

SENATE FILE NO. SF0122

Professional employer organizations.

Sponsored by: Senator(s) Coe and Bebout

A BILL

for

1 AN ACT relating to the professional employer organizations;
 2 creating a Wyoming Professional Employer Organization
 3 Registration Act; establishing registration requirements;
 4 specifying relationships, duties, responsibilities and
 5 rights among the parties; providing for assessment of fees
 6 as specified; providing definitions; providing penalties;
 7 and providing for an effective date.

8

9 *Be It Enacted by the Legislature of the State of Wyoming:*

10

11 **Section 1.** W.S. 17-29-101 through 17-29-109 are
 12 created to read:

13

14

ARTICLE 29

15

EMPLOYER ORGANIZATIONS

16

17 **17-29-101. Short title.**

1

2 This act shall be known and may be cited as the "Wyoming
3 Professional Employer Organization Registration Act".

4

5 **17-29-102. Definitions.**

6

7 (a) As used in this act:

8

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

12

13 (ii) "Co-employer" means either a professional
14 employer organization or a client;

15

16 (iii) "Co-employment relationship" means a
17 relationship which is intended to be an ongoing relationship
18 rather than temporary or project specific, wherein the
19 rights, duties and obligations of an employer which arise out
20 of an employment relationship have been allocated between co-
21 employers pursuant to a professional employer agreement and
22 this act. In a co-employment relationship:

23

1 (A) The professional employer organization
2 is entitled to enforce only such employer rights, and is
3 subject to only those obligations specifically allocated to
4 the professional employer organization by the professional
5 employer agreement or this act;

6
7 (B) The client is entitled to enforce those
8 rights, and is obligated to provide and perform those
9 employer obligations, allocated to the client by the
10 professional employer agreement and this act; and

11
12 (C) The client is entitled to enforce any
13 right, and is obligated to perform any obligation of an
14 employer, not specifically allocated to the professional
15 employer organization by the professional employer agreement
16 or this act.

17
18 (iv) "Covered employee" means an individual
19 having a co-employment relationship with a professional
20 employer organization and a client, who has received written
21 notice of co-employment with the professional employer
22 organization and the individual's co-employment relationship
23 is pursuant to a professional employer agreement subject to
24 this act. Individuals who are officers, directors,

1 shareholders, partners and managers of the client will be
2 covered employees, except to the extent the professional
3 employer organization and the client have expressly agreed
4 in the professional employer agreement that the individuals
5 would not be covered employees, provided the individuals
6 meet the criteria of this paragraph and this act as
7 operational managers or perform day-to-day operational
8 services for the client;

9

10 (v) "Person" means as defined in W.S.
11 8-1-102(a)(vi);

12

13 (vi) "Professional employer agreement" means a
14 written contract by and between a client and a professional
15 employer organization that provides:

16

17 (A) For the co-employment of covered
18 employees;

19

20 (B) For the allocation of employer rights
21 and obligations between the client and the professional
22 employer organization with respect to the covered employees;
23 and

24

1 (C) That the professional employer
2 organization and the client assume the responsibilities
3 required by this act.

4
5 (vii) "Professional employer organization" means
6 any person engaged in the business of providing
7 professional employer services. A person engaged in the
8 business of providing professional employer services shall
9 be subject to registration and regulation under this act
10 regardless of its use of the term or conducting business as
11 a "professional employer organization," "PEO," "staff
12 leasing company," "registered staff leasing company,"
13 "employee leasing company," "service provider,"
14 "administrative employer" or any other name. The following
15 shall not be deemed to be professional employer
16 organizations or the providing of professional employment
17 services for purposes of this act:

18
19 (A) Arrangements wherein a person, whose
20 principal business activity is not entering into
21 professional employer agreements and which does not hold
22 itself out as a professional employer organization, shares
23 employees with a commonly owned company within the meaning

1 of section 414(b) and (c) of the Internal Revenue Code of
2 1986, as amended;

3

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

10

11 (C) Providing temporary help services.

12

13 (viii) "Professional employer organization group"
14 means two (2) or more professional employer organizations
15 that are majority owned or commonly controlled by the same
16 entity, parent or controlling person;

17

18 (ix) "Professional employer services" means the
19 service of entering into co-employment relationships under
20 this act in which all or a majority of the employees
21 providing services to a client or to a division or work
22 unit of a client are covered employees;

23

1 (x) "Registrant" means a professional employer
2 organization registered under this act;

3

4 (xi) "Temporary help services" means services
5 consisting of a person:

6

7 (A) Recruiting and hiring his own
8 employees;

9

10 (B) Finding other organizations that need
11 the services of those employees;

12

13 (C) Assigning those employees to perform
14 work at, or services for, the other organizations to
15 support or supplement the other organizations' workforces,
16 or to provide assistance in special work situations such
17 as, but not limited to, employee absences, skill shortages,
18 seasonal workloads or to perform special assignments or
19 projects; and

20

21 (D) Customarily attempting to reassign the
22 employees to other organizations when they finish each
23 assignment.

24

1 (xii) "Working capital" means current assets
2 less current liabilities as defined by generally accepted
3 accounting principles;

4
5 (xiii) "This act" means W.S. 17-29-101 through
6 17-29-109.

7

8 **17-29-103. Rights, duties and obligations unaffected**
9 **by this act.**

10

11 (a) Nothing contained in this act or in any
12 professional employer agreement shall:

13

14 (i) Affect, modify or amend any collective
15 bargaining agreement, or the rights or obligations of any
16 client, professional employer organization or covered
17 employee under the federal National Labor Relations Act,
18 the federal Railway Labor Act or W.S. 27-7-101 through
19 27-7-115;

20

21 (ii) Diminish, abolish or remove rights of
22 covered employees to a client or obligations of such client
23 to a covered employee existing prior to the effective date
24 of the professional employer agreement;

1

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

14

15 (iv) Create any new or additional enforceable
16 right of a covered employee against a professional employer
17 organization that is not specifically provided by the
18 professional employer agreement or this act;

19

20 (v) Affect, modify or amend any state, local or
21 federal licensing, registration or certification
22 requirement applicable to any client or covered employee.
23 A covered employee who is required to be licensed,
24 registered or certified according to law or regulation is

1 deemed solely an employee of the client for purposes of the
2 license, registration or certification requirement. A
3 professional employer organization shall not be deemed to
4 engage in any occupation, trade, profession or other
5 activity that is subject to licensing, registration or
6 certification requirements, or is otherwise regulated by a
7 governmental entity solely by entering into and maintaining
8 a co-employment relationship with a covered employee who is
9 subject to such requirements or regulation. A client shall
10 have the sole right of direction and control of the
11 professional or licensed activities of covered employees
12 and of the client's business. Such covered employees and
13 clients shall remain subject to regulation by the
14 regulatory or governmental entity responsible for
15 licensing, registration or certification of the covered
16 employees or clients.

17

18 (b) For purposes of determination of tax credits and
19 other economic incentives based on employment provided by
20 this state, a political subdivision or other government
21 entity, covered employees shall be deemed employees solely
22 of the client. A client shall be entitled to the benefit
23 of any tax credit, economic incentive or other benefit
24 arising as the result of the employment of covered

1 employees of the client. Notwithstanding that the
2 professional employer organization is the reporting employer
3 for purposes of the covered employee's Internal Revenue
4 Service form W-2 wage and tax statement, the client shall
5 continue to qualify for such benefit, incentive or credit.
6 If the grant or amount of any such incentive is based on
7 the number of employees, then each client shall be treated
8 as employing only those covered employees co-employed by
9 the client. Covered employees working for other clients of
10 the professional employer organization shall not be counted.
11 Each professional employer organization shall provide, upon
12 request by a client or an agency, local political
13 subdivision, or department of this state, employment
14 information reasonably required by the agency, political
15 subdivision or department of this state responsible for
16 administration of any such tax credit or economic incentive
17 which may be necessary to support any request, claim,
18 application or other action by a client seeking the tax
19 credit or economic incentive.

20

21 (c) With respect to a bid, contract, purchase order
22 or agreement entered into with the state or a political
23 subdivision of the state, a client company's status or
24 certification as a small, minority owned, disadvantaged or

1 woman owned business enterprise or as a historically
2 underutilized business is not affected because the client
3 company has entered into an agreement with a professional
4 employer organization or uses the services of a professional
5 employer organization.

6

7 **17-29-104. Registration requirements.**

8

9 (a) Except as otherwise provided in this act, no
10 person shall provide, advertise or otherwise hold itself
11 out as providing professional employer services in this
12 state, unless the person is registered under this act.

13

14 (b) Each applicant for registration under this act,
15 shall provide the secretary of state with the following
16 information:

17

18 (i) The name or names under which the
19 professional employer organization conducts business;

20

21 (ii) The address of the principal place of
22 business of the professional employer organization and the
23 address of each office it maintains in this state;

24

1 (iii) The professional employer organization's
2 taxpayer or employer identification number;

3

4 (iv) A list by jurisdiction of each name under
5 which the professional employer organization has operated in
6 the preceding five (5) years, including any alternative
7 names, names of predecessors and, if known, successor
8 business entities;

9

10 (v) A statement of ownership, which shall
11 include the name and evidence of the business experience of
12 any person that, individually or acting in concert with one
13 (1) or more other persons, owns or controls, directly or
14 indirectly, twenty-five percent (25%) or more of the equity
15 interests of the professional employer organization;

16

17 (vi) A statement of management, which shall
18 include the name and evidence of the business experience of
19 any person who serves as president, chief executive officer
20 or otherwise has the authority to act as senior executive
21 officer of the professional employer organization; and

22

23 (vii) A financial statement setting forth the
24 financial condition of the professional employer

1 organization or professional employer organization group. At
2 the time of application for a new license, the applicant
3 shall submit the most recent audit of the applicant, which
4 shall not be older than thirteen (13) months. Thereafter,
5 a professional employer organization or professional employer
6 organization group shall file on an annual basis, within one
7 hundred eighty (180) days after the end of the professional
8 employer organization's or professional employer organization
9 group's fiscal year, a succeeding audit. An applicant may
10 apply for an extension with the secretary of state, but the
11 request shall be accompanied by a letter from the
12 professional employer organization's auditors stating the
13 reasons for the delay and the anticipated audit completion
14 date. The financial statement shall be prepared in
15 accordance with generally accepted accounting principles,
16 and audited by an independent certified public accountant
17 licensed to practice in the jurisdiction in which the
18 accountant is located, and shall be without qualification
19 as to the going concern status of the professional employer
20 organization. A professional employer organization group may
21 submit combined or consolidated audited financial
22 statements to meet the requirements of this subsection. A
23 professional employer organization that has not had
24 sufficient operating history to have audited financials

1 based upon at least twelve (12) months of operating history
2 shall meet the financial capacity requirements under W.S.
3 17-29-106 and present financial statements reviewed by a
4 certified public accountant.

5

6 (c) Each professional employer organization operating
7 within this state as of July 1, 2009 shall complete its
8 initial registration not later than one hundred eighty
9 (180) days after July 1, 2009. The initial registration
10 shall be valid until one hundred eighty (180) days from the
11 end of the professional employer organization's first fiscal
12 year end that is more than one (1) year after July 1, 2009.
13 Each professional employer organization not operating within
14 this state as of July 1, 2009 shall complete its initial
15 registration prior to commencement of operations within
16 this state.

17

18 (d) Within one hundred eighty (180) days after the
19 end of a registrant's fiscal year, the registrant shall
20 renew its registration by notifying the secretary of state
21 of any changes in the information provided in the
22 registrant's most recent registration or renewal. A
23 registrant's existing registration shall remain in effect
24 during the pendency of a renewal application.

1

2 (e) Professional employer organizations in a
3 professional employer organization group may satisfy the
4 reporting and financial requirements of this section on a
5 combined or consolidated basis provided that each member of
6 the professional employer organization group guarantees the
7 financial capacity obligations under this act of each other
8 member of the professional employer organization group. In
9 the case of a professional employer organization group that
10 submits a combined or consolidated audited financial
11 statement including entities that are not professional
12 employer organizations or that are not in the professional
13 employer organization group, the controlling entity of the
14 professional employer organization group under the
15 consolidated or combined statement shall guarantee the
16 obligations of the professional employer organizations in
17 the professional employer organization group.

18

19 (f) A professional employer organization is eligible
20 for a limited registration under this act if the
21 professional employer organization:

22

1 (i) Submits a properly executed request for
2 limited registration on a form provided by the secretary of
3 state;

4
5 (ii) Is domiciled outside this state and is
6 licensed or registered as a professional employer
7 organization in another state;

8
9 (iii) Does not maintain an office in this state
10 or directly solicit clients located or domiciled within
11 this state; and

12
13 (iv) Does not have more than fifty (50) covered
14 employees employed or domiciled in this state on any given
15 day.

16
17 (g) A limited registration under subsection (f) of
18 this section is valid for one (1) year and may be renewed.
19 A professional employer organization seeking limited
20 registration under subsection (f) of this section shall
21 provide the secretary of state with information and
22 documentation necessary to establish that the professional
23 employer organization qualifies for a limited registration.

1 W.S. 17-29-106 shall not apply to applicants for limited
2 registration.

3

4 (h) The secretary of state may prescribe forms
5 necessary to promote the efficient administration of this
6 section. The secretary of state shall permit by rule and
7 regulation the acceptance of electronic filings in
8 conformity with the provisions of the Uniform Electronic
9 Transactions Act in title 40, chapter 21, including
10 applications, documents, reports and other filings required
11 by this act. The rule may provide for the acceptance of
12 electronic filings and other assurances by an independent
13 and qualified assurance organization approved by the
14 secretary of state that provides satisfactory assurance of
15 compliance acceptable to the secretary of state consistent
16 with or in lieu of the requirements of W.S. 17-29-104,
17 17-29-106 and other requirements of this act or the rules
18 promulgated pursuant to the act. The rule shall permit a
19 professional employer organization to authorize an assurance
20 organization approved by the secretary of state to act on
21 the professional employer organization's behalf in complying
22 with the registration requirements of this act, including
23 electronic filings of information and payment of
24 registration fees. Use of an approved assurance

1 organization shall be optional and not mandatory for a
2 registrant. Nothing in this subsection shall limit or
3 change the secretary of state's authority to register or
4 terminate registration of a professional employer
5 organization or to investigate or enforce any provision of
6 this act. The secretary of state shall maintain a list of
7 professional employer organizations registered under this
8 act that is readily available to the public by electronic
9 or other means.

10

11 (j) All records, reports and other information
12 obtained from a professional employer organization under
13 this act, except to the extent necessary for the proper
14 administration of this act by the secretary of state, shall
15 be confidential and shall not be published or open to
16 public inspection other than to public employees in the
17 performance of their public duties.

18

19 **17-29-105. Fees.**

20

21 (a) Upon filing an initial registration statement
22 under this act, a professional employer organization shall
23 pay an initial registration fee not to exceed five hundred
24 dollars (\$500.00). Upon each annual renewal of a

1 registration statement filed under this act, a professional
2 employer organization shall pay a renewal fee not to exceed
3 two hundred fifty dollars (\$250.00).

4

5 (b) The secretary of state shall determine by rule
6 and regulation any fee to be charged for a group
7 registration.

8

9 (c) Each professional employer organization seeking
10 limited registration under this section shall pay a fee in
11 the amount not to exceed two hundred fifty dollars
12 (\$250.00) upon initial application for limited registration
13 and upon each annual renewal of the limited registration.

14

15 (d) A professional employer organization seeking
16 registration pursuant to W.S. 17-29-104(h) shall pay an
17 initial and annual fee not to exceed two hundred fifty
18 dollars (\$250.00).

19

20 (e) No fee charged pursuant to this section shall
21 exceed the amount reasonably necessary for the
22 administration of this act.

23

24 **17-29-106. Financial capability.**

1

2 (a) Except as provided for limited registrations
3 under W.S. 17-29-104(g) and electronic filings under W.S.
4 17-29-104(h), each professional employer organization or
5 collectively each professional employer organization group
6 shall maintain positive working capital at registration as
7 reflected in the financial statements submitted to the
8 agency with the initial registration and each annual
9 renewal. A professional employer organization or professional
10 employer organization group with negative working capital
11 shall provide a bond, irrevocable letter of credit or
12 securities with a minimum market value equal to or greater
13 than the sum of:

14

15 (i) An amount sufficient to eliminate the
16 negative working capital balance; and

17

18 (ii) One hundred thousand dollars (\$100,000.00).

19

20 **17-29-107. General requirements and provisions.**

21

22 (a) Except as specifically provided in this act or in
23 the professional employer agreement, in each co-employment
24 relationship:

1

2 (i) The client shall be entitled to exercise all
3 rights, and shall be obligated to perform all duties and
4 responsibilities, otherwise applicable to an employer in an
5 employment relationship;

6

7 (ii) The professional employer organization shall
8 be entitled to exercise only those rights, and obligated to
9 perform only those duties and responsibilities,
10 specifically required by this act or set forth in the
11 professional employer agreement. The rights, duties and
12 obligations of the professional employer organization as co-
13 employer with respect to any covered employee shall be
14 limited to those arising pursuant to the professional
15 employer agreement and this act during the term of co-
16 employment of the covered employee by the professional
17 employer organization;

18

19 (iii) Unless otherwise expressly agreed by the
20 professional employer organization and the client in a
21 professional employer agreement, the client retains the
22 exclusive right to:

23

1 (A) Direct and control the covered
2 employees as is necessary to conduct the client's business;

3

4 (B) Discharge any of the client's fiduciary
5 responsibilities; or

6

7 (C) Comply with any licensure requirements
8 applicable to the client or to the covered employees.

9

10 (b) Except as specifically provided in this act, the
11 co-employment relationship between the client and the
12 professional employer organization, and between each co-
13 employer and each covered employee, shall be governed by
14 the professional employer agreement. Each professional
15 employer agreement shall include the following:

16

17 (i) The allocation of rights, duties and
18 obligations as described in subsection (a) of this section;

19

20 (ii) That the professional employer organization
21 shall have responsibility to:

22

23 (A) Pay wages to covered employees;

24

1 (B) Withhold, collect, report and remit
2 payroll related and unemployment taxes; and

3

4 (C) To the extent the professional employer
5 organization has assumed responsibility in the professional
6 employer agreement, make payments for employee benefits for
7 covered employees. As used in this section, the term
8 "wages" does not include any obligation between a client
9 and a covered employee for payments beyond or in addition
10 to the covered employee's salary, draw or regular rate of
11 pay, such as bonuses, commissions, severance pay, deferred
12 compensation, profit sharing or vacation, sick or other
13 paid time off, unless the professional employer organization
14 has expressly agreed to assume liability for such payments
15 in the professional employer agreement.

16

17 (iii) That the professional employer organization
18 shall have a right to hire, discipline and terminate a
19 covered employee as may be necessary to fulfill the
20 professional employer organization's responsibilities under
21 this act and the professional employer agreement. The
22 client shall have a right to hire, discipline and terminate
23 a covered employee.

24

1 (c) With respect to each professional employer
2 agreement entered into by a professional employer
3 organization, the professional employer organization shall
4 provide written notice to each covered employee affected by
5 the agreement of the general nature of the co-employment
6 relationship between and among the professional employer
7 organization, the client and the covered employee.

8

9 (d) Except to the extent otherwise expressly provided
10 by the applicable professional employer agreement:

11

12 (i) A client shall be solely responsible for the
13 quality, adequacy or safety of the goods or services
14 produced or sold in client's business;

15

16 (ii) A client shall be solely responsible for
17 directing, supervising, training and controlling the work
18 of the covered employees with respect to the business
19 activities of the client and solely responsible for the
20 acts, errors or omissions of the covered employees with
21 regard to such activities;

22

23 (iii) A client shall not be liable for the acts,
24 errors or omissions of a professional employer organization,

1 or of any covered employee of the client and a professional
2 employer organization when such covered employee is acting
3 under the express direction and control of the professional
4 employer organization;

5

6 (iv) A professional employer organization shall
7 not be liable for the acts, errors or omissions of a client
8 or of any covered employee of the client when the covered
9 employee is acting under the express direction and control
10 of the client;

11

12 (v) Nothing in this subsection shall serve to
13 limit any contractual liability or obligation specifically
14 provided in the written professional employer agreement;

15

16 (vi) A covered employee is not, solely as the
17 result of being a covered employee of a professional
18 employer organization, an employee of the professional
19 employer organization for purposes of general liability
20 insurance, fidelity bonds, surety bonds, employees
21 liability which is not covered by workers' compensation or
22 liquor liability insurance carried by the professional
23 employer organization unless the covered employees are
24 included by specific reference in the professional employer

1 agreement and applicable prearranged employment contract,
2 insurance contract or bond.

3

4 (e) A professional employer organization under this
5 act is not engaged in the sale of insurance, business of
6 insurance or in acting as a third party administrator by
7 offering, marketing, selling, administering or providing
8 professional employer services which include services and
9 employee benefit plans for covered employees.

10

11 (f) For purposes of a state or political subdivision
12 thereof:

13

14 (i) Covered employees whose services are subject
15 to sales tax shall be deemed the employees of the client
16 for purposes of collecting and levying sales tax on the
17 services performed by the covered employee. Nothing
18 contained in this act shall relieve a client of any sales
19 tax liability with respect to its goods or services;

20

21 (ii) Any tax or assessment imposed upon
22 professional employer services or any business license or
23 other fee which is based upon gross receipts shall allow a
24 deduction from the gross income or receipts of the business

1 derived from performing professional employer services that
2 is equal to that portion of the fee charged to a client
3 that represents the actual cost of wages and salaries,
4 benefits, payroll taxes, withholding or other assessments
5 paid to or on behalf of a covered employee by the
6 professional employer organization under a professional
7 employer agreement;

8

9 (iii) Any tax assessed or assessment or mandated
10 expenditure on a per capita or per employee basis shall be
11 assessed against the client for covered employees and
12 against the professional employer organization for its
13 employees who are not covered employees co-employed with a
14 client. Benefits or monetary consideration that meet the
15 requirements of mandates imposed on a client and that are
16 received by covered employees through the professional
17 employer organization either through payroll or through
18 benefit plans sponsored by the professional employer
19 organization shall be credited against the client's
20 obligation to fulfill such mandates;

21

22 (iv) In the case of a tax or an assessment
23 imposed or calculated upon the basis of total payroll, the
24 professional organization shall be eligible to apply any

1 small business allowance or exemption available to the
2 client for the covered employees for purpose of computing
3 the tax.

4

5 **17-29-108. Benefit plans.**

6

7 (a) A client and a registered professional employer
8 organization shall each be deemed an employer under the laws
9 of this state for purposes of sponsoring retirement and
10 welfare benefit plans for its covered employees.

11

12 (b) A fully insured welfare benefit plan offered to
13 the covered employees of a single professional employer
14 organization shall be treated for purposes of state law as a
15 single employer welfare benefit plan and shall not be
16 treated as a multiple employer welfare arrangement.

17

18 (c) For purposes of the Small Employer Health
19 Insurance Availability Act, W.S. 26-19-301 et seq.:

20

21 (i) A professional employer organization shall be
22 considered the employer of all its covered employees; and

23

1 (ii) All covered employees of one (1) or more
2 clients participating in a health benefit plan sponsored by
3 a single professional employer organization shall be
4 considered employees of that professional employer
5 organization.

6

7 (d) If a professional employer organization offers to
8 its covered employees any health benefit plan which is not
9 fully insured by an authorized insurer, the plan shall:

10

11 (i) Utilize a third party administrator licensed
12 to do business in this state;

13

14 (ii) Hold all plan assets, including participant
15 contributions, in a trust account consistent with the
16 requirements of section 403 of the Employee Retirement
17 Income Security Act of 1974;

18

19 (iii) Provide sound reserves for the plan as
20 determined using generally accepted actuarial standards of
21 practice and consistent with the prudence and loyalty
22 standards of care for fiduciaries under the Employee
23 Retirement Income Security Act of 1974; and

24

1 (iv) Provide written notice to each covered
2 employee participating in the benefit plan that the plan is
3 self funded or is not fully insured.

4

5 **17-29-109. Enforcement.**

6

7 (a) A person may not knowingly:

8

9 (i) Offer or provide professional employer
10 services or use the names "PEO," "professional employer
11 organization," "staff leasing," "employee leasing,"
12 "administrative employer" or other title representing
13 professional employer services without first becoming
14 registered under this act;

15

16 (ii) Provide false or fraudulent information to
17 the secretary of state in conjunction with any
18 registration, renewal or in any report required under this
19 act.

20

21 (b) Subject to the contested case provisions of the
22 Wyoming Administrative Procedure Act, disciplinary action
23 may be taken by the secretary of state for violation of
24 subsection (a) of this act or for:

1

2 (i) The conviction of a professional employer
3 organization or a controlling person of a professional
4 employer organization of a crime that relates to the
5 operation of a professional employer organization or the
6 ability of the licensee or a controlling person of a licensee
7 to operate a professional employer organization;

8

9 (ii) Knowingly making a material misrepresentation
10 to the secretary of state, or other governmental agency; or

11

12 (iii) A willful violation of this act or any order
13 or regulation issued by the secretary of state under this
14 act.

15

16 (c) Upon finding, after notice and opportunity for
17 hearing, that a professional employer organization, or a
18 controlling person of a professional employer organization,
19 or a person offering professional employer organization
20 services has violated one (1) or more provisions specified in
21 this section and subject to any appeal authorized by the
22 Wyoming Administrative Procedure Act, the secretary of state
23 may:

24

1 (i) Deny an application for a license;

2

3 (ii) Revoke, restrict or refuse to renew a
4 license;

5

6 (iii) Impose an administrative penalty in an
7 amount not to exceed one thousand dollars (\$1,000.00) for
8 each material violation;

9

10 (iv) Limit activities that the licensee may
11 perform under this act for the period and subject to
12 conditions that the secretary of state specifies; or

13

14 (v) Issue a cease and desist order.

15

16 **Section 2.** This act is effective July 1, 2009.

17

18

(END)