

**SUBSTITUTE FOR
HOUSE BILL NO. 4545**

A bill to amend 2010 PA 370, entitled
"Michigan professional employer organization regulatory act,"
by amending section 17 (MCL 338.3737), as amended by 2011 PA 125.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 17. (1) Each professional employer agreement executed on
2 or after September 1, 2012 ~~shall~~**must** include the following
3 provisions:

4 (a) The responsibility of the PEO to pay wages to covered
5 employees; to withhold, collect, report and remit payroll-related
6 and unemployment taxes; and, to the extent the PEO has assumed
7 responsibility in the professional employer agreement, to make
8 payments for employee benefits for covered employees. For purposes
9 of this subdivision, wages do not include any obligation between a



1 client and a covered employee for payments beyond, or in addition
2 to, the covered employee's salary, draw, or regular rate of pay,
3 including bonuses, commissions, severance pay, deferred
4 compensation, profit sharing, or vacation, sick, or other paid time
5 off pay, unless the PEO has expressly agreed to assume liability
6 for those payments in the professional employer agreement.

7 (b) The hiring, disciplining, and termination by the PEO of a
8 covered employee, as necessary to fulfill the PEO's
9 responsibilities under this act and the professional employer
10 agreement. The client may also hire, discipline, and terminate a
11 covered employee.

12 (c) The responsibility of the client and the PEO to comply
13 with the worker's disability compensation act of 1969, 1969 PA 317,
14 MCL 418.101 to 418.941. **Beginning on the effective date of the**
15 **amendatory act that added this sentence, for purposes of this**
16 **subdivision, the professional employer agreement must allocate the**
17 **responsibility to assume primary liability for compensation and**
18 **benefits under the worker's disability compensation act of 1969,**
19 **1969 PA 317, MCL 418.101 to 418.941, to either the client or the**
20 **PEO. The party to which the responsibility to assume primary**
21 **liability is allocated must provide proof to the workers'**
22 **compensation agency, in a manner determined by the agency, that it**
23 **has assumed primary liability in the professional employer**
24 **agreement. This subdivision shall not be construed in a manner that**
25 **affects the responsibilities of the client and the PEO under the**
26 **worker's disability compensation act of 1969, 1969 PA 317, MCL**
27 **418.101 to 418.941.**

28 (2) Each professional employer agreement executed on or after
29 September 1, 2012 shall require that the PEO provide written notice



1 to each covered employee affected by the agreement regarding the
2 general nature of the coemployment relationship between and among
3 the PEO, the client, and that covered employee.

4 Enacting section 1. This amendatory act takes effect 90 days
5 after the date it is enacted into law.

6 Enacting section 2. This amendatory act does not take effect
7 unless House Bill No. 4544 of the 100th Legislature is enacted into
8 law.

