conduct its business operations and fulfill its obligations to such employees. Unless~~
394 ~~otherwise agreed in writing, such coemployer shall be considered to be the sole employer~~
395 ~~of such employees for licensing purposes, provided that nothing contained in this Code~~
396 ~~section shall be deemed to prohibit a professional employer organization and its~~
397 ~~coemployer from agreeing that the professional employer organization shall be considered~~
398 ~~to be an employer for licensing purposes. The professional employer organization shall~~
399 ~~give written notice of such an agreement to the appropriate licensing agency and to the~~
400 ~~employees involved.~~

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

406 **SECTION 3-2.**

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

409 "34-8-32.

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

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

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

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

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

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

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

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

427 **SECTION 3-3.**

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

430 "34-8-34.

431 As used in this chapter, the term 'employing unit' means any individual, the legal
432 representative of a deceased individual, or any type of organization, including any
433 partnership, association, trust, estate, joint-stock company, insurance company, or
434 corporation, whether domestic or foreign, ~~employee leasing company~~ professional
435 employer organization, common paymaster, or the receiver, trustee in bankruptcy, trustee,
436 or successor thereof which has or had in its employ one or more individuals performing
437 services for it within this state. Each individual performing services within this state for
438 any employing unit which maintains two or more separate establishments within this state
439 shall be deemed to be employed by a single employing unit for all the purposes of this
440 chapter. Each individual employed to perform or to assist in performing the work of any
441 agent or employee of an employing unit shall be deemed to be employed by such
442 employing unit for all the purposes of this chapter, whether such individual was hired or
443 paid directly by such employing unit or by such agent or employee, provided the
444 employing unit had actual or constructive knowledge of such work."

445 **SECTION 3-4.**

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

448 "34-8-172.

449 The Commissioner shall require any ~~employee leasing company, as defined in Code~~
450 ~~Section 34-8-32,~~ professional employer organization or PEO group to post a surety bond
451 or such equivalent financial securities as approved by the Commissioner in such an amount
452 as needed to cover the total of any potential tax liability which may reasonably be expected

453 to be incurred by such employer. In the event ~~an employee leasing company~~ a professional
454 employer organization or PEO group is unable to procure such bond or security, ~~the~~
455 ~~employee leasing company~~ the professional employer organization or PEO group may
456 report such employees as being in the employment of its client employers, ~~notwithstanding~~
457 ~~any provision of Code Section 34-8-32 to the contrary.~~"

458 **SECTION 3-5.**

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

462 "(c) An individual shall not be deemed to be unemployed in any week such individual
463 refuses an intermittent or temporary assignment without good cause when the assignment
464 offered is comparable to previous work or assignments performed by the individual or
465 meets the conditions of employment previously agreed to between the individual and the
466 employer. Such individual may be considered unemployed with respect to any week an
467 assignment or work is not offered by the employer; provided, however, that an employee
468 of a temporary help contracting firm, ~~an employee leasing company~~, or a professional
469 employer organization as defined in Code Section ~~34-7-6~~ 34-11-1 will be presumed to have
470 voluntarily left employment without good cause if the employee does not contact the
471 temporary help contracting firm, ~~employee leasing company~~, or professional employer
472 organization for reassignment upon completion of an assignment; provided, further, that
473 such failure to contact the temporary help contracting firm, ~~employee leasing company~~, or
474 professional employer organization will not be considered a voluntary departure from
475 employment unless the employee has been advised in writing of the obligation to contact
476 such employer upon completion of assignments and has been advised in writing that
477 unemployment benefits may be denied for failure to do so."

478 **SECTION 3-6.**

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

482 "(c) The immunity provided by this subsection shall apply and extend to the businesses
483 using the services of a temporary help contracting firm, as such term is defined in Code
484 Section 34-8-46, or ~~an employee leasing company~~ a professional employer organization,
485 as such term is defined in Code Section ~~34-8-32~~ 34-11-1, when the benefits required by this
486 chapter are provided by either the temporary help contracting firm or the ~~employee leasing~~
487 ~~company~~ professional employer organization or the business using the services of either
488 such firm or company. A temporary help contracting firm or ~~an employee leasing company~~
489 a professional employer organization shall be deemed to be a statutory employer for the
490 purposes of this chapter."

491 **PART IV**492 **SECTION 4-1.**

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

495 **SECTION 4-2.**

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