

HOUSE No. 3805

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, July 10, 2017.

The committee on Labor and Workforce Development to whom was referred the petition (accompanied by bill, House, No. 3159) of Joseph F. Wagner and others relative to the registration of professional employer organizations, reports recommending that the accompanying bill (House, No. 3805) ought to pass.

For the committee,

PAUL BRODEUR.

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The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act relative to the recognition and registration of professional employer organizations operating in the Commonwealth of Massachusetts.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 149 of the General Laws, as appearing in the 2014 Official Edition,
2 is hereby amended by inserting after section 191 the following 13 sections:-

3 Section 192. The following words, as used in this section and in sections 193 through
4 204, inclusive, shall have the following meanings unless the context otherwise requires:

5 “Client”, a person who enters into a professional employer agreement with a professional
6 employer organization.

7 “Covered Employee”, an individual employed in a PEO relationship where the
8 individual’s PEO relationship is under a professional employer agreement. Individuals who are
9 officers, directors, shareholders, partners and managers of the client will be covered employees,
10 except to the extent the professional employer organization and the client have expressly agreed
11 in the professional employer agreement that such individuals would not be covered employees,

12 provided such individuals meet the criteria of this paragraph and act as operational managers or
13 perform day-to-day operational services for the client.

14 “Department”, the department of labor standards.

15 “Director”, the director of the department of labor standards.

16 “Employment Agency”, shall have the same meaning as defined in section 46A of
17 chapter 140.

18 “PEO Group”, 2 or more professional employer organizations that are majority owned or
19 commonly controlled by the same entity, parent or controlling person or persons.

20 “Person”, any individual, partnership, corporation, limited liability company, association
21 or any other form of legally recognized entity.

22 “Professional Employer Agreement”, a written contract by and between a client and a
23 professional employer organization that: (a) provides for the PEO relationship of covered
24 employees; (b) allocates employer rights and obligations between the client and the professional
25 employer organization with respect to the covered employees; (c) allocates the responsibilities
26 between the professional employer organization and the client; and (d) shall not affect, modify or
27 amend any employee rights under federal, state, local or municipal law and in no way abrogate
28 obligations of the client or the PEO to covered employees under such laws.

29 “Professional Employer Organization” or “PEO”, any person engaged in the business of
30 providing professional employer services who is subject to registration and regulation pursuant
31 to sections 192 through 204, inclusive regardless of its use of the term or conducting business as
32 a professional employer organization staff leasing company, registered staff leasing company,

33 employee leasing company, administrative employer or any other name provided that the
34 following shall not be deemed to be professional employer organizations or to be providing of
35 professional employment services: (a) arrangements wherein a person, whose principal business
36 activity is not entering into professional employer arrangements and which does not hold itself
37 out as a PEO, shares employees with a commonly owned company within the meaning of section
38 414(b) and section 414(c) of the Internal Revenue Code of 1986, as amended; (b) Independent
39 contractor arrangements as defined by Section 148 of this chapter; or (c) Services provided by an
40 Employment Agency or Staffing Agency

41 “PEO Relationship”, a co-employment relationship, where all the rights, duties and
42 obligations of an employer which arise out of an employment relationship have been allocated
43 between the PEO and the client pursuant to a professional employer agreement, provided
44 however, that a staffing agency and an employment agency are not a PEO. In a PEO relationship:
45 (a) the professional employer organization is entitled to enforce only such employer rights and is
46 subject to only those obligations allocated in the professional employment agreement or as
47 specifically required pursuant to sections 192 through 204, inclusive; (b) the client is entitled to
48 enforce those rights, and obligated to provide and perform those employer obligations allocated
49 to the client by the written professional employer agreement; (c) the client is entitled to enforce
50 any right and obligated to perform any obligation of an employer not specifically allocated to the
51 PEO or sections 192 through 204, inclusive; and (d) neither the client nor the PEO may delegate
52 duties and responsibilities to the other unless such delegation is provided in the professional
53 employer agreement and unless the covered employees are informed about this delegation of
54 duties and responsibilities.

55 “Professional Employer Services”, the service of entering into PEO relationships in
56 which all or a majority of the employees providing services to a client or to a division or work
57 unit of the client are covered employees.

58 “Registrant”, a PEO registered pursuant to section 196 of this chapter.

59 “Staffing Agency”, as defined by section 159C of this chapter.

60 “Wages”, as defined by section 148 of this chapter.

61 Section 193. (a) Nothing contained in sections 192 through 204, inclusive, or in any
62 professional employer agreement shall affect, modify or amend any collective bargaining
63 agreement, or the rights or obligations of any client, PEO or covered employee under the federal
64 National Labor Relations Act, the Federal Railway Labor Act, chapter 150A or 150E of the
65 General Laws or any other applicable federal or state law.

66 (b) Collective bargaining, should it commence after an agreement is entered into between
67 a PEO and a client, shall be conducted as required by federal and state law.

68 (c) Nothing in sections 192 through 204, inclusive or in any professional employer
69 agreement shall:

70 (1) Diminish, abolish or remove rights of covered employees to a client or obligations of
71 such client to a covered employee existing prior to the effective date of the professional
72 employer agreement under federal or state law;

73 (2) Affect, modify or amend any contractual relationship or restrictive covenant between
74 a covered employee and any client in effect at the time a professional employer agreement
75 becomes effective. Nor shall it prohibit or amend any contractual relationship or restrictive

76 covenant that is entered into subsequently between a client and a covered employee. A PEO shall
77 have no responsibility or liability in connection with, or arising out of, any such existing or new
78 contractual relationship or restrictive covenant unless the PEO has specifically agreed otherwise
79 in writing; or

80 (3) Affect, modify or amend any employee rights under federal, state, local or municipal
81 law.

82 Section 194. (a) Nothing contained in sections 192 through 204, inclusive, or any
83 professional employer agreement shall affect, modify or amend any federal, state or local
84 licensing, registration or certification requirement applicable to any client or covered employee.

85 (b) A covered employee who must be licensed, registered or certified according to law or
86 regulation is deemed solely an employee of the client for purposes of any such license,
87 registration or certification requirement.

88 (c) A PEO shall not be deemed to engage in any occupation, trade, profession or other
89 activity that is subject to licensing, registration or certification requirements, or is otherwise
90 regulated by a government agency solely by entering into and maintaining a PEO relationship
91 with a covered employee who is subject to such requirements or regulation.

92 (d) A client shall have the sole right of direction and control of the professional or
93 licensed activities of covered employees and of the client's business. Covered employees and
94 clients shall remain subject to regulation by the regulatory or governmental entity responsible for
95 licensing, registration or certification of such covered employees or clients.

96 Section 195.(a) For purposes of the determination of tax credits and other economic
97 incentives provided by the commonwealth or other government entity and based on employment,
98 covered employees shall be deemed solely the client's employees. A client shall be entitled to the
99 benefit of any tax credit, economic incentive or other benefit arising as the result of the
100 employment of covered employees of such client. Notwithstanding that the PEO is the W-2
101 reporting employer; the client shall continue to qualify for the benefit, incentive or credit. If the
102 grant or amount of any benefit, incentive or credit is based on number of employees, then each
103 client shall be treated as employing only those covered employees involved in a PEO
104 relationship by such client. Covered employees working for other clients of the PEO shall not be
105 counted. Each PEO will provide, upon request by a client or by agency employment information
106 reasonably required for administration of any tax credit or economic incentive and necessary to
107 support any request, claim, application or other action by a client seeking any tax credit or
108 economic incentive.

109 (b) With respect to a bid, contract, purchase order or agreement entered into with the
110 commonwealth or a political subdivision thereof, a client company's status or certification under
111 federal or state law as a small, minority-owned, disadvantaged, woman-owned business or other
112 underutilized class of enterprise shall not be affected because the client company has entered into
113 a PEO relationship.

114 Section 196.(a) Except as otherwise provided in sections 192 through 204, inclusive, no
115 person shall provide, advertise or otherwise hold itself out as providing Professional Employer
116 Services in the commonwealth, unless such person is registered pursuant to this section.

117 (b) Each applicant for registration shall provide the department with the following
118 information:

119 (1) The name or names under which the PEO conducts business or will conduct business;

120 (2) The address of the principal place of business of the PEO and the address of each
121 office it maintains in the commonwealth;

122 (3) The PEO's taxpayer or employer identification number;

123 (4) A list by jurisdiction of each name under which the PEO has operated in the
124 preceding 5 years, including any alternative names, names of predecessors and, if known,
125 successor business entities;

126 (5) A statement of ownership, which shall include the name and evidence of the business
127 experience of any person that, individually or acting in concert with one or more other persons,
128 owns or controls or will own or control if known or reasonably known at the time of registration,
129 directly or indirectly, twenty-five percent or more of the equity interests of the PEO;

130 (6) A statement of management, which shall include the name and evidence of the
131 business experience of any person who serves or will serve, if known or reasonably known at the
132 time of registration, as president, chief executive officer, or otherwise has the authority to act as
133 senior executive officer of the PEO; and

134 (7) A financial statement setting forth the financial condition of the PEO or PEO Group.

135 At the time of application for a new license, as part of the financial statement, the applicant shall
136 submit an audit of the applicant, which shall be the most recent audit available and shall not be
137 older than 13 months. Nothing in this paragraph shall be construed as to require the department

138 to conduct the audit. Thereafter, a PEO or PEO Group shall file on an annual basis, at the time of
139 renewal, a succeeding audit. An applicant may apply for an extension with the department but
140 any such request must be accompanied by a letter from the auditors stating the reasons for the
141 delay and the anticipated audit completion date. The financial statement shall be prepared in
142 accordance with generally accepted accounting principles, and the audit shall be conducted by an
143 independent certified public accountant licensed to practice in the jurisdiction in which such
144 accountant is located, and shall be without qualification as to the going concern status of the
145 PEO. A PEO Group or a PEO that is part of an organizational structure where it is majority
146 owned or commonly controlled by an entity, parent or controlling person may submit combined
147 or consolidated audited financial statements to meet the requirements of this section. A PEO that
148 has not had sufficient operating history to have audited financials based upon at least 12 months
149 of operating history must meet the financial capacity requirements below and in subsections (l)
150 and (m) and must present financial statements reviewed by a certified public accountant; and

151 (8) A list of clients including client name, physical address, telephone number and federal
152 identification number.

153 (c) A PEO shall complete its initial registration prior to initiating operations within the
154 commonwealth. In the event a PEO that is not registered in the commonwealth becomes aware
155 that an existing client not based in the commonwealth has employees and operations in the
156 commonwealth, the PEO must either decline to provide PEO services for those employees or
157 notify the department within five business days of its knowledge of the fact and file a full
158 business registration if there are more than 15 covered employees. The department may issue an
159 interim operating permit for the period the registration applications are pending if (i) the PEO is

160 currently registered or licensed by another state and (ii) the department determines it to be in the
161 best interests of the potential covered employees.

162 (d) Upon expiration of its registration, the registrant shall renew its registration by
163 notifying the department of any changes in the information provided in the registrant's most
164 recent registration or renewal. A registrant's existing registration shall remain in effect during the
165 pendency of a renewal application.

166 (e) PEOs in a PEO Group may satisfy the reporting and financial requirements
167 established pursuant to this section on a combined or consolidated basis provided that each
168 member of the PEO Group guarantees the financial capacity obligations under paragraph (7) of
169 this section for each member of the PEO Group. In the case of a PEO Group that submits a
170 combined or consolidated audited financial statement, including entities that are not PEOs or that
171 are not in the PEO Group, the controlling entity of the PEO Group under the consolidated or
172 combined statement must guarantee the obligations of the PEOs in the PEO Group.

173 (f) A PEO that is part of an organizational structure where it is majority owned or
174 commonly controlled by an entity, parent or controlling person may submit a combined or
175 consolidated audited financial statement provided the controlling entity under the consolidated or
176 combined statement guarantees the obligations of the PEO.

177 (g) The department shall maintain a list of PEOs registered pursuant to this section that is
178 readily available to the public by electronic or other means.

179 (h) The department may prescribe forms necessary to promote the efficient
180 administration of this section.

181 (i) applications, documents, reports and other filings shall be submitted in a manner
182 determined by the director, which may also include the acceptance of electronic filings and other
183 assurance by an independent and qualified assurance organization approved by the director that
184 provides satisfactory assurance of compliance acceptable to the director consistent with or in lieu
185 of the requirements of subsections (b) through(g), inclusive, and subsection (k), and other
186 requirements of sections 192 through 204, inclusive or the regulations promulgated pursuant to
187 those sections. The director shall permit a PEO to authorize such an approved assurance
188 organization to act on the PEO's behalf in complying with the registration requirements pursuant
189 to section 196, including electronic filings of information and payment of registration fees. Use
190 of such an approved assurance organization shall be optional and not mandatory for a registrant.
191 Nothing in this subsection shall limit or change the department's authority to register or
192 terminate registration of a professional employer organization or to investigate or enforce any
193 provision of this chapter.

194 (j) All records, reports and other information obtained from a PEO for the purposes of
195 section 197, except to the extent necessary for the department's proper administration of this
196 chapter, shall be confidential and shall not be published or open to public inspection other than to
197 public employees in the performance of their public duties or otherwise in accordance with
198 federal or state law.

199 (k) The department shall determine by rule any fee to be charged for initial registration,
200 renewal or group registration.

201 (l) Except as provided by subsection (e) and (f), each PEO or collectively each PEO
202 Group shall maintain:

203 (1) positive working capital, as defined by generally accepted accounting principles,
204 proof of which will be submitted at registration as reflected in the financial statements submitted
205 to the department with the initial registration and each annual renewal; and

206 (2) Each PEO shall maintain a surety bond in the amount of \$250,000, proof of which
207 will be submitted at the time of registration. The surety bond required shall be in a form
208 acceptable to the director and maintained while the license remains in effect or any obligations or
209 liabilities of the registrant remain outstanding.

210 (m) A PEO or PEO Group that does not have positive working capital may provide a
211 bond, irrevocable letter of credit or securities with a minimum market value equaling the
212 deficiency plus \$250,000. Such bond is to be held by a depository designated by the department,
213 securing payment by the PEO of all taxes, wages, benefits or other entitlement due to or with
214 respect to covered employees, if the PEO does not make such payments when due.

215 Section 197.(a) Except as specifically provided in sections 192 through 204, inclusive
216 and in the professional employer agreement pursuant to this section, or under any subsequent
217 written agreement or amendment, in each PEO relationship:

218 (1) The client shall be entitled to exercise all rights, and shall be obligated to perform all
219 duties and responsibilities, otherwise applicable to an employer in an employment relationship;
220 and;

221 (2) The PEO shall be entitled to exercise only those rights, and obligated to perform only
222 those duties and responsibilities, specifically required pursuant to sections 192 through 204,
223 inclusive, or those set forth in the professional employer agreement. The rights, duties and
224 obligations of the PEO with respect to any covered employee shall be limited to those arising

225 pursuant to the professional employer agreement and those required pursuant to this chapter
226 during the term of the PEO relationship with such covered employee.

227 (3) Unless otherwise expressly agreed by the PEO and the client in a professional
228 employer agreement, the client retains the exclusive right to direct and control the covered
229 employees as is necessary to conduct the client's business, to discharge any of the client's
230 fiduciary responsibilities or to comply with any licensure requirements applicable to the client or
231 to the covered employees.

232 (b) Except as specifically provided in sections 192 through 204, inclusive, the PEO
233 relationship between the client and the PEO and between the PEO and each covered employee,
234 and the client and each covered employee shall be governed by the professional employer
235 agreement.

236 Each professional employer agreement shall include the following:

237 (1) The allocation of rights, duties and obligations as described in subsection (a).

238 (2) The extent that the PEO has assumed responsibility in the professional employer
239 agreement; (i) where the PEO shall have responsibility to pay such wages to covered
240 employees; (ii) to withhold, collect, report and remit payroll-related and unemployment taxes;
241 and (iii) to make payments for employee benefits for covered employees.

242 (3) That the PEO shall have a right to hire and terminate a covered employee as may be
243 necessary to fulfill the PEO's responsibilities pursuant to sections 192 through 204, inclusive, the
244 professional employer agreement, or as actually delegated by the client. The client shall have a
245 right to hire, discipline and terminate a covered employee.

246 (c) Upon initiation of the PEO relationship, the PEO shall provide and the client is
247 required to post a notice in a conspicuous place at the client's worksite and depending on the
248 customary way that the client communicates with its employees; either provide a hard copy or an
249 electronic copy of this notice that shall contain the following information:

250 (1) Notice of the general nature of the co-employment relationship between and among
251 the professional employer organization, the client and such covered employees, including the
252 rights, responsibilities and duties that the PEO and the client have with respect to the covered
253 employees;

254 (2) The name and telephone number of the department;

255 (3) The name and telephone number for the PEO;

256 (4) Disclosure if the benefit plan is self-funded or is not fully insured;

257 (5) the name of the workers' compensation carrier and the policy number; whether the
258 PEO or the client maintains the workers' compensation policy and performs safety inspections at
259 the workplace; and a phone number or contact to report injuries and hazardous worksite
260 conditions; and

261 (6) include a multilingual tagline on the notice provided by the department in languages
262 required under clause (iii) of subsection (d) of section 62A of chapter 151A that includes the
263 name and telephone number of the department and states that the notice contains important
264 information that should be translated.

265 (d) Upon termination, and in accordance with applicable federal law and General Laws,
266 the PEO shall provide covered employees with written notice of the termination of the PEO

267 relationship. The notice can be provided electronically if that is the customary manner in which
268 the client and the PEO communicate with the covered employee.

269 (e) Except to the extent otherwise expressly provided by the applicable professional
270 employer agreement:

271 (1) A client shall be solely responsible for the quality, adequacy or safety of the goods or
272 service produced or sold in the client's business.

273 (2) A client shall be solely responsible for directing, supervising, training and controlling
274 the work of the covered employees with respect to the business activities of the client and solely
275 responsible for the acts, errors or omissions of the covered employees with regard to such
276 activities

277 (3) A client shall be solely responsible for the payment of any wages to covered
278 employees and to make payments for employee benefits for covered employees.

279 (4) A client shall be solely responsible for safety, risk and hazard control at the worksite
280 and compliance with related state and federal laws.

281 (5) Upon termination of the PEO relationship, the client shall be solely responsible for
282 providing employees with information regarding the handling of claims and benefits.

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

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

289 (8) Nothing in this subsection shall serve to limit any contractual liability or obligation
290 specifically provided in the written professional employer agreement.

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

297 (10) Nothing in this section shall in any way limit the liabilities and obligations of any
298 PEO or client to covered employees as required by this chapter.

299 (11) The client shall be solely responsible for notifying the PEO of all covered
300 employees. Where the client has failed to notify the PEO, the client will be deemed to be the sole
301 employer of the employee.

302 (12) The client shall retain all records in compliance with state and federal law, including,
303 but not limited to section 52C of this chapter and section 15 of chapter 151.

304 Section 198.

305 (a) Any tax assessed or assessment or mandated expenditure on a per capita or per
306 employee basis shall be assessed against the client for covered employees and against the PEO

307 for its employees who are not covered employees involved in a PEO relationship with a client.
308 Benefits or monetary consideration that meet the requirements of mandates imposed on a client
309 and that are received by covered employees through the PEO either through payroll or through
310 benefit plans sponsored by the PEO shall be credited against the client's obligation to fulfill such
311 mandates.

312 (b) In the case of a tax or an assessment imposed or calculated upon the basis of total
313 payroll, the PEO shall be eligible to apply any small business allowance or exemption available
314 to the client for the covered employees for purpose of computing the tax.

315 Section 199. (a) A client or a registered PEO shall each be deemed an employer under the
316 laws of this state for purposes of sponsoring welfare benefit plans for its covered employees.

317 (b) A fully-insured welfare benefit plan as defined in 29 U.S. Code § 1002 offered to the
318 covered employees of a single PEO shall be treated for purposes of state law as a single
319 employer welfare benefit plan.

320 (c) For purposes of chapter 176J of the General Laws a PEO shall be considered the
321 employer of all of its covered employees and all covered employees of one or more clients
322 participating in a health benefit plan sponsored by a single PEO shall be considered employees
323 of that PEO.

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

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

327 (2) Hold all plan assets, including participant contributions, in a trust account consistent
328 with the requirements of section 403 of the Employee Retirement Income Security Act of 1974
329 or ERISA; and

330 (3) Provide sound reserves for such plan as determined using generally accepted actuarial
331 standards of practice and consistent with the prudence and loyalty standards of care for ERISA
332 fiduciaries.

333 (e) A PEO is not engaged in the sale of insurance or in acting as a third party
334 administrator by offering, marketing, selling, administering or providing professional employer
335 services which include services and employee benefit plans for covered employees.

336 Section 200. (a) Workers' compensation coverage shall be provided pursuant to section
337 14A of chapter 152 of the General Laws and regulations promulgated pursuant to said chapter
338 152.

339 (b) PEOs and clients shall comply with employer posting notices pursuant to sections 21,
340 22 and 30 of said chapter 152.

341 (c) To the extent the PEO has assumed responsibility in the professional employer
342 agreement, the PEO shall maintain responsibility for the management of workers' compensation
343 claims.

344 (d) The PEO agreement shall specify the allocation of responsibilities between the PEO
345 and the client for workplace safety, risk and hazard control including the responsibility for
346 disclosing information about workplace injuries and illness required by the federal Occupational

347 Safety and Health Act and for performing workplace safety inspections of all premises where
348 covered employees are employed.

349 (e) Where the PEO has workers' compensation coverage and has executed an alternate
350 employer endorsement naming the client as an additional insured, both the client and the PEO
351 shall be considered the employer for purpose of coverage under said chapter 152.

352 (f) Where the client has workers' compensation coverage and has executed an alternate
353 employer endorsement naming the PEO as an additional insured, both the client and the PEO
354 shall be considered the employer for the purpose of coverage under said chapter 152.

355 Section 201.(a) For purposes of chapter 151A of the General Laws, covered employees of
356 a registered PEO are considered the employees of the client, and the PEO shall be responsible for
357 the payment of contributions, penalties and interest on wages paid by the PEO to its covered
358 employees during the term of the applicable professional employer agreement.

359 (b) The PEO shall report and pay all required contributions to the unemployment
360 compensation fund using the state employer account number and the experience rate of the client
361 company pursuant to chapter 151A and the regulations promulgated pursuant to said chapter.

362 Section 202. Except as otherwise provided in this chapter, for the purposes of federal,
363 state or local laws relating to employee count, including but not limited to paid and unpaid leave,
364 health and transportation benefits and protection under fair employment laws, the employee
365 count shall include all of the client company's employees, including the client's employees who
366 are covered employees under the PEO relationship between the client and the PEO.

367 Section 203. (a) A person may not knowingly and intentionally:

368 (1) Offer or provide professional employer services or use the names PEO, professional
369 employer organization, staff leasing, employee leasing, administrative employer or other title
370 representing professional employer services without registering with the department pursuant to
371 section 197;

372 (2) Provide false or fraudulent information to the department in conjunction with any
373 registration, renewal or in any report required pursuant to sections 192 through 204, inclusive;

374 (3) Enter into a PEO relationship and split a client workforce for the sole purpose of
375 avoiding compliance with federal, state or municipal laws; or

376 (4) Make a material misrepresentation to the department, to other governmental agencies
377 or to covered employees.

378 (b) Disciplinary action may be taken by the department for violation of the provisions of
379 this chapter including for:

380 (1) The conviction of a PEO or a controlling person of a PEO of a crime that relates to
381 the operation of a PEO or the ability of the licensee or a controlling person of a licensee to
382 operate a PEO;

383 (2) Knowingly making a material misrepresentation to the department, or other
384 governmental agency; or

385 (3) A willful violation of this chapter or any order or regulation.

386 (c) Any individual may file a complaint with the department against a PEO, PEO group
387 or client. The complaint shall be filed in writing, with the department, in a form prescribed by
388 the director.

389 (1) Upon receipt of a complaint, the department will proceed to review and investigate
390 the complaint to determine if further action is warranted.

391 (2) If the director, after investigation, has cause to believe that there have been violations
392 of this chapter, the director may refer the complaint to the Office of the Attorney General.

393 (d) Upon finding, after notice and opportunity for hearing, that a PEO, or a controlling
394 person of a PEO, or a person offering PEO services has violated one or more provisions of this
395 chapter, including the failure to furnish records and requested information to the department and
396 its inspectors, or if a PEO, PEO group or client hinders or interferes with any authorized
397 inspector while in the performance of their duties, subject to any appeal, the director may:

398 (1) Deny an application for a license;

399 (2) Revoke, suspend, restrict or refuse to renew a license;

400 (3) Impose an administrative penalty in an amount not to exceed \$1,000 for each material
401 violation;

402 (4) Place the licensee on probation for the period and subject to conditions that the
403 department specifies; or

404 (5) Issue a cease and desist order.

405 Section 204. Wages shall be paid in accordance with section 148 of this chapter and any
406 minimum wage and overtime requirements as provided for in chapter 151 of the General Laws.

407 A PEO who fails to pay wages, to the extent the PEO has assumed responsibility in the
408 professional employer agreement or subsequent written agreement and as required under this
409 chapter, shall be subject to penalties under this chapter.

410 SECTION 2. Each Professional Employment Organization as defined by section 192 of
411 chapter 149 of the General Laws operating within the commonwealth as of the effective date of
412 this act shall complete its initial registration not later than 180 days after the effective date of this
413 act. Initial registration shall be valid for 1 year after the date of issuance.

414 SECTION 3. The Office of the Attorney General shall promulgate regulations to
415 effectuate the purposes of this act.