

Senate Substitute for HOUSE BILL No. 2077

By Committee on Financial Institutions and Insurance

3-27

1 AN ACT concerning employment; creating the professional employer
2 organization registration act.

3
4 *Be it enacted by the Legislature of the State of Kansas:*

5 Section 1. The provisions of sections 1 through 11, and amendments
6 thereto, shall be known and may be cited as the professional employer
7 organization registration act.

8 Sec. 2. As used in sections 1 through 11, and amendments thereto:

9 (a) "Client" means any person who enters into a professional
10 employer agreement with a professional employer organization.

11 (b) "Co-employer" means either a professional employer organization
12 or a client.

13 (c) "Co-employment relationship" means a relationship which is
14 intended to be an ongoing relationship rather than a temporary or project
15 specific relationship, and wherein the rights, duties and obligations of an
16 employer which arise out of an employment relationship have been
17 allocated between the employer and a professional employer organization
18 as co-employers pursuant to a professional employer agreement entered
19 into in accordance with the provisions of sections 1 through 11, and
20 amendments thereto. Under a co-employment relationship:

21 (1) The professional employer organization is entitled to enforce only
22 those employer rights, and is subject to only those employer obligations,
23 that are specifically allocated to the professional employer organization by
24 the professional employer agreement or by the provisions of sections 1
25 through 11, and amendments thereto;

26 (2) the client is entitled to enforce those employer rights, and is
27 obligated to provide and perform those employer obligations, that are
28 allocated to such client by the professional employer agreement or by the
29 provisions of sections 1 through 11, and amendments thereto; and

30 (3) the client also is entitled to enforce any employer right, and is
31 obligated to perform any obligation of an employer, that is not specifically
32 allocated to the professional employer organization by the professional
33 employer agreement or by the provisions of sections 1 through 11, and
34 amendments thereto.

35 (d) "Commissioner" means the commissioner of insurance.

36 (e) (1) "Covered employee" means an individual having a co-

1 employment relationship with a professional employer organization and a
2 client, who has received written notice of the co-employment relationship
3 with the professional employer organization and the client, and such co-
4 employment relationship was entered into pursuant to a professional
5 employer agreement entered into in accordance with the provisions of
6 sections 1 through 11, and amendments thereto.

7 (2) The term "covered employee" shall include individuals who are
8 officers, directors, shareholders, partners or managers of the client, or
9 members of a limited liability company that is a client, if:

10 (A) The professional employer organization and the client have
11 expressly agreed in the professional employer agreement that such
12 individuals are covered employees;

13 (B) such individuals satisfy the provisions of paragraph (1); and

14 (C) such individuals act as operational managers or perform day-to-
15 day operational services for the client.

16 (f) "Department" means the department of insurance.

17 (g) "Person" means any individual, partnership, corporation, limited
18 liability company, association or any other form of legally recognized
19 entity.

20 (h) "Professional employer agreement" means a written contract
21 entered into between a client and a professional employer organization that
22 provides:

23 (1) For the co-employment of covered employees;

24 (2) for the allocation of employer rights and obligations between the
25 client and the professional employer organization with respect to covered
26 employees; and

27 (3) for the professional employer organization and the client to
28 assume the responsibilities required by the provisions of sections 1
29 through 11, and amendments thereto.

30 (i) (1) "Professional employer organization" means any person
31 engaged in the business of providing professional employer services. A
32 person engaged in the business of providing professional employer
33 services shall be considered a "professional employer organization"
34 regardless of such person's use of the term staff leasing company,
35 administrative employer, employee leasing company or any name other
36 than professional employer organization in describing such person's
37 business.

38 (2) For purposes of sections 1 through 11, and amendments thereto,
39 the following shall not be considered a "professional employer
40 organization," or as providing "professional employment services":

41 (A) Arrangements wherein a person, whose principal business
42 activity is not entering into professional employer agreements, and which
43 does not hold itself out as a professional employer organization, shares

1 employees with a commonly owned company within the meaning of
2 section 414(b) and (c) of the internal revenue code;

3 (B) independent contractor arrangements by which a person assumes
4 responsibility for the product produced or service performed by such
5 person or such person's agents and retains and exercises primary direction
6 and control over the work performed by the individuals whose services are
7 supplied under such arrangements; and

8 (C) providing temporary help services.

9 (j) "Professional employer group" means two or more professional
10 employer organizations that are majority owned or commonly controlled
11 by the same entity, parent or controlling person.

12 (k) "Professional employer services" means the service of entering
13 into co-employment relationships.

14 (l) "Registrant" means a professional employer organization
15 registered under the provisions of sections 1 through 11, and amendments
16 thereto.

17 (m) "Temporary help services" means services consisting of a person:

18 (1) Recruiting and hiring such person's own employees;

19 (2) locating other organizations that need the services of such
20 employees;

21 (3) assigning such employees:

22 (A) To perform work at or services for such other organizations to
23 support or supplement such other organizations' workforces;

24 (B) to provide assistance in special work situations, including
25 employee absences, skill shortages or seasonal workloads; or

26 (C) to perform special assignments or projects; and

27 (4) customarily attempting to reassign such employees to other
28 organizations when such employees finish an assignment.

29 (n) "Working capital" means current assets less current liabilities, as
30 such terms are used by generally accepted accounting principles.

31 Sec. 3. (a) Nothing in the provisions of sections 1 through 11, and
32 amendments thereto, or in any professional employer agreement shall:

33 (1) Affect, modify or amend any collective bargaining agreement, or
34 the rights or obligations of any client, professional employer organization
35 or covered employee under the national labor relations act, 29 U.S.C. §
36 151 *et seq.*, or the railway labor act, 45 U.S.C. § 151 *et seq.*;

37 (2) diminish, abolish or remove the rights of covered employees as to
38 a client, or the obligations of such client to a covered employee, whether
39 existing prior to or after the effective date of the professional employer
40 agreement, including, but not limited to, rights and obligations arising
41 from civil rights laws guaranteeing nondiscrimination in employment
42 practices;

43 (3) affect, modify or amend any contractual relationship or restrictive

1 covenant between a covered employee and any client in effect at the time a
2 professional employer agreement becomes effective, nor prohibit or amend
3 any contractual relationship or restrictive covenant that is entered into
4 subsequently between a client and a covered employee. A professional
5 employer organization shall have no responsibility or liability in
6 connection with, or arising out of, any such existing or new contractual
7 relationship or restrictive covenant unless the professional employer
8 organization has specifically agreed otherwise in writing; or

9 (4) create any new or additional enforceable right of a covered
10 employee against a professional employer organization that is not
11 specifically provided by the professional employer agreement or by the
12 provisions of sections 1 through 11, and amendments thereto.

13 (b) (1) Nothing in the provisions of sections 1 through 11, and
14 amendments thereto, or in any professional employer agreement shall
15 affect, modify or amend any local, state or federal licensing, registration or
16 certification requirement applicable to any client or covered employee.

17 (2) A covered employee who is required to be licensed, registered or
18 certified pursuant to local, state or federal law or rules and regulations
19 shall be deemed to be an employee solely of the client for purposes of any
20 such license, registration or certification requirement.

21 (3) A professional employer organization shall not be deemed to
22 engage in any occupation, trade, profession or other activity that is subject
23 to licensing, registration or certification requirements, or is otherwise
24 regulated by a governmental entity solely by entering into and maintaining
25 a co-employment relationship with a client or covered employee who is
26 subject to such requirements or regulations.

27 (4) A client shall have the sole right to direct and control the
28 professional or licensed activities of covered employees and of the client's
29 business. Such covered employees and clients shall remain subject to
30 regulation by the regulatory or governmental entity responsible for
31 licensing, registration or certification of such covered employees or
32 clients.

33 (c) With respect to a bid, contract, purchase order or agreement
34 entered into with the state or a political subdivision of the state, a client's
35 status or certification as a small, minority-owned, disadvantaged or
36 woman-owned business enterprise, or as a historically underutilized
37 business, shall not be affected because the client has entered into a
38 professional employer agreement with a professional employer
39 organization, or uses the services of a professional employer organization.

40 Sec. 4. (a) A person engaged in the business of providing professional
41 employer services pursuant to co-employment relationships in which all or
42 a majority of the employees of a client are covered employees shall be
43 registered pursuant to this section.

1 (b) A person who is not registered pursuant to this section shall not
2 offer or provide professional employer services in this state, and shall not
3 use the names PEO, professional employer organization, staff leasing
4 company, employee leasing company, administrative employer or any
5 other name or title representing professional employer services.

6 (c) Each applicant for registration shall submit an application to the
7 commissioner in such form and manner as prescribed by the
8 commissioner. The application shall contain the following information:

9 (1) The name or names under which the professional employer
10 organization conducts business;

11 (2) the address of the principal place of business of the professional
12 employer organization, and the address of each office the professional
13 employer organization maintains in this state;

14 (3) the professional employer organization's taxpayer or employer
15 identification number;

16 (4) a list, by jurisdiction, of each name under which the professional
17 employer organization has operated in the preceding five years, including
18 any alternative names, names of predecessors and, if known, successor
19 business entities;

20 (5) a statement of ownership, which shall include the name and
21 evidence of the business experience of any person that, individually, or
22 acting in concert with one or more other persons, owns or controls,
23 directly or indirectly, 15% or more of the equity interest of the professional
24 employer organization;

25 (6) a statement of management, which shall include the name and
26 evidence of the business experience of any individual who serves as
27 president, chief executive officer or otherwise has the authority to act as
28 senior executive officer of the professional employer organization; and

29 (7) a financial statement setting forth the financial condition of the
30 professional employer organization or professional employer group, which
31 shall comply with the provisions of subsection (h).

32 (d) (1) Each professional employer organization operating within this
33 state as of the effective date of this act shall complete its initial registration
34 not later than 60 days after the effective date of this act. Such initial
35 registration shall be valid until 60 days from the end of the professional
36 employer organization's first fiscal year that is more than one year after the
37 effective date of this act.

38 (2) Each professional employer organization not operating within this
39 state as of the effective date of this act shall complete its initial registration
40 prior to initiating operations within this state. If a professional employer
41 organization not registered in this state becomes aware that an existing
42 client, not based in this state, has employees and operations in this state,
43 the professional employer organization shall either decline to provide

1 professional employer services for those employees, or notify the
2 commissioner within five business days of the professional employer
3 organization's knowledge of this fact and file a limited registration
4 application pursuant to subsection (g), or a full registration if there are
5 more than 50 covered employees employed by such client. The
6 commissioner may issue an interim operating permit for the period of time
7 the application is pending if the professional employer organization is
8 currently registered or licensed by another state, and the commissioner
9 determines it is in the best interests of the potential covered employees.

10 (e) Within 60 days after the end of a registrant's fiscal year, such
11 registrant shall renew its registration by notifying the commissioner of any
12 changes in the information provided in such registrant's most recent
13 registration or renewal. A registrant's existing registration shall remain in
14 effect for the period of time the renewal application is pending.

15 (f) Professional employer organizations in a professional employer
16 group may satisfy any reporting and financial requirements of this section
17 on a combined or consolidated basis, provided that each member of the
18 professional employer group guarantees the financial capacity obligations
19 required by section 6, and amendments thereto, of each other member of
20 the professional employer group. In the case of a professional employer
21 group that submits a combined or consolidated audited financial statement,
22 including entities that are not professional employer organizations or that
23 are not in the professional employer group, the controlling entity of the
24 professional employer group under the consolidated or combined
25 statement must guarantee the obligations of the professional employer
26 organizations in the professional employer group.

27 (g) (1) A professional employer organization is eligible for a limited
28 registration if such professional employer organization:

29 (A) Submits a written request for limited registration in such form
30 and manner as prescribed by the commissioner;

31 (B) is domiciled outside this state, and is licensed or registered as a
32 professional employer organization in another state;

33 (C) does not maintain an office in this state, or directly solicit clients
34 located or domiciled within this state; and

35 (D) does not have more than 50 covered employees employed or
36 domiciled in this state on any given day.

37 (2) A limited registration is valid for one year, and may be renewed.

38 (3) A professional employer organization requesting limited
39 registration under this subsection shall provide the commissioner with
40 such information and documentation as required by the commissioner to
41 show that the professional employer organization qualifies for a limited
42 registration.

43 (4) The provisions of section 6, and amendments thereto, shall not

1 apply to applicants for limited registration.

2 (h) At the time of initial registration, the applicant shall submit the
3 most recent audit of the applicant or such applicant's parent holding
4 company, which audit shall not be older than 13 months. Thereafter, a
5 professional employer organization or professional employer group shall
6 file on an annual basis, within 60 days after the end of the professional
7 employer organization's or parent holding company's fiscal year, a
8 succeeding audit. An applicant may apply to the commissioner for an
9 extension of time to submit such audit, but any such request shall be
10 accompanied by a letter from the auditor stating the reasons for the delay
11 and the anticipated audit completion date. For the initial application, if the
12 closing date of the audited financial statements required by this section is
13 older than three months from the date of the application, the application
14 also shall include updated, though unaudited, financial statements for the
15 most recent quarter. The financial statement shall be prepared in
16 accordance with generally accepted accounting principles and audited by
17 an independent certified public accountant licensed to practice in the
18 jurisdiction in which such accountant is located, and shall be without
19 qualification as to the going concern status of the professional employer
20 organization. A professional employer group may submit combined or
21 consolidated audited financial statements to meet the requirements of this
22 section. A professional employer organization that has not had sufficient
23 operating history to have audited financial statements based upon at least
24 12 months of operating history shall meet the financial capacity
25 requirements of subsection (f) and present financial statements reviewed
26 by a certified public accountant.

27 (i) The department shall maintain a list of professional employer
28 organizations registered under this section, and such list shall be readily
29 available to the public by electronic or other means.

30 (j) The commissioner, to the extent practical, shall permit the
31 acceptance of electronic filings, including applications, documents, reports
32 and other filings required by the commissioner under this section. The
33 commissioner may provide for the acceptance of electronic filings and
34 other assurance documents by an independent and qualified entity
35 approved by the commissioner that provides satisfactory assurance of
36 compliance acceptable to the commissioner consistent with, or in lieu of,
37 the requirements of this section and section 6, and amendments thereto.
38 The commissioner shall permit a professional employer organization to
39 authorize such entity approved by the commissioner to act on the
40 professional employer organization's behalf in complying with the
41 registration requirements of this section, including electronic filings of
42 information and payment of registration fees. Use of such an approved
43 entity shall be optional and not mandatory for a registrant. Nothing in this

1 subsection shall limit or change the commissioner's authority to register or
2 terminate registration of a professional employer organization, or to
3 investigate or enforce any provision of sections 1 through 11, and
4 amendments thereto.

5 Sec. 5. (a) Upon filing an initial application for registration, a
6 professional employer organization shall pay a fee in an amount not to
7 exceed \$1,000.

8 (b) Upon filing a renewal application for registration, a professional
9 employer organization shall pay a fee in an amount not to exceed \$500.

10 (c) Upon filing an initial or a renewal application for limited
11 registration, a professional employer organization shall pay a fee in an
12 amount not to exceed \$500.

13 (d) Upon filing an initial or a renewal application for registration, a
14 professional employer group shall pay a fee in an amount determined by
15 the commissioner and adopted by rules and regulations.

16 (e) The commissioner shall adopt rules and regulations establishing
17 the fees to be charged pursuant to this section in such amounts as deemed
18 reasonably necessary by the commissioner for the administration of the
19 provisions of sections 1 through 11, and amendments thereto, subject to
20 the limitations on fee amounts set forth in subsections (a), (b) and (c).

21 (f) There is hereby created the professional employer organization fee
22 fund. The commissioner shall remit all moneys received from fees or
23 penalties to the state treasurer in accordance with the provisions of K.S.A.
24 75-4215, and amendments thereto. Upon receipt of each such remittance,
25 the state treasurer shall deposit the entire amount in the state treasury to
26 the credit of the professional employer organization fee fund. All
27 expenditures from the professional employer organization fee fund shall be
28 for the purposes of the administration of the provisions of sections 1
29 through 11, and amendments thereto, and shall be made in accordance with
30 appropriation acts upon warrants of the director of accounts and reports
31 issued pursuant to vouchers approved by the commissioner, or the
32 commissioner's designee.

33 Sec. 6. Except as provided by subsections (g) and (j) of section 4, and
34 amendments thereto, each professional employer organization, or
35 collectively each professional employer group shall either:

36 (a) Maintain positive working capital upon registration as reflected in
37 the financial statements submitted to the commissioner with the initial
38 registration application and each renewal application; or

39 (b) for a professional employer organization or professional employer
40 group that does not have sufficient positive working capital as required in
41 subsection (a), submit a bond, irrevocable letter of credit or securities with
42 a minimum market value in an amount equal to the sum of the amount that
43 would be necessary for such professional employer organization or

1 professional employer group to comply with subsection (a) plus \$100,000
2 to the commissioner at such time as the professional employer
3 organization or professional employer group does not have sufficient
4 working capital. Such bond shall be held by a depository designated by the
5 commissioner securing payment by the professional employer organization
6 of all taxes, wages, benefits or other entitlement due to or with respect to
7 covered employees, if the professional employer organization does not
8 make such payments when due.

9 Sec. 7. (a) No person shall knowingly enter into a co-employment
10 relationship in which less than a majority of the employees of the client in
11 this state are covered employees, or in which less than half of the payroll
12 of the client in this state is attributable to covered employees.

13 (b) Except as otherwise provided in sections 1 through 11, and
14 amendments thereto, or in the professional employer agreement, in each
15 co-employment relationship:

16 (1) The client shall be entitled to exercise all rights and shall be
17 obligated to perform all duties and responsibilities otherwise applicable to
18 an employer in an employment relationship;

19 (2) the professional employer organization shall be entitled to
20 exercise only those rights and obligated to perform only those duties and
21 responsibilities specifically required by the provisions of sections 1
22 through 11, and amendments thereto, or in the professional employer
23 agreement. The rights, duties and obligations of the professional employer
24 organization as co-employer with respect to any covered employee shall be
25 limited to those arising pursuant to the professional employer agreement or
26 as required by the provisions of sections 1 through 11, and amendments
27 thereto, during the term of co-employment by the professional employer
28 organization of such covered employee; and

29 (3) the client retains the exclusive right to direct and control the
30 covered employees as is necessary to conduct the client's business, to
31 discharge any of the client's fiduciary responsibilities or to comply with
32 any licensure requirements applicable to the client or to the covered
33 employees.

34 (c) Except as otherwise provided in sections 1 through 11, and
35 amendments thereto, the co-employment relationship between the client
36 and the professional employer organization, and between each co-
37 employer and each covered employee, shall be governed by the
38 professional employer agreement. Each professional employer agreement
39 shall include the following:

40 (1) The allocation of rights, duties and obligations as described in this
41 section;

42 (2) that the professional employer organization shall have the
43 responsibility to pay wages to covered employees, to withhold, collect,

1 report and remit payroll-related and unemployment taxes and, to the extent
2 the professional employer organization has assumed such responsibility in
3 the professional employer agreement, to make payments for employee
4 benefits for covered employees;

5 (3) that, in addition to the client's right to hire, discipline and
6 terminate a covered employee, the professional employer organization
7 shall have a right to hire, discipline and terminate a covered employee only
8 as may be necessary to fulfill the professional employer organization's
9 responsibilities under the provisions of sections 1 through 11, and
10 amendments thereto, or the professional employer agreement.

11 (d) For purposes of this section, wages do not include any obligation
12 between a client and a covered employee for payments beyond, or in
13 addition to, the covered employee's salary, draw or regular rate of pay,
14 such as bonuses, commissions, severance pay, deferred compensation,
15 profit sharing or vacation, sick or other paid time off pay, unless the
16 professional employer organization has expressly agreed to assume
17 liability for such payments in the professional employer agreement.

18 (e) With respect to each professional employer agreement entered
19 into by a professional employer organization, such professional employer
20 organization shall provide written notice to each covered employee
21 affected by such agreement. The professional employer organization shall
22 provide and the client is required to post the following notices in a
23 conspicuous place at the client's worksite:

24 (1) Notice of the general nature of the co-employment relationship
25 between and among the professional employer organization, the client and
26 such covered employees; and

27 (2) any notices required by the state relating to unemployment
28 compensation and minimum wages.

29 (f) Except as otherwise provided in the professional employer
30 agreement:

31 (1) A client shall be solely responsible for the quality, adequacy or
32 safety of the goods or services produced or sold in the client's business;

33 (2) a client shall be solely responsible for directing, supervising,
34 training and controlling the work of the covered employees with respect to
35 the business activities of the client and solely responsible for the acts,
36 errors or omissions of the covered employees with regard to such
37 activities;

38 (3) a client shall not be liable for the acts, errors or omissions of a
39 professional employer organization, or of any covered employee of the
40 client and a professional employer organization when such covered
41 employee is acting under the express direction and control of the
42 professional employer organization;

43 (4) nothing in this subsection shall limit any contractual liability or

1 obligation specifically provided in a professional employer agreement;

2 (5) a covered employee is not, solely as the result of being a covered
3 employee of a professional employer organization, an employee of the
4 professional employer organization for purposes of general liability
5 insurance, fidelity bonds, surety bonds, employer's liability which is not
6 covered by workers' compensation or any other liability insurance carried
7 by the professional employer organization unless the covered employee is
8 included for such purposes by specific reference in the professional
9 employer agreement and in any applicable prearranged employment
10 contract, insurance contract or bond;

11 (6) a professional employer organization shall not sell, solicit or
12 negotiate insurance on behalf of a client, covered employee or other
13 employee of a client except through a person or entity licensed to do so
14 pursuant to state law;

15 (7) a professional employer organization shall sponsor health and
16 workers' compensation plans for its covered employees only on a fully
17 insured basis from an insurance carrier admitted to do business in this
18 state, and if any such health or workers' compensation policies are
19 canceled or non-renewed, the professional employer organization shall so
20 notify all clients affected within seven days that such clients no longer
21 have health or workers' compensation insurance, as applicable on such
22 client's employees;

23 (8) for purposes of this state or any county, municipality or other
24 political subdivision thereof:

25 (A) Covered employees whose services are subject to sales tax shall
26 be deemed the employees of the client for purposes of collecting and
27 levying sales tax on the services performed by the covered employee, and
28 nothing in the provisions of sections 1 through 11, and amendments
29 thereto, shall be construed to relieve a client of any sales tax liability with
30 respect to such client's goods or services;

31 (B) any tax or assessment imposed upon professional employer
32 services or any business license or other fee which is based upon gross
33 receipts shall allow a deduction from the gross income or receipts of the
34 business derived from performing professional employer services that is
35 equal to that portion of the fee charged to a client that represents the actual
36 cost of wages and salaries, benefits, workers' compensation, payroll taxes,
37 withholding or other assessments paid to or on behalf of a covered
38 employee by the professional employer organization under a professional
39 employer agreement;

40 (C) any tax assessed or assessment or mandated expenditure on a per
41 capita or per employee basis shall be assessed against the client for
42 covered employees and against the professional employer organization for
43 its employees who are not covered employees co-employed with a client,

1 and any benefits or monetary consideration that meets the requirements of
2 mandates imposed on a client and that are received by covered employees
3 through the professional employer organization either through payroll or
4 through benefit plans sponsored by the professional employer organization
5 shall be credited against the client's obligation to fulfill such mandates; and

6 (D) in the case of a tax or an assessment imposed or calculated upon
7 the basis of total payroll, the professional employer organization shall be
8 eligible to apply any small business allowance or exemption available to
9 the client for the covered employees for the purpose of computing the tax.

10 Sec. 8. A client and a professional employer organization shall each
11 be deemed an employer under the laws of this state for purposes of
12 sponsoring retirement and employee welfare benefit plans for its covered
13 employees.

14 Sec. 9. (a) It shall be a violation of the provisions of sections 1
15 through 11, and amendments thereto:

16 (1) For a person to knowingly offer or provide professional employer
17 services or use the names PEO, professional employer organization, staff
18 leasing, employee leasing, administrative employer or other title
19 representing professional employer services without registering in
20 accordance with section 4, and amendments thereto;

21 (2) for a person to knowingly provide false or fraudulent information
22 to the commissioner in conjunction with any registration application,
23 renewal or in any report required under the provisions of sections 4 or 6,
24 and amendments thereto;

25 (3) for a person to knowingly make a material misrepresentation to
26 the commissioner, or other governmental agency to which such person is
27 required to submit a report or information;

28 (4) for a professional employer organization or a controlling person
29 of a professional employer organization to be convicted of a crime:

30 (A) That relates to the operation of a professional employer
31 organization;

32 (B) that relates to the ability of the professional employer
33 organization or a controlling person of a professional employer
34 organization to operate a professional employer organization; or

35 (C) pursuant to 18 U.S.C. § 1033; or

36 (5) for a person to willfully violate any provision of sections 1
37 through 11, and amendments thereto, or any rule or regulation adopted by
38 the commissioner pursuant thereto.

39 (b) Upon a finding, and after notice and an opportunity for a hearing,
40 that a professional employer organization, or a controlling person of a
41 professional employer organization, or a person offering professional
42 employer services has committed a violation under this section, the
43 commissioner may:

- 1 (1) Deny the application for registration;
- 2 (2) revoke, restrict or refuse to renew a registration;
- 3 (3) impose a civil fine in an amount not to exceed \$10,000 for each
- 4 material violation of the provisions of sections 1 through 11, and
- 5 amendments thereto;
- 6 (4) place the registrant on probation for such period of time and
- 7 subject to such conditions as the commissioner shall specify; or
- 8 (5) issue an order to cease and desist those professional employer
- 9 organization activities and services specified in such order.

10 (c) The provisions of this section shall be subject to the Kansas
11 judicial review act.

12 Sec. 10. The commissioner is hereby authorized to and shall adopt
13 such rules and regulations as the commissioner deems necessary to
14 implement and enforce the provisions of sections 1 through 11, and
15 amendments thereto.

16 Sec. 11. If any provision of sections 1 through 11, and amendments
17 thereto, or any portion thereof, is declared invalid or unconstitutional, such
18 invalidity shall not affect the validity or constitutionality of the remaining
19 provisions of sections 1 through 11, and amendments thereto.

20 Sec. 12. This act shall take effect and be in force from and after
21 January 1, 2014, and its publication in the statute book.