

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1748 Session of 2023

INTRODUCED BY McNEILL, DALEY AND KRAJEWSKI, OCTOBER 13, 2023

AS REPORTED FROM COMMITTEE ON LABOR AND INDUSTRY, HOUSE OF REPRESENTATIVES, AS AMENDED, DECEMBER 12, 2023

AN ACT

1 Providing for the registration of labor brokers; imposing duties
2 on the Department of Labor and Industry and the Secretary of
3 Labor and Industry; establishing the Labor Broker
4 Registration Account; and imposing penalties.

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5 The General Assembly of the Commonwealth of Pennsylvania  
6 hereby enacts as follows:

7 Section 1. Short title.

8 This act shall be known and may be cited as the Labor Broker  
9 Registration Act.

10 Section 2. Definitions.

11 The following words and phrases when used in this act shall  
12 have the meanings given to them in this section unless the  
13 context clearly indicates otherwise:

14 "Account." The Labor Broker Registration Account established  
15 under section 11.

16 "Construction." Erection, reconstruction, demolition,  
17 alteration, modification, custom fabrication, building,  
18 assembling, site preparation and repair work done on any real  
19 property or premises under contract, whether or not the work is  
20 for a public body and paid for from public funds.

21 "Debar." As follows:

22 (1) Action taken by the secretary to prohibit a  
23 contractor, subcontractor or person from contracting with or  
24 participating in contracts for public work for a period of at  
25 least three years.

26 (2) The debarment shall include all divisions or other  
27 organizational elements of a contractor or subcontractor  
28 unless limited by its terms to specific divisions or  
29 organizational elements.

30 (3) The debarment may apply to affiliates or other

1 persons or entities associated with the contractor,  
2 subcontractor or individual if they are specifically named  
3 and given written notice of the debarment and an opportunity  
4 to appeal.

5 (4) The debarment shall apply to a successor entity. An  
6 entity shall be a successor entity if it:

7 (i) has one or more of the same principals or  
8 officers as the employer against whom the order was  
9 issued;

10 (ii) performs similar work within the same  
11 geographical area;

12 (iii) occupies the same premises;

13 (iv) shares the same telephone number or facsimile  
14 number;

15 (v) has the same email address or Internet website;

16 (vi) employs substantially the same workforce or  
17 administrative employees, or both;

18 (vii) utilizes the same tools, equipment or  
19 facilities;

20 (viii) employs or engages the services of any person  
21 or persons involved in the direction or control of the  
22 other; or

23 (ix) lists substantially the same work experience.

24 "Department." The Department of Labor and Industry of the  
25 Commonwealth.

26 "Employee." As follows:

27 (1) An individual performing a service or labor for an  
28 employer for wages, remuneration or other compensation.

29 (2) The term includes:

30 (i) In relation to workers' compensation, as the

1 term "employee" is defined in section 104 of the Workers'  
2 Compensation Act.

3 (ii) In relation to unemployment compensation, as  
4 the term "employee" is defined in section 4(i) of the  
5 Unemployment Compensation Law.

6 "Employer." As follows:

7 (1) A person, including an agent of the person, that  
8 engages the services of an employee for wages, remuneration  
9 or other compensation.

10 (2) The term includes:

11 (i) In relation to workers' compensation, as the  
12 term "employer" is defined in section 103 of the Workers'  
13 Compensation Act.

14 (ii) In relation to unemployment compensation, as  
15 the term "employer" is defined in section 4(j) of the  
16 Unemployment Compensation Law.

17 "Labor broker." As follows:

18 (1) An entity or individual that supplies construction  
19 workers to an employer for the performance of construction  
20 work or for a construction project of the employer on a site  
21 in this Commonwealth in exchange for compensation from the  
22 employer, provided that the completion of the project is  
23 directed by the employer and not the entity or individual.

24 (2) The term does not include a construction  
25 subcontractor that is responsible for and carries out all of  
26 the following:

27 (i) Performing construction work on a project in  
28 accordance with a written contract for a defined scope of  
29 construction work at a fixed price.

30 (ii) Obtaining necessary licenses or permits to

1 perform construction services under the entity's or  
2 individual's name.

3 (iii) Exclusively controlling the work of any  
4 subcontractor, including the authority to hire and fire  
5 and to direct the methods and means of construction work  
6 performed on the construction project.

7 (iv) Paying wages and fringe benefits to workers  
8 through any subcontractor and not through any other  
9 entity or individual and maintaining required employment  
10 and payroll records by the subcontractor.

11 (v) Purchasing the majority of materials, supplies  
12 and tools for construction work performed by the  
13 subcontractor on the construction project.

14 (vi) Maintaining workers' compensation and  
15 unemployment insurance coverage for periods preceding,  
16 during and succeeding the terms of the construction  
17 project for the type and scope of construction performed  
18 by the subcontractor on the construction project.

19 "Person." An individual, firm, sole proprietorship,  
20 partnership, corporation, association or other entity.

21 "Public body." Any of the following:

22 (1) The Commonwealth.

23 (2) A political subdivision, including a county, city,  
24 borough, incorporated town, township or municipal authority,  
25 of this Commonwealth.

26 (3) An authority created by the General Assembly.

27 (4) An instrumentality or agency of the Commonwealth.

28 (5) A school district of this Commonwealth.

29 "Secretary." The Secretary of Labor and Industry of the  
30 Commonwealth or the authorized representative of the Secretary

1 of Labor and Industry of the Commonwealth.

2 "Unemployment Compensation Law." The act of December 5, 1936  
3 (2nd Sp.Sess., 1937 P.L.2897, No.1), known as the Unemployment  
4 Compensation Law.

5 "Workers' Compensation Act." The act of June 2, 1915  
6 (P.L.736, No.338), known as the Workers' Compensation Act.  
7 Section 3. Prohibition.

8 A person may not hold oneself out or engage in any act as a  
9 labor broker without satisfying the registration requirements  
10 under this act.

11 Section 4. Proof of registration.

12 A labor broker shall include the labor broker's registration  
13 number issued by the department in all advertisements  
14 distributed within this Commonwealth and on all contracts,  
15 estimates and related documents created after the effective date  
16 of this section.

17 Section 5. Verification system.

18 The department shall develop and maintain a list of completed  
19 registrations under this act on the department's publicly  
20 accessible Internet website, which shall include each labor  
21 broker's legal business name, any assumed business name,  
22 business address, verification number and verification  
23 expiration date.

24 Section 6. Registration.

25 (a) Application.--A labor broker shall apply, in writing or  
26 electronically, for registration in a manner and on a form  
27 prescribed by the department.

28 (b) Contents.--The registration form shall include the  
29 following information:

30 (1) For any individual, sole proprietor, primary owner

1 or officer of a business entity, all of the following  
2 information:

3 (i) The applicant's full legal name and title at the  
4 applicant's business.

5 (ii) The applicant's business address and telephone  
6 number.

7 (iii) The applicant's Federal identification number  
8 or Federal tax identification number used for business  
9 purposes.

10 (iv) All prior business names and addresses of the  
11 applicant.

12 (v) A statement whether:

13 (A) the applicant, even in doing so as part of a  
14 business entity application, has ever been convicted  
15 of, or pleaded guilty or no contest to, a criminal  
16 offense related to fraud, theft, a crime of  
17 deception, a crime involving fraudulent business  
18 practices or employee misclassification;

19 (B) the applicant, even if doing so as part of a  
20 business entity application, has ever been found to  
21 have misclassified employees as independent  
22 contractors by the department, any other state or  
23 political subdivision or the United States Department  
24 of Labor; and

25 (C) the applicant's certification or a similar  
26 certificate or license issued by any other state or  
27 political subdivision has ever been revoked or  
28 suspended pursuant to an order issued by a court of  
29 competent jurisdiction and, if so, the current status  
30 of the certification or similar certificate or

1 license. The statement required by this clause shall  
2 include the same information with respect to any  
3 other business in which the applicant has or has ever  
4 had an interest.

5 (2) The legal business name, any assumed business name,  
6 designated business address, physical address, telephone  
7 number and email address of the applicant.

8 (3) For an out-of-State business entity, the legal  
9 business name, any assumed business name, designated business  
10 address, physical address, telephone number and email address  
11 of the applicant and any identification number issued to the  
12 applicant by the applicant's state or political subdivision  
13 through registration, licensing or verification systems, if  
14 applicable.

15 (4) For any individual, sole proprietor, primary owner  
16 or officer, including a chief executive officer, chief  
17 financial officer, chief operating officer or an equivalent  
18 officer, of a business entity, the name of all other persons  
19 with an ownership interest in the applicant that are not  
20 identified under paragraph (1). This paragraph does not apply  
21 to shareholders with less than a 5% ownership interest in a  
22 publicly traded corporation.

23 (5) A description of the nature of the business of the  
24 applicant.

25 (6) Whether the applicant has been suspended or debarred  
26 within the last 10 years.

27 (7) Proof of financial responsibility, which may include  
28 liability insurance or bonding, or self-insurance.

29 (8) The fee specified under section 10.

30 (9) A signed statement by the applicant that the



1 information in the application is true and accurate and any  
2 individual signing the application is an authorized agent of  
3 the applicant subject to the penalties under 18 Pa.C.S.  
4 § 4904 (relating to unsworn falsification to authorities).

5 Section 7. Expiration and renewal.

6 (a) Dates.--The registration shall be completed on a fixed,  
7 biennial basis on a date determined by the department.

8 (b) Acceptance.--The department shall accept an application  
9 for a registration renewal before the expiration of an active  
10 registration in a time frame specified by the department.

11 Section 8. Certification of compliance.

12 After a labor broker completes an application for  
13 registration or registration renewal under this act and pays the  
14 fee specified under section 10, the department shall issue a  
15 certificate of compliance to the labor broker that includes a  
16 registration number.

17 Section 9. Reporting changes.

18 A labor broker shall update its registration within 30 days  
19 of any change in personal or business information required to be  
20 provided to the department under this act.

21 Section 10. Fees.

22 (a) Amount.--An applicant for registration or registration  
23 renewal under this act shall pay an application fee of not more  
24 than \$300 to the department.

25 (b) Deposit.--Fees under subsection (a) shall be deposited  
26 into the account.

27 Section 11. Labor Broker Registration Account.

28 (a) Establishment.--The Labor Broker Registration Account is  
29 established as a restricted revenue, interest-bearing account in  
30 the General Fund.

1 (b) Deposit.--The department shall deposit fees and  
2 penalties collected under this act into the account.

3 (c) Appropriation.--Money in the account and interest earned  
4 on the money are appropriated on a continuing basis to the  
5 department for administering and enforcing the provisions of  
6 this act.

7 Section 12. Prohibited acts.

8 (a) Specific prohibitions.--On or after the effective date  
9 of this subsection, a person who holds oneself out or engages in  
10 any act as a labor broker may not do any of the following:

11 (1) Fail to complete the registration as a labor broker  
12 as required under this act.

13 (2) Fail to display or identify its registration number  
14 as required under section 4.

15 (3) Knowingly make a false statement in the application  
16 for labor broker registration.

17 (4) Knowingly contract with or perform work as a labor  
18 broker for another person:

19 (i) without first completing the registration  
20 required under this act; or

21 (ii) after the registration required under this act  
22 has expired or has been suspended.

23 (5) Knowingly contract with or pay another person for  
24 work as a labor broker if:

25 (i) the person has not completed the registration  
26 required under this act; or

27 (ii) the person's registration required under this  
28 act has expired or has been suspended.

29 (b) Verification.--A person seeking to contract or engage  
30 with a purported labor broker shall verify the registration of

1 the purported labor broker using the verification system  
2 described in section 5.

3 (c) Unregistered labor broker.--

4 (1) A person, including an agent of a person, may not  
5 contract with or engage the services of an unregistered labor  
6 broker.

7 (2) A person found to have engaged with an unregistered  
8 labor broker shall be subject to penalties described under  
9 section 14.

10 Section 13. Investigations.

11 (a) Authorization.--If the secretary receives information  
12 indicating that a person has violated this act, the secretary  
13 may investigate the matter.

14 (b) Permitted actions.--The secretary may take any of the  
15 following actions:

16 (1) Enter and inspect a worksite or place of business at  
17 any reasonable time to examine and inspect records that  
18 relate to the compliance of this act.

19 (2) Subpoena witnesses, administer oaths, examine  
20 witnesses and copy or compel the production of records,  
21 contracts and other documents that are necessary and  
22 appropriate to the enforcement of this act.

23 (3) Petition Commonwealth Court to enforce any subpoena  
24 or order issued by the department under this act.

25 Section 14. Penalties.

26 The following penalties apply:

27 (1) A person that violates section 12(a)(1) or (2) shall  
28 be subject to the following:

29 (i) For a first violation, the department shall  
30 issue a warning letter to the person detailing the

1 omission and provide 30 days to correct the violation.

2 (ii) For a second or subsequent violation, the  
3 department shall bring an administrative action to assess  
4 a fine of up to \$2,500 for each day that the labor broker  
5 is not registered.

6 (2) For a violation of section 12(a)(3), (4) or (5), the  
7 department shall bring an administrative action to assess a  
8 fine of up to \$10,000 per violation.

9 (3) A person that violates section 12(b) or (c) shall be  
10 subject to the following:

11 (i) For a first violation, the department shall  
12 issue a fine of no more than \$25,000.

13 (ii) For a second or any subsequent violations, the  
14 department shall issue a fine not to exceed \$25,000 per  
15 day per worker provided by the unregistered labor broker.

16 ~~(4) The secretary may debar a person that violates any~~ <--  
17 ~~of the provisions of section 12.~~

18 (4) THE SECRETARY MAY DEBAR OR PROHIBIT A PERSON FROM <--  
19 REGISTERING AS A LABOR BROKER THAT VIOLATES ANY OF THE  
20 PROVISIONS OF SECTION 12.

21 (5) THE SECRETARY SHALL WAIVE A PENALTY FOR A VIOLATION  
22 OF SECTION 12(A)(5), (B) OR (C) BY A PERSON IF THE PERSON OR  
23 EMPLOYER IS ABLE TO PROVIDE EVIDENCE TO THE SECRETARY OF A  
24 GOOD FAITH EFFORT TO COMPLY WITH THIS ACT. THE SECRETARY  
25 SHALL DETERMINE THAT A PERSON HAS PROVIDED EVIDENCE OF A GOOD  
26 FAITH EFFORT UNDER THIS PARAGRAPH IF THE PERSON CAN PROVE TO  
27 THE DEPARTMENT THAT THE PERSON VERIFIED THE REGISTRATION OF A  
28 LABOR BROKER UNDER SECTION 5 AND THE LABOR BROKER WAS  
29 REGISTERED IN ACCORDANCE WITH THIS ACT AT THE TIME OF THE  
30 VERIFICATION.

1 Section 15. Suspension of registration.

2 (a) Reasons.--The secretary may suspend a labor broker's  
3 registration for failing to comply with an investigation under  
4 section 13, failing to pay penalties imposed in accordance with  
5 section 14 or otherwise failing to correct a violation as  
6 required by section 14.

7 (b) Appeal.--A suspension under subsection (a) shall be  
8 subject to appeal of the administrative action.

9 Section 16. Other relief.

10 In addition to the penalties specified under this act, the  
11 department may seek other relief, including injunctive relief  
12 and costs, reasonable attorney fees and investigation costs.

13 Section 17. Regulations.

14 The department may promulgate regulations as necessary to  
15 implement this act.

16 Section 18. Effective date.

17 This act shall take effect in one year.