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# A BILL FOR AN ACT

RELATING TO PROFESSIONAL EMPLOYMENT ORGANIZATIONS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that Act 225, Session  
2 Laws of Hawaii 2007 provides tax equity to professional  
3 employment organizations by relieving those organizations from  
4 paying taxes for payroll services provided to client companies.  
5 Act 225, however, has also been misinterpreted to give  
6 professional employment organizations certain employment  
7 preferences not intended by the legislature.

8           The purpose of this Act is to clarify the legislature's  
9 intent and narrowly limit the scope of Act 225 to the sole  
10 function of providing tax equity to professional employment  
11 organizations.

12           SECTION 2. Section 373K-2, Hawaii Revised Statutes, is  
13 amended by amending subsection (a) to read as follows:

14           "(a) Where any client company uses the services of  
15 assigned employees and co-employs assigned employees with a  
16 professional employment organization, the client company and the  
17 professional employment organization, with respect to the  
18 assigned employees, shall not be exempt from the requirements of



1 any federal, state, or county law, including labor or employment  
2 laws, collective bargaining rights, anti-discrimination  
3 provisions, or other laws with respect to the protection and  
4 rights of employees, including chapters 377 and 378, that would  
5 apply to the assigned employees if the assigned employees were  
6 employees of the client company alone, and were not co-employees  
7 of the professional employment organization.

8       These employee rights shall not be abrogated by any  
9 contract or agreement between the client company and the  
10 professional employment organization, or the professional  
11 employment organization and the assigned employee, which  
12 contains terms or conditions that could not be lawfully  
13 contained in a contract or agreement directly between the client  
14 company and the assigned employee in which no professional  
15 employment organization is involved. [~~Notwithstanding~~] For the  
16 sole purpose of determining tax liability, any statute, local  
17 ordinance, executive order, rule, or regulation to the  
18 contrary[~~7~~] notwithstanding, where the laws, rights, and  
19 protections referred to in this section define or require a  
20 determination of the "employer", the employer shall be deemed to  
21 be the client company and not the professional employment  
22 organization. The department of labor and industrial relations



# H.B. NO. 194

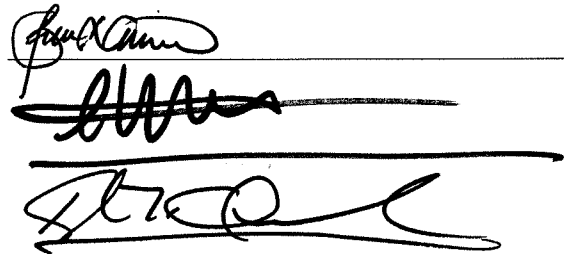
1 shall notify the department of taxation in writing of any  
2 violation of this subsection."

3 SECTION 3. Statutory material to be repealed is bracketed  
4 and stricken. New statutory material is underscored.

5 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY:

Three handwritten signatures are written over three horizontal lines. The first signature is in cursive and appears to be 'Frank C. ...'. The second signature is more stylized and illegible. The third signature is also in cursive and illegible.

JAN 22 2009



**Report Title:**

Professional Employment Organizations; General Excise Tax;  
Exemption

**Description:**

Clarifies that the intent of existing law is solely to exempt professional employment organizations from general excise tax payments on payroll funds.

