PROFESSIONAL EMPLOYER ORGANIZATION REGISTRATION ACT

Part 1 - Definitions

58-59-101. Short title.

This chapter is known as the "Professional Employer Organization Registration Act."

58-59-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) "Assurance organization" means a person designated as an assurance organization in accordance with Section 58-59-302.5.

(2) "Client" or "client company" means a person that enters into a professional employer agreement with a PEO.

(3) "Coemployer" means either a PEO or a client.

(4) "Coemployment relationship" means:

- (a) as between coemployers, a relationship:
  - (i) whereby the rights, duties, and obligations of an employer which arise out of an employment relationship have been allocated between coemployers under a professional employer agreement and this chapter; and
  - (ii) that is intended to be an ongoing relationship, rather than a temporary or project-specific relationship;
- (b) as between each PEO and a covered employee as to which a professional employer agreement applies, an employment relationship whereby the PEO is entitled to enforce those rights, and obligated to perform those duties and obligations, allocated to the PEO by the professional employer agreement and this chapter;
- (c) as between each client and a covered employee to which a professional employer agreement applies, an employment relationship under which:
  - (i) the client is entitled to enforce those rights, and obligated to provide and perform those employer obligations, allocated to the client by the professional employer agreement and this chapter; and
  - (ii) the client is responsible for any employer right or obligation not otherwise allocated by the professional employer agreement or this chapter; and
- (d) as to those rights enforceable by an employee under state law:
  - (i) covered employees are entitled to enforce against the PEO those rights:
    - (A) allocated to the PEO by the professional employer agreement and this chapter; or
    - (B) shared by the PEO and the client under the professional employer agreement and this chapter; and
  - (ii) any rights, duties, and obligations not described in Subsection (4)(d)(i) enforceable by an employee under state law shall continue to be enforceable against the client under state law.

(5) (a) "Covered employee" means an individual having a coemployment relationship with a PEO and a client who meets all of the following criteria:
- (i) the individual receives written notice of the coemployment relationship with the PEO and the client;
- (ii) the individual is a party to a coemployment relationship with the PEO and the client; and
- (iii) the individual's coemployment relationship is pursuant to a professional employer agreement subject to this chapter.

(b) "Covered employee" includes an individual who if an officer, director, shareholder, partner, or manager of a client:
(i) to the extent the PEO and the client have expressly agreed in the professional employer agreement that the individual is a covered employee; and
(ii) the individual:
(A) meets the criteria of Subsection (5)(a); and
(B) (I) acts as an operational manager; or
(II) performs services for the client.

(6) (a) "Employment related economic incentive" means:
(i) (A) a credit against or exemption from taxes due the state or a political subdivision of the state; or
(B) an economic inducement, including a loan or a grant; and
(ii) if the credit, exemption, or economic inducement:
(A) is offered by the state or a political subdivision of the state; and
(B) has an eligibility requirement that relates in whole or in part on employment including:
(I) the number of employees; or
(II) the nature of the employment.

(7) "Engage in practice as a professional employer organization" means to:
(a) hold oneself out as a professional employer organization;
(b) coemploy an employee with another person;
(c) receive any consideration for providing professional employer services;
(d) expect payment of any consideration for providing professional employer services.

(8) "Organization" means any individual, partnership, corporation, limited liability company, association, or any other form of legally recognized entity.

(9) "Professional employer agreement" means a written contract by an between a client and a PEO that provides:
(a) for the coemployment of covered employees;
(b) for the allocation and sharing between the client and the PEO of employer responsibilities with respect to the covered employees including hiring, firing, and disciplining; and
(c) that the PEO and the client assume the responsibilities required by this chapter.

(10) (a) "Professional employer organization," or "PEO" means any organization engaged in the business of providing professional employer services.
(b) The following are not considered to be professional employer organizations or professional employment services for purposes of this chapter:
(i) arrangements where an organization shares employees with a commonly owned company within the meaning of Sections 414(b) and (c) of the Internal Revenue Code of 1986, as amended, if the organization:
(A) does not have as a principal business activity entering into professional employer arrangements; and
(B) does not hold itself out as a PEO;
(ii) arrangements by which an organization:
(A) assumes responsibility for the product produced or service performed by the person or the person's agents; and
(B) retains and exercises primary direction and control over the work performed by the individuals whose services are supplied under the arrangements; or
(iii) providing temporary help services.

(11) "Professional employer services" means the service of entering into

coemployment relationships under this chapter in which all or a majority of the employees providing services to a client or to a division or work unit of a client are covered employees.

(12) "Temporary help services" means services consisting of an organization:
- (a) recruiting and hiring its own employees;
- (b) finding other organizations that need the services of those employees;
- (c) assigning those employees to perform work at or services for the other organizations:
  - (i) to support or supplement the other organizations' workforces;
  - (ii) to provide assistance in special work situations such as employee absences, skill shortages, or seasonal workloads; or
  - (iii) to perform special assignments or projects with a definite ending date; and
- (d) customarily attempting to reassign the employees to other organizations when they finish each assignment by a definite ending date.

(13) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-59-501.

58-59-201. Repealed.

Part 3 - Registration

58-59-301. Registration required.

A registration is required to engage in practice as a professional employer organization, except as specifically provided in Section 58-1-307.

58-59-302. Registration process.

(1) A person engaged in practice as a professional employer organization shall register under this chapter. A person registering or renewing a registration as a professional employer organization shall:
- (a) (i) submit an application in a form prescribed by the division; or
  - (ii) file a certification in accordance with Subsection (2); and
- (b) pay a fee as determined by the department under Section 63J-1-303.

(2) (a) A person may comply with Subsection (1) by filing with the division:
  - (i) a certification that an assurance organization certifies the qualifications of the PEO;
  - (ii) the information required by Subsections 58-59-303.5(1)(a) through (c); and
  - (iii) any changes to the information required by Subsections (2)(a)(ii) within 30 days of the day on which the information changes.
- (b) A PEO that meets the requirements of Subsection (1) by complying with this Subsection (2) is not required:
  - (i) to renew its registration until the day on which the assurance organization no longer certifies the qualifications of the PEO; and
  - (ii) to provide the information in Subsections 58-59-303.5(1)(d) through (f).
- (c) If a PEO that meets the requirements of Subsection (1) by complying with Subsection (2) receives a new or renewed certification by the assurance organization, the PEO shall file with the division a new certification within 30 days from the day on which the PEO receives the new or renewed certification from the assurance organization.
- (d) This Subsection (2) does not modify the division's authority or responsibility to accept, renew, or terminate a registration.
- (e) (i) If a PEO authorizes an assurance organization to act on behalf of the PEO for purposes of registration under this Subsection (2),

the division shall accept the assurance organization's filing of the information required by Subsection (2)(a)(ii), (2)(a)(iii), or (2)(b) if the information otherwise complies with this Subsection (2) and division rules.

(ii) Notwithstanding Subsection (2)(e)(i), if the assurance organization fails to make a required filing under this Subsection (2), the PEO's registration may be not accepted, not renewed, or terminated.

(3) (a) Any two or more professional employer organizations held under the common control of any other person or persons acting in concert may be registered as a professional employer organization group.

(b) A professional employer organization group may satisfy any reporting and financial requirements under this chapter on a consolidated basis.

(4) An organization engaged in the business of providing professional employer services is subject to registration under this chapter regardless of its use of the term:

(a) "professional employer organization";

(b) "PEO";

(c) "staff leasing company";

(d) "registered staff leasing company";

(e) "employee leasing company"; or

(f) any other name.

58-59-302.5. Assurance organization.

(1) The division shall designate one or more assurance organizations by rule:

(a) consistent with this section; and

(b) made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) The division shall require that an assurance organization designated by the division be licensed by one or more states other than Utah to certify the qualifications of a PEO.

(3) The qualifications certified by an assurance organization designated by the division shall include at a minimum that a PEO:

(a) ensure that each controlling person of the PEO:

(i) be competent to manage a PEO;

(ii) be responsible in the controlling person's finances; and

(iii) not have a history of or be engaged in unlawful activities;

(b) have a history that is verifiable that the PEO:

(i) complies with regulatory requirements; and

(ii) engages in financially responsible conduct;

(c) has or is able to obtain audited financial statements;

(d) has an adjusted net worth equal to or in excess of the greater of:

(i) $100,000; or

(ii) 5% of total adjusted liabilities;

(e) has liquid assets that are sufficient to pay short-term liabilities as demonstrated by a ratio determined by dividing current assets by current liabilities or a similar formula;

(f) has on its books adequate financial reserves for all local, state, and federal self-insurance and any insurance policy or plan in which the final cost of coverage is affected by claim losses;

(g) operates in conformity with all applicable laws and regulations including those laws and regulations in addition to this chapter;

(h) does not engage in deceptive trade practices or misrepresentations of an employer's obligation or liability;

(i) has a written professional employer agreement with each client;

(j) has or is willing to obtain a written acknowledgment, as part of an

existing form or separately, from each covered employee stating that the covered employee understands and accepts the nature, terms, and conditions of the coemployment relationship;

(k) establishes and maintains a coemployment relationship by assuming key employer attributes with respect to covered employees as demonstrated by the professional employer agreement and employment forms, policies, and procedures;

(l) provides all covered employees with a written copy of the PEO's employment policies and procedures;

(m) ensures that all covered employees are covered in a regulatory compliant manner by workers' compensation insurance;

(n) does not knowingly use the coemployment relationship to assist a client to evade or avoid the client's obligations under:
  (i) the National Labor Relations Act, 29 U.S.C. Sec. 151 et seq.;
  (ii) the federal Railway Labor Act, 45 U.S.C. Sec. 151 et seq.; or
  (iii) any collective bargaining agreement;

(o) except through a licensed insurance agent, does not:
  (i) represent or imply that it can sell insurance;
  (ii) attempt to sell insurance; or
  (iii) sell insurance;

(p) markets and provides, or is willing to market and provide professional employer organization services under a separate and distinct trade name from any affiliated PEO that is not certified by the assurance organization;

(q) does not allow any person not certified by the assurance organization to sue the PEO's trade name in the sale or delivery of the PEO's professional employer organization services;

(r) does not guarantee, participate in, transfer between, or otherwise share liabilities with any other PEO that is not certified by the assurance organization:
  (i) in the employment of covered employees; or
  (ii) in any employee benefit or insurance policy or plan that is not fully insured and fully funded; and

(s) has the ability to provide a regulatory agency or insurance carrier upon request with:
  (i) a client's name, address, and tax identification number;
  (ii) payroll data by:
    (A) client;
    (B) (I) client SIC Code of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President Office of Management and Budget; or
      (II) client classification under the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Managements and Budget; and
    (C) worker's compensation classification;
  (iii) the names of covered employees by:
    (A) the worksite of a client; and
    (B) workers' compensation classification; and
  (iv) worker's compensation certificates of insurance.

58-59-303. Term of registration - Expiration - Renewal.

(1) The division shall issue each registration under this chapter in accordance with a one-year renewal cycle established by rule.

(2) The division may by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, extend or shorten a renewal period by as much

as six months to stagger the renewal cycles it administers.

58-59-303.5 Information to be filed by registrants.

(1) A person engaged in practice as a professional employer organization shall file the following information with the division with its initial application and with each renewal application:
  (a) the name or names under which the PEO conducts business;
  (b) the address of the principal place of business of the PEO and the address of each office it maintains in the state;
  (c) the PEO's taxpayer or employer identification number;
  (d) a list by jurisdiction of each name under which the PEO has operated in the preceding five years, including any alternative names, names of predecessors, and, if known, successor business entities;
  (e) a statement of ownership, which shall include the name of all individuals that, individually or acting in concern with one or more other persons, owns or controls, directly or indirectly, 10% or more of the equity interests of the PEO; and
  (f) a statement of management, which shall include the name of all officers and any person who has the authority to act as a senior executive officer of the PEO.

(2) (a) A PEO that is domiciled outside of the state and employs less than 50 employees who are employed or domiciled in the state is not required to file the information required under Subsections (1)(e) and (f).
  (b) A PEO that complies with Subsection 58-59-302(2) is not required to file the information required under Subsections (1)(d) through (f).

58-59-304. Repealed.

58-59-305. Repealed.

58-59-306. Financial requirements, contractual relations, and allocation of rights, duties, and obligations - Taxes and fees.

(1) Nothing contained in this chapter or in any professional employer agreement shall affect, modify, or amend:
  (a) any collective bargaining agreement; or
  (b) the rights or obligations of any client, PEO, or covered employee under:
    (i) the federal National Labor Relations Act, 29 U.S.C. Sec 151 et seq.;
    (ii) the federal Railway Labor Act, 45 U.S.C. Sect. 151 et seq.; or
    (iii) similar state law.

(2) Nothing contained in this chapter or any professional employer agreement shall affect, modify, or amend any state, local, or federal licensing, registration, or certification requirement applicable to any client or covered employee.
  (a) A covered employee who must be licensed, registered, or certified according to law or regulation is considered solely an employee of the client for purposes of license, registration, or certification requirement.
  (b) A PEO may not be considered to engage in any occupation, trade, profession, or other activity that is subject to licensing, registration, or certification requirements, or is otherwise regulated by a governmental entity solely by entering into and maintaining a coemployment relationship with a covered employee who is subject to the requirements or regulation.

(c) Unless otherwise expressly agreed to by the client in the professional employer agreement, a client has the sole right to direct and control the professional or licensed activities of covered employees and of the client's business.

(3) (a) At least quarterly, a PEO shall have an independent certified public accountant, licensed to practice in the jurisdiction in which the PEO is domiciled, review the PEO's records and prepare a statement indicating whether all federal, state, and local withholding taxes, unemployment taxes, FICA taxes, workers' compensation premiums, and employee benefit plan premiums have been paid.

(b) The PEO must provide the statement to a client upon the request from the client.

(4) (a) Except as specifically provided in this chapter , the coemployment relationship between the client and the PEO, and between each coemployer and each covered employee, shall be governed by the professional employer agreement.

(b) Nothing contained in any professional employer agreement or this chapter shall be considered to:

(i) diminish, abolish, or remove the rights of covered employees as to clients or obligations of the client as to a covered employee, existing prior to the effective date of a professional employer agreement;

(ii) terminate an employment relationship existing prior to the effective date of a professional employer agreement; or

(iii) create any new or additional enforceable right of a covered employee against a PEO not specifically allocated to the PEO in the professional employer agreement or this chapter.

(c) Each professional employer agreement shall include the following:

(i) (A) the PEO shall reserve a right of direction and control over the covered employees; and

(B) the client may retain the right to exercise the direction and control over covered employees as is necessary to:

(I) conduct the client's business;

(II) discharge any fiduciary responsibility which it may have; or

(III) comply with any applicable licensure requirements;

(ii) the PEO shall have responsibility to:

(A) pay agreed upon wages and salaries to covered employees;

(B) withhold, collect, report, and remit payroll-related and unemployment taxes; and

(C) the extent the PEO has assumed responsibility in the professional employer agreement, to make payments for employee benefits for covered employees;

(iii) the PEO and the client shall both have a right to hire, terminate, and discipline the covered employees; and

(iv) the responsibility to obtain workers' compensation coverage for covered employees, from a carrier licensed to do business in Utah and otherwise in compliance with all applicable requirements, shall be specifically allocated to the client in the professional employer agreement.

(d) Except as specifically provided in this chapter or in the professional employer agreement, in each coemployment relationship:

(i) the client may exercise all rights and is obligated to perform all duties and responsibilities otherwise applicable to an employer in an employment relationship;

(ii) (A) the PEO may exercise only those rights, and is obligated to perform only those duties and responsibilities,

specifically required by this chapter or set forth in the professional employer agreement; and

(B) the rights, duties, and obligations of the PEO as coemployer with respect to any covered employee is limited to those arising under the professional employer agreement and this chapter during the term of coemployment by the PEO of the covered employee; and

(iii) unless otherwise expressly agreed by the PEO and the client in a professional employer agreement, the client retains the exclusive right to direct and control the covered employees as is necessary to:

(A) conduct the client's business, to discharge any of the client's fiduciary responsibilities; or

(B) comply with any licensure requirements applicable to the client or to the covered employees.

(e) With respect to each professional employer agreement entered into by a PEO, the PEO shall provide written notice to each covered employee affected by the agreement of the general nature of the coemployment relationship between and among the PEO, the client, and the covered employee.

(f) (i) Except to the extent otherwise expressly provided by the applicable professional employer agreement:

(A) a client is solely responsible for the quality, adequacy, or safety of the goods or services produced or sold in the client's business;

(B) a client is solely responsible for directing, supervising, training, and controlling the work of the covered employees with respect to the business activities of the client and solely responsible for the acts, errors, or omissions of the covered employees with regard to those activities; and

(C) a client is not liable for the acts, errors, or omissions of a PEO, or of any covered employee of the client and a PEO when the covered employee is acting under the express direction and control of the PEO.

(ii) Nothing in this Subsection (4)(f):

(A) serves to limit any contractual liability or obligation specifically provided in a professional employer agreement; or

(B) in any way limits the liabilities and obligations of any PEO or client as defined elsewhere in this chapter.

(iii) (A) Subject to Subsection (4)(f)(i)(B), a covered employee is not, solely as the result of being a covered employee of a PEO, an employee of the PEO for purposes of:

(I) general liability insurance;

(II) fidelity bonds;

(III) surety bonds;

(IV) employer's liability which is not covered by workers' compensation; or

(V) liquor liability insurance.

(B) This Subsection (4)(f)(iii) does not apply if the covered employee is included by specific reference in both the:

(I) professional employer agreement; and

(II) applicable prearranged employment contract, insurance contract, or bond.

(g) A PEO is not engaged in the sale of insurance by offering, marketing, selling, administering, or providing PEO services or employee benefit plans for covered employees.

(h) (i) (A) Covered employees whose services are subject to sales tax are considered the employees of the client for purposes of collecting and levying sales tax on the services performed by the covered employees.

(B) Nothing contained in this chapter shall relieve a client of any sales tax liability with respect to its goods or services.

(ii) No portion of a PEO fee to a client that represents pass-through amounts to be paid for covered employee wages, employment-related taxes, withholding, or benefits is subject to any sales or excise tax.

(i) (i) A client and a PEO shall each be considered an employer for purposes of sponsoring retirement and welfare benefit plans for its covered employees.

(ii) A fully insured welfare benefit plan offered to the covered employees of a single PEO is considered a single employer welfare benefit plan and may not be considered a multiple employer welfare arrangement, and is exempt from the licensing requirements contained in Title 31A, Insurance Code.

(iii) PEOs are exempt from Title 31A, Chapter 30, Individual, Small Employer, and Group Health Insurance Act.

(iv) (A) Any PEO offering workers' compensation coverage, a health benefit plan, or any other insurance plan, must comply with all federal and state laws applicable to these products.

(B) If the PEO chooses to use a third-party administrator for the receipt and payment of health benefit claims, that third-party administrator must be licensed to do business in the state under Title 31A, Insurance Code.

(C) Anything pertaining to the insurance products referred to in this section or the use of an unlicensed third-party administrator is subject to administrative penalties and forfeitures under Title 31A, Insurance Code.

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

(A) use a third-party administrator licensed by the Utah State Insurance Department; and

(B) hold all plan assets, including participant contributions, in a trust account.

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

(A) represent the plan is not fully insured; and

(B) deliver to each plan participant a summary plan description that accurately describes the terms of the plan, including disclosure that the plan is self-funded or partially self-funded.

(vii) (A) The Department of Insurance may audit on a random basis, or upon finding a reasonable need, any health benefit plan that is not fully insured by an authorized insurer.

(B) The cost of the audit under this Subsections (4)(i)(vii) shall be borne by the PEO if there is material noncompliance.

(j) (i) The client in a coemployment relationship shall secure workers' compensation benefits for the covered employees by complying with Subsection 34A-2-201 (1) or (2) and commission rules under Subsection 34A-2-103 (3)(a).

(ii) Every authorized insurer who offers or provides Workers' Compensation Insurance coverage to a PEO, its client companies, or both shall comply with Title 31A, Chapter 19a, Utah Rate Regulation Act, and Chapter 21, Insurance Contracts in General, prior to the issuance of an insurance policy.

(iii) The exclusive remedy provisions of Sections 34A-2-105 and 34A-3-102 apply to both the client company and the PEO in a coemployer relationship under this section.

(k) (i) For purposes of Title 35A, Chapter 4, Employment Security Act, covered employees of a registered PEO are considered the employees of the PEO.

(ii) The PEO described in Subsection (4)(k)(i) shall be responsible for the payment of contributions, penalties, and interest on wages paid by the PEO to its covered employees during the term of the applicable professional employer agreement.

(iii) The PEO shall report and pay all required contributions to the unemployment compensation fund using its state employer account number and the contribution rate of the PEO.

(iv) On the termination of a contract between a PEO and a client or the failure by a PEO to submit reports or make tax payments as required by this chapter, the client shall be treated as anew employer without a previous experience record unless that client is otherwise eligible for an experience rating.

(5) (a) A tax or fee assessed on a client or PEO on the basis of the number of employees shall be assessed:

(i) against the client for the covered employees under the professional employer agreement with the PEO; and

(ii) against the PEO for the employees of the PEO who are not covered employees in a coemployment relationship with any client.

(b) For a tax imposed or calculated upon the basis of total payrolls, a PEO may apply any small business allowance or exemption available to the client for the covered employees for purposes of computing the tax.

58-59-306.5. Employment related economic incentives - Employment information - Client's status.

(1) Notwithstanding the other provisions of this chapter, for purposes of determining eligibility for an employment related economic incentive, a covered employee is considered only an employee of the client.

(2) (a) If eligibility for an employment related economic incentive relates to a covered employee, the client is entitled to the employment related economic incentive if the client is otherwise eligible for the employment related economic incentive.

(b) A PEO is not eligible for an employment related economic incentive described in Subsection (2)(a).

(3) If eligibility for or the amount of an employment related economic incentive is determined on the basis of the number of employees, a client is treated as:

(a) employing only those covered employees coemployed by the client under the professional employer agreement; and

(b) not employing covered employees working for other clients of the PEO.

(4) Subject to any confidentiality provisions provided by federal or state law, a PEO shall provide employment information:

(a) upon the request of:

(i) the client; or

(ii) the governmental entity administering an employment related economic incentive; and

(b) reasonably required for:
(i) administration of an employment related economic incentive; or
(ii) necessary to support any of the following by a client seeking an employment related economic incentive:
(A) a request;
(B) a claim;
(C) an application; or
(D) other action.

(5) With respect to a bid, contract, purchase order, or agreement entered into with the state or a political subdivision of the state, the fact that the client enters into a professional employer agreement does not affect the client's status or certification as a:
(a) small business;
(b) minority-owned business;
(c) disadvantaged business;
(d) woman-owned business; or
(e) historically underutilized business.

58-59-307. Repealed.

58-59-308. No guarantee.

By registering and regulating professional employer organizations under this chapter, the state:
(1) does not guarantee any right, claim, or defense of any professional employer organization, client company, coemployee, or other person;
(2) does not guarantee the financial responsibility or solvency of any professional employer organization; and
(3) does not waive any right, claim, or defense of immunity that it may have under Title 63G, Chapter 7, Utah Governmental Immunity Act, or other law.

58-59-309. Repealed.

58-59-310. Repealed.

58-59-401. Repealed.

58-59-402. Repealed.

Part 5 - Penalties

58-59-501. Unlawful conduct.

Unlawful conduct includes:
(1) engaging in practice as a professional employer organization without a registration;
(2) offering an employee a self-funded medical program, unless the program is maintained for the sole benefit of participating coemployees;
(3) misrepresenting that any self-funded medical program it offers is other than self-funded;
(4) offering to its employees any self-funded or partially self-funded medical plan without delivering to each plan participant a summary plan description that accurately describes terms of the plan, including disclosure that the plan is self-funded or partially self-funded;
(5) diversion of funds paid by a client to the professional employer organization, designated as payment for payroll or any related payroll taxes or employee benefits or insurance, to any other purpose or use other than

designated. In cases where a client has defaulted on the professional employer agreement or otherwise failed to pay the PEO, the PEO may allocate the deficient payment to the portions of the invoice it determines and not be in violation of this section;

(6) providing coemployees to any client company under any provision, term, or condition that is not contained in a clearly written agreement between the professional employer organization and client company;

(7) any willful, fraudulent, or deceitful act by a PEO, caused by a PEO, or at a PEO's direction, that causes material injury to a client company or coemployee of a client company;

(8) upon collecting cleared funds from the client, failing to pay in a timely manner any federal or state income tax withholding, FICA, unemployment tax, employee insurance benefit premium, workers' compensation premium, or other obligation due and payable directly as a result of engaging in business as a professional employer organization; and

(9) failing to comply with federal law regarding any employee benefit offered to an employee.

58-59-502. Repealed.

58-59-503. Penalty for unlawful conduct.

(1) Any person who violates Subsections 58-59-501(1) through (5) is guilty of a third degree felony.

(2) Any person who violates Subsections 58-59-501(6) through (9) is guilty of a class A misdemeanor.

(3) Any person who has engaged in unlawful conduct may be assessed the costs associated with the investigations, disciplinary proceedings, court proceedings, or other actions to enforce the provisions of this chapter.

PROFESSIONAL EMPLOYER ORGANIZATION REGISTRATION ACT

Title 58, Chapter 59
Utah Code Annotated 1953
As Amended by
Session Laws of Utah 2008
Issued May 5, 2008