

1                   A bill to be entitled  
2           An act relating to employee leasing companies; amending s.  
3           468.521, F.S.; revising the criteria for appointment of  
4           members of the Board of Employee Leasing Companies;  
5           amending s. 468.525, F.S.; requiring that an applicant for  
6           an initial license as an employee leasing company or  
7           employee leasing company group license have a specified  
8           net worth; deleting provisions that authorize alternative  
9           methods of determining net worth; revising provisions  
10          requiring maintenance of net worth; authorizing certain  
11          financial statements to be prepared on a consolidated or  
12          combined basis; deleting provisions authorizing certain  
13          companies to submit financial statements that are reviewed  
14          rather than audited by a certified public accountant;  
15          requiring that an employee leasing company provide written  
16          notice to leased employees under certain circumstances;  
17          amending s. 468.529, F.S.; requiring that an employee  
18          leasing company make certain information available to the  
19          Department of Financial Services; revising procedures for  
20          notices of initiation and termination of an employee  
21          leasing company contract with a client company;  
22          prescribing circumstances under which a person becomes a  
23          leased employee; amending s. 627.192, F.S.; requiring a  
24          workers' compensation insurer providing coverage for  
25          employee leasing companies to provide certain information  
26          to the rating organization; requiring a report by the  
27          rating organization to the lessee under certain  
28          circumstances; requiring workers' compensation coverage

29 for leased employees; providing an effective date.

30

31 Be It Enacted by the Legislature of the State of Florida:

32

33 Section 1. Subsection (2) of section 468.521, Florida  
 34 Statutes, is amended to read:

35 468.521 Board of Employee Leasing Companies; membership;  
 36 appointments; terms.--

37 (2) Five members of the board shall be chosen from  
 38 individuals already engaged in the employee leasing industry and  
 39 must be licensed pursuant to this part. One of the licensed  
 40 members must be in an employee leasing company that has an  
 41 annual gross Florida payroll for its leased employees which is  
 42 among the smallest 20 percent of licensed employee leasing  
 43 companies in the state at the time of the member's appointment  
 44 and each reappointment. The remaining two board members shall be  
 45 residents of this state and must not be, or ever have been,  
 46 connected with the business of employee leasing. One of the  
 47 remaining two board members must represent small employers, and  
 48 the other remaining board member must have experience in the  
 49 field of insurance regulation.

50 Section 2. Subsection (3) and paragraph (f) of subsection  
 51 (4) of section 468.525, Florida Statutes, are amended to read:

52 468.525 License requirements.--

53 (3) Each employee leasing company licensed by the  
 54 department shall have a registered agent for service of process  
 55 in this state and at least one licensed controlling person. In  
 56 addition, each licensed employee leasing company shall comply

57 with the following requirements:

58 (a) The employment relationship with workers provided by  
59 the employee leasing company to a client company shall be  
60 established by written agreement between the leasing company and  
61 the client, and written notice of that relationship shall be  
62 given by the employee leasing company to each worker who is  
63 assigned to perform services at the client company's worksite.

64 (b) An applicant for an initial employee leasing company  
65 license or employee leasing company group license shall have a  
66 tangible accounting net worth of not less than \$100,000 in  
67 accordance with generally accepted accounting principles  
68 \$50,000.

69 ~~(c) An applicant for initial or renewal license of an~~  
70 ~~employee leasing company license or employee leasing company~~  
71 ~~group shall have an accounting net worth or shall have~~  
72 ~~guaranties, letters of credit, or other security acceptable to~~  
73 ~~the board in sufficient amounts to offset any deficiency. A~~  
74 ~~guaranty will not be acceptable to satisfy this requirement~~  
75 ~~unless the applicant submits sufficient evidence to satisfy the~~  
76 ~~board that the guarantor has adequate resources to satisfy the~~  
77 ~~obligation of the guaranty.~~

78 (c)(d) Each employee leasing company and employee leasing  
79 company group shall maintain at all times after licensure a  
80 tangible an accounting net worth of at least \$100,000 and  
81 positive working capital, as determined in accordance with  
82 generally accepted accounting principles, or shall have  
83 guaranties, letters of credit, or other security acceptable to  
84 the board in sufficient amounts to offset any deficiency in net

85 worth or working capital. A guaranty will not be acceptable to  
86 satisfy this requirement unless the licensee submits sufficient  
87 evidence, as defined by rule, that the guarantor has adequate  
88 resources to satisfy the obligation of the guaranty. In  
89 determining the amount of working capital, a licensee shall  
90 include adequate reserves for all taxes and insurance, including  
91 plans of self-insurance or partial self-insurance for claims  
92 incurred but not paid and for claims incurred but not reported.  
93 Compliance with the requirements of this paragraph is subject to  
94 verification by department or board audit.

95 (d) ~~(e)~~ Each employee leasing company or employee leasing  
96 company group shall submit annual financial statements audited  
97 by an independent certified public accountant, with the  
98 application and within 120 days after the end of each fiscal  
99 year, in a manner and time prescribed by the board. The  
100 financial statements may be prepared on a consolidated or  
101 combined basis., ~~provided however, that any employee leasing~~  
102 ~~company or employee leasing company group with gross Florida~~  
103 ~~payroll of less than \$2.5 million during any fiscal year may~~  
104 ~~submit financial statements reviewed by an independent certified~~  
105 ~~public accountant for that year.~~

106 (e) ~~(f)~~ The licensee shall notify the department or board  
107 in writing within 30 days after any change in the application or  
108 status of the license.

109 (f) ~~(g)~~ Each employee leasing company or employee leasing  
110 company group shall maintain accounting and employment records  
111 relating to all employee leasing activities for a minimum of 3  
112 calendar years.

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113 (4) The employee leasing company's contractual  
114 arrangements with its client companies shall satisfy the  
115 following conditions, whereby the leasing company:

116 (f) Is obligated to give ~~Has given~~ written notice of the  
117 relationship between the employee leasing company and the client  
118 company to all each leased employees as to whether the employee  
119 leasing company is providing workers' compensation coverage  
120 ~~employee it assigns to perform services at the client's~~  
121 ~~worksites.~~

122 Section 3. Section 468.529, Florida Statutes, is amended  
123 to read:

124 468.529 Licensee's insurance; employment tax; benefit  
125 plans.--

126 (1) A licensed employee leasing company is the employer of  
127 the leased employees, except that this provision is not intended  
128 to affect the determination of any issue arising under Pub. L.  
129 No. 93-406, the Employee Retirement Income Security Act, as  
130 amended from time to time. An employee leasing company shall be  
131 responsible for timely payment of unemployment taxes pursuant to  
132 chapter 443, and shall be responsible for providing workers'  
133 compensation coverage pursuant to chapter 440. However, no  
134 licensed employee leasing company shall sponsor a plan of self-  
135 insurance for health benefits, except as may be permitted by the  
136 provisions of the Florida Insurance Code or, if applicable, by  
137 Pub. L. No. 93-406, the Employee Retirement Income Security Act,  
138 as amended from time to time. For purposes of this section, a  
139 "plan of self-insurance" shall exclude any arrangement where an  
140 admitted insurance carrier has issued a policy of insurance

141 primarily responsible for the obligations of the health plan.

142 (2) An initial or renewal license may not be issued to any  
 143 employee leasing company unless the employee leasing company  
 144 first files with the board evidence of workers' compensation  
 145 coverage for all leased employees in this state. Each employee  
 146 leasing company shall maintain and make available to its  
 147 workers' compensation carrier and the Department of Financial  
 148 Services the following information:

149 (a) The correct name and federal identification number of  
 150 each client company.

151 (b) A listing of all covered employees provided to each  
 152 client company, by classification code.

153 (c) The total eligible wages by classification code and  
 154 the premiums due to the carrier for the employees provided to  
 155 each client company.

156 (3) A licensed employee leasing company shall within 7 ~~30~~  
 157 days after initiation of an employee leasing company contract  
 158 with a client company ~~or termination~~ notify, in a format  
 159 acceptable to the Department of Financial Services, its workers'  
 160 compensation insurance carrier, the Division of Workers'  
 161 Compensation of the Department of Financial Services, and the  
 162 state agency providing unemployment tax collection services  
 163 under contract with the Agency for Workforce Innovation through  
 164 an interagency agreement pursuant to s. 443.1316 of both the  
 165 initiation ~~or the termination~~ of the employee leasing company's  
 166 relationship with the any client company. A notice of  
 167 termination of an employee leasing company's contract with a  
 168 client company shall be provided as set forth in this subsection

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169 to those agencies and entities within 7 days after the employee  
170 leasing company's receipt of written notification from the  
171 client company that it is terminating the contractual  
172 relationship with the employee leasing company or within 7 days  
173 after receipt by the client company of the employee leasing  
174 company's written notification that it is terminating the  
175 contractual relationship with the client company. Such  
176 notification must set forth the date of termination of the  
177 employee leasing relationship.

178 (4) An initial or renewal license may not be issued to any  
179 employee leasing company unless the employee leasing company  
180 first provides evidence to the board, as required by board rule,  
181 that the employee leasing company has paid all of the employee  
182 leasing company's obligations for payroll, payroll-related  
183 taxes, workers' compensation insurance, and employee benefits.  
184 All disputed amounts must be disclosed in the application.

185 (5) A person applying to become a leased employee shall  
186 become a leased employee upon the receipt by the employee  
187 leasing company of the written notice provided by the employee  
188 leasing company under s. 468.525(4)(f) which is signed by the  
189 applicant acknowledging that the applicant has been informed of  
190 the relationship between the employee leasing company and the  
191 client company, the receipt by the employee leasing company of a  
192 completed application for employment and any additional forms  
193 required by the employee leasing company, or the receipt by the  
194 applicant of the applicant's first paycheck from the employee  
195 leasing company, whichever occurs first.

196 (6)-(5)- The provisions of this section are subject to

197 verification by department or board audit.

198 Section 4. Subsection (4) of section 627.192, Florida  
 199 Statutes, is amended, and subsection (11) is added to that  
 200 section, to read:

201 627.192 Workers' compensation insurance; employee leasing  
 202 arrangements.--

203 (4) A lessor that applies for coverage or is covered  
 204 through the voluntary market shall also maintain and furnish to  
 205 the insurer on an annual basis, and as the insurer may otherwise  
 206 reasonably require, sufficient information to permit the  
 207 calculation of an experience modification factor for each lessee  
 208 upon termination of the employee leasing relationship. The  
 209 insurer shall report periodically to its rating organization  
 210 such information submitted by each lessor. Information accruing  
 211 during the term of the leasing arrangement which is used to  
 212 calculate an experience modification factor for a lessee upon  
 213 termination of the leasing relationship shall continue to be  
 214 used in the future experience ratings of the lessor. The rating  
 215 organization shall report the experience modification factor for  
 216 a lessee, if that information is available, within 30 days after  
 217 a request for that information is made by the lessee. Such  
 218 information shall include:

219 (a) The lessee's corporate name.

220 (b) The lessee's taxpayer or employer identification  
 221 number.

222 (c) Payroll summaries and class codes applicable to each  
 223 lessee, and, if requested by the insurer, a listing of all  
 224 leased employees associated with a given lessee.



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225 (d) Claims information grouped by lessee, and any other  
226 information maintained by or readily available to the lessor  
227 that is necessary for the calculation of an experience  
228 modification factor for each lessee.

229 (11) Except as otherwise authorized, a lessor shall  
230 provide workers' compensation insurance coverage to all leased  
231 employees of a lessee.

232 Section 5. This act shall take effect January 1, 2007.