

MICHIGAN PROFESSIONAL EMPLOYER ORGANIZATION REGULATORY ACT (EXCERPT)
Act 370 of 2010

***** 338.3723.new THIS NEW SECTION IS EFFECTIVE JULY 1, 2011 *****

338.3723.new Definitions.

Sec. 3. As used in this act:

- (a) "Client" means any person who enters into a professional employer agreement with a PEO.
- (b) "Coemployer" means either a PEO or a client.
- (c) "Coemployment relationship" means a relationship that is intended to be an ongoing relationship rather than a temporary or project-specific one, wherein the rights, duties, and obligations of an employer arising out of an employment relationship have been allocated between coemployers pursuant to a professional employer agreement.
- (d) "Covered employee" means an individual having a coemployment relationship with a PEO and a client who has received written notice of coemployment with the PEO and the individual has created a coemployment relationship pursuant to a professional employer agreement. Covered employee includes individuals who are officers, directors, shareholders, partners, and managers of the client to the extent the PEO and the client have expressly agreed in the professional employer agreement that those individuals are considered covered employees and those individuals act as operational managers or perform day-to-day operational services for the client.
- (e) "Department" means the department of energy, labor, and economic growth.
- (f) "Director" means the director of the department.
- (g) "Licensee" means a PEO licensed under this act.
- (h) "PEO group" means 2 or more PEOs that are majority owned or commonly controlled by the same entity, parent, or controlling person.
- (i) "Person" means any individual, partnership, corporation, limited liability company, association, or any other legal entity.
- (j) "Professional employer agreement" means a written contract by and between a client and a PEO that provides for the following:
 - (i) Coemployment of covered employees.
 - (ii) The allocation of employer rights and obligations between the client and the PEO with respect to the covered employees.
 - (iii) Assumption of responsibilities by the PEO and the client as required by this act.
- (k) "PEO" or "professional employer organization" means any person engaged in the business of providing professional employer services regardless of its use of a descriptive term other than "professional employer organization" or "PEO". PEO does not include any of the following:
 - (i) An arrangement in which a person, whose principal business activity is not entering into professional employer agreements and does not hold itself out as a PEO, shares employees with a commonly owned company within the meaning of section 414(b) and (c) of the internal revenue code of 1986, 26 USC 414.
 - (ii) A provider of temporary help services as defined by section 29 of the Michigan employment security act, 1936 (Ex Sess) PA 1, MCL 421.29.
 - (iii) Independent contractor arrangements by which a person assumes responsibility for the product produced or service performed by that person or his or her agents and retains and exercises primary direction and control over the work performed by the individuals whose services are supplied under such arrangements.
- (l) "Professional employer service" means the service of entering into a coemployment relationship in which all or a majority of the employees providing services to a client or to a division or work unit of the client are covered employees.

History: 2010, Act 370, Eff. July 1, 2011.