

HOUSE No. 4666

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 is hereby amended by adding the
2 following 13 sections:-

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

6 “Client” or “client company”, a person who enters into a professional employer
7 agreement with a professional employer organization.

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

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

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

16 “Employment agency”, as defined in section 46A of chapter 140.

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

19 “PEO relationship”, a co-employment relationship, in which all the rights, duties and
20 obligations of an employer which arise out of an employment relationship have been allocated
21 between the PEO and the client pursuant to a professional employer agreement, provided
22 however, that a staffing agency and an employment agency shall not be a PEO. In a PEO
23 relationship: (i) the professional employer organization shall be entitled to enforce only such
24 employer rights and is subject to only those obligations allocated in the professional employment
25 agreement or as specifically required pursuant to section 192 to 204, inclusive; (ii) the client
26 shall be entitled to enforce those rights, and obligated to provide and perform those employer
27 obligations, allocated to the client by the written professional employer agreement; (iii) the client
28 shall be entitled to enforce any right and obligated to perform any obligation of an employer not
29 specifically allocated to the PEO or section 192 to 204, inclusive; and (iv) neither the client nor
30 the PEO may delegate duties and responsibilities to the other unless such delegation is provided
31 in the professional employer agreement and the covered employees are informed about this
32 delegation of duties and responsibilities.

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

35 “Professional employer agreement”, a written contract by and between a client and a
36 professional employer organization that: (i) provides for the PEO relationship of covered
37 employees; (ii) allocates employer rights and obligations between the client and the professional
38 employer organization with respect to the covered employees; and (iii) allocates the
39 responsibilities between the professional employer organization and the client; provided,
40 however, that a professional employer agreement shall not affect, modify or amend any
41 employee rights under federal, state, local or municipal law and in no way abrogate obligations
42 of the client or the PEO to covered employees under such laws.

43 “Professional employer organization” or “PEO”, any person engaged in the business of
44 providing professional employer services who is subject to registration and regulation pursuant
45 to sections 192 to 204, inclusive, regardless of its use of the term or conducting business as a
46 professional employer organization staff leasing company, registered staff leasing company,
47 employee leasing company, administrative employer or any other name provided that the
48 following shall not be deemed to be professional employer organizations or providing
49 professional employment services: (i) arrangements wherein a person, whose principal business
50 activity is not entering into professional employer arrangements and which does not hold itself
51 out as a PEO, shares employees with a commonly owned company within the meaning of section
52 414(b) and section 414(c) of the Internal Revenue Code of 1986, as amended; (ii) independent
53 contractor arrangements as governed by section 148B; or (iii) services provided by an
54 employment agency or staffing agency.

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

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

59 “Staffing agency”, as defined in section 159C.

60 “Wages”, shall include all forms of remuneration for employment.

61 Section 193. (a) Nothing contained in sections 192 to 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 chapter
64 150A, chapter 150E, the federal National Labor Relations Act, the federal Railway Labor Act or
65 any other applicable federal or state law.

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

68 (c) Nothing in sections 192 to 204, inclusive, or in any professional employer agreement
69 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 a
74 covered employee and any client in effect at the time a professional employer agreement
75 becomes effective or prohibit or amend any contractual relationship or restrictive covenant that is
76 entered into subsequently between a client and a covered employee; provided, however, that a
77 PEO shall have no responsibility or liability in connection with, or arising out of, any such

78 existing or new contractual relationship or restrictive covenant unless the PEO has specifically
79 agreed otherwise 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 in sections 192 to 204, inclusive, or any professional employer
83 agreement shall affect, modify or amend any federal, state or local licensing, registration or
84 certification requirement applicable to any client or covered employee.

85 (b) A covered employee who is required to be licensed, registered or certified according
86 to law or regulation shall be deemed solely an employee of the client for purposes of any such
87 license, 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 reporting
101 employer for the purposes of the federal Internal Revenue Service form W-2, the client shall
102 continue to qualify for the benefit, incentive or credit. If the grant or amount of any benefit,
103 incentive or credit is based on number of employees, then each client shall be treated as
104 employing only those covered employees involved in a PEO relationship by such client. Covered
105 employees working for other clients of the PEO shall not be counted. Each PEO shall provide,
106 upon request by a client or by agency employment information reasonably required for
107 administration of any tax credit or economic incentive and necessary to support any request,
108 claim, application or other action by a client seeking any tax credit or 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 to 204, inclusive, no person
115 shall provide, advertise or otherwise hold itself out as providing professional employer services
116 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 taxpayer or employer identification number of the PEO;

123 (4) a list by jurisdiction of each name under which the PEO has operated in the preceding
124 5 years, including any alternative names, names of predecessors and, if known, successor
125 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, not less than 25 per cent 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;

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 more than 13 months old; provided, that nothing in this clause shall be construed as to require the
138 department to conduct the audit; provided, further, that a PEO or PEO group shall file on an
139 annual basis, at the time of renewal, a succeeding audit; provided, further, that an applicant may
140 apply for an extension with the department but any such request shall be accompanied by a letter
141 from the auditors stating the reasons for the delay and the anticipated audit completion date;

142 provided, further, that the financial statement shall be prepared in accordance with generally
143 accepted accounting principles, and the audit shall be conducted by an independent certified
144 public accountant licensed to practice in the jurisdiction in which such accountant is located, and
145 shall be without qualification as to the going concern status of the PEO; provided, further, that a
146 PEO group or a PEO that is part of an organizational structure in which it is majority owned or
147 commonly controlled by an entity, parent or controlling person may submit combined or
148 consolidated audited financial statements to meet the requirements of this section; and provided,
149 further, that a PEO that has not had sufficient operating history to have audited financials based
150 upon at least 12 months of operating history shall meet the financial capacity requirements in
151 subsections (l) and (m) and shall present financial statements reviewed by a certified public
152 accountant; and

153 (8) a list of clients including client name, physical address, telephone number and federal
154 identification number.

155 (c) A PEO shall complete its initial registration prior to initiating operations within the
156 commonwealth. If a PEO that is not registered in the commonwealth becomes aware that an
157 existing client not based in the commonwealth has employees and operations in the
158 commonwealth, the PEO shall decline to provide PEO services for those employees or notify the
159 department within 5 business days of its knowledge of the fact and file a full business
160 registration within 5 business days if there are more than 15 covered employees. The department
161 may issue an interim operating permit for the period the registration applications are pending if:
162 (i) the PEO is currently registered or licensed by another state and (ii) the department determines
163 it to be in the best interests of the potential covered employees.

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

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

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

179 (g) The department shall maintain a list of PEOs registered pursuant to this section and
180 shall make said list readily available to the public by electronic or other means.

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

183 (i) Applications, documents, reports and other filings shall be submitted in a manner
184 determined by the director, which may also include the acceptance of electronic filings and other
185 assurance by an independent and qualified assurance organization approved by the director that

186 provides satisfactory assurance of compliance acceptable to the director consistent with or in lieu
187 of the requirements of subsections (b) to (g), inclusive, and subsection (k), and other
188 requirements of sections 192 to 204, inclusive or the regulations promulgated pursuant to those
189 sections. The director shall permit a PEO to authorize such an approved assurance organization
190 to act on the PEO's behalf in complying with the registration requirements pursuant to this
191 section, including electronic filings of information and payment of registration fees. Use of such
192 an approved assurance organization shall be optional and not mandatory for a registrant. Nothing
193 in this subsection shall limit or change the department's authority to register or terminate
194 registration of a professional employer organization or to investigate or enforce this chapter.

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

200 (k) The department shall establish by regulation any fee to be charged for initial
201 registration, renewal or group registration.

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

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

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

211 (m) A PEO or PEO group without positive working capital may provide a bond,
212 irrevocable letter of credit or securities with a minimum market value equaling the deficiency
213 plus \$250,000. Such bond shall be held by a depository designated by the department, securing
214 payment by the PEO of all taxes, wages, benefits or other entitlement due to or with respect to
215 covered employees, if the PEO does not make such payments when due.

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

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

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 to 204, inclusive,
223 or those set forth in the professional employer agreement. The rights, duties and obligations of
224 the PEO with respect to any covered employee shall be limited to those arising pursuant to the
225 professional employer agreement and those required pursuant to this chapter during the term of
226 the PEO relationship with such covered employee; and

227 (3) unless otherwise expressly agreed to 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 to 204, inclusive, the PEO relationship
233 between the client and the PEO, the relationship between the PEO and each covered employee
234 and the relationship between the client and each covered employee shall be governed by the
235 professional employer 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 employees;
240 (ii) to withhold, collect, report and remit payroll-related and unemployment taxes; and (iii) to
241 make payments for employee benefits for covered employees; and

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 to 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: (i) the PEO shall provide the client a notice;
247 (ii) the client shall post said notice in a conspicuous place at the client's worksite; and (iii)
248 depending on the customary way that the client communicates with its employees, the client

249 shall either provide a hard copy or an electronic copy of said notice to said employees. Said
250 notice shall contain the following information:

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

255 (2) the name and telephone number of the department;

256 (3) the name and telephone number of the PEO;

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

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

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

266 (d) Upon termination, and in accordance with applicable federal and state law, the PEO
267 shall provide covered employees with written notice of the termination of the PEO relationship.
268 The notice can be provided electronically if that is the customary manner in which the client and
269 the PEO communicate with the covered employee.

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

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

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

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

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

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

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

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

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

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

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

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

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

305 Section 198. (a) Any tax assessed or assessment or mandated expenditure on a per capita
306 or per employee basis shall be assessed against the client for covered employees and against the
307 PEO for its employees who are not covered employees involved in a PEO relationship with a
308 client. Benefits or monetary consideration that meet the requirements of mandates imposed on a
309 client and that are received by covered employees through the PEO either through payroll or
310 through benefit plans sponsored by the PEO shall be credited against the client's obligation to
311 fulfill such 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 PEO shall each be deemed an employer under the laws of
316 this state for purposes of sponsoring welfare benefit plans for its covered employees.

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

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

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

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

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

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

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

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

337 (b) PEOs and clients shall comply with employer posting notices pursuant to sections 21
338 and 22 of said chapter 152.

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

342 (d) The professional employer agreement shall specify the allocation of responsibilities
343 between the PEO and the client for workplace safety, risk and hazard control including the
344 responsibility for disclosing information about workplace injuries and illness required by the
345 federal Occupational Safety and Health Act and for performing workplace safety inspections of
346 all premises where covered employees are employed.

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

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

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

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

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

365 Section 203. (a) A person shall not knowingly and intentionally:

366 (1) offer or provide professional employer services or use the names PEO, professional
367 employer organization, staff leasing, employee leasing, administrative employer or other title
368 representing professional employer services without registering with the department pursuant to
369 section 196;

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

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

374 (4) make a material misrepresentation to the department, to other governmental agencies
375 or to covered employees.

376 (b) Disciplinary action may be taken by the department for violation of sections 192
377 through 204, inclusive, including for:

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

381 (2) knowingly making a material misrepresentation to the department, or other
382 governmental agency; or

383 (3) a willful violation of sections 192 through 204, inclusive, or any related order or
384 regulation.

385 (c) Any individual may file a complaint with the department against a PEO, PEO group,
386 controlling person of a PEO, person offering professional employer services, or client. The
387 complaint shall be filed in writing, with the department, in a form prescribed by the director.

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

390 (2) If the director, after investigation, has cause to believe that there have been violations
391 of this chapter, the director may refer the complaint to the office of the attorney general.

392 (d) Upon finding, after notice and opportunity for hearing, that a PEO, PEO group,
393 controlling person of a PEO, person offering professional employer services, or client has
394 violated 1 or more provisions of this chapter, including the failure to furnish records and

395 requested information to the department and its inspectors, or has hindered or interfered with any
396 authorized inspector while in the performance of their duties, subject to any appeal, the director
397 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. A PEO who fails to
407 pay wages, to the extent the PEO has assumed responsibility in the professional employer
408 agreement or subsequent written agreement and as required under this chapter, shall be subject to
409 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 department of labor standards shall promulgate regulations to
415 effectuate the purposes of this act.