



SPONSOR: Sen. Marshall & Rep. Lofink

DELAWARE STATE SENATE

141st GENERAL ASSEMBLY

SENATE BILL NO. 311

AN ACT TO AMEND TITLE 19 OF THE DELAWARE CODE RELATING TO UNEMPLOYMENT
COMPENSATION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend Section 3302(8), Title 19 of the Delaware Code by adding a new paragraph (I) to read as
2 follows:
3 “(I) For purposes of this subsection, an employee leasing company, a professional employment organization
4 (PEO) or any other similar entity shall not be considered to be the employer of any leased employees. The services
5 performed by leased employees shall be considered to be services performed for the employer client company of the
6 employee leasing company, professional employment organization (PEO) or any similar entity and the employer client
7 company shall be considered to be the employer of its leased employees. An employer client company shall be
8 responsible for reporting the gross wages of its leased employees to the Division of Unemployment Insurance on Form
9 UC-8A (Quarterly Payroll Report) and for paying any assessments due on the taxable wages of its leased employees to the
10 Division of Unemployment Insurance as reported on Form UC-8 (Quarterly Tax Report). The unemployment insurance
11 assessment rate for an employer client company, as determined in accordance with Section 3350 of this Title, shall
12 include the unemployment insurance claims experience of the employer client company’s leased employees. This
13 paragraph does not apply to a temporary help firm as defined in Section 3327 of this Title, unless such temporary help
14 firm provides leased employees to an employer client company. In such cases, the employee leasing segment of the
15 temporary help firm’s business shall be subject to this paragraph. For the purpose of this paragraph, an “employee leasing
16 company”, “professional employment organization (PEO)” or similar entity shall mean an employing unit established to
17 engage in the business of providing leased employees to an employer client company. For the purpose of this paragraph,
18 an “employer client company” shall mean a company who enters into an agreement with an employee leasing company,
19 professional employment organization (PEO) or similar entity to lease any or all of its regular employees.”

SYNOPSIS

This legislation will define "employee leasing company", "professional employment organization (PEO)", and "employer client company" and provide that the employer client company, not the employee leasing company, is the employer of leased employees for unemployment insurance tax purposes.

Author: Sen. Marshall