

Second Regular Session  
Sixty-sixth General Assembly  
STATE OF COLORADO

**REREVISED**

*This Version Includes All Amendments  
Adopted in the Second House*

LLS NO. 08-0316.02 Kristen Forrestal

**SENATE BILL 08-114**

**SENATE SPONSORSHIP**

**Veiga,** and Tochtrop

**HOUSE SPONSORSHIP**

**Scanlan,**

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**Senate Committees**

Business, Labor and Technology  
Appropriations

**House Committees**

Business Affairs and Labor  
Appropriations

HOUSE  
3rd Reading Unam ended  
April 18, 2008

HOUSE  
2nd Reading Unam ended  
April 17, 2008

SENATE  
3rd Reading Unam ended  
March 17, 2008

SENATE  
Am ended 2nd Reading  
March 12, 2008

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**A BILL FOR AN ACT**

101 **CONCERNING REQUIRED ACTS OF EMPLOYEE LEASING COMPANIES BY**  
102 **THE DEPARTMENT OF LABOR AND EMPLOYMENT, AND MAKING**  
103 **AN APPROPRIATION IN CONNECTION THEREWITH.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)*

Requires an employee leasing company to pay wages and unemployment taxes for all covered employees. Specifies that the contract provisions of the "Workers' Compensation Act of Colorado" apply to employee leasing companies and work-site employers equally. Requires an employee leasing company to annually file a renewal of its

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.*

certification along with evidence that the employee leasing company meets specified financial criteria and to remit a fee as determined by the executive director of the department of labor and employment (department).

Authorizes the department to reduce or waive the bonding requirement for an employee leasing company.

Prohibits a person from acting as an employee leasing company without certification from the department. Authorizes the department to take disciplinary action against an employee leasing company and to impose a fine or rescind the ability to make unemployment insurance contributions.

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** 8-70-114 (2) (a), (2) (b) (VII), (2) (b) (VIII), and (2)  
3 (e), Colorado Revised Statutes, are amended, and the said 8-70-114 (2)  
4 is further amended BY THE ADDITION OF A NEW PARAGRAPH, to  
5 read:

6 **8-70-114. Employing unit - definitions - rules - employee**  
7 **leasing company certification fund.** (2) (a) For purposes of this  
8 section:

9 (I) "COEMPLOYER" MEANS EITHER AN EMPLOYEE LEASING  
10 COMPANY OR A WORK-SITE EMPLOYER.

11 (II) "COEMPLOYMENT RELATIONSHIP" MEANS A RELATIONSHIP  
12 THAT IS INTENDED TO BE AN ONGOING RELATIONSHIP RATHER THAN A  
13 TEMPORARY OR PROJECT SPECIFIC ONE, WHEREIN THE RIGHTS, DUTIES, AND  
14 OBLIGATIONS OF AN EMPLOYER THAT ARISE OUT OF AN EMPLOYMENT  
15 RELATIONSHIP HAVE BEEN ALLOCATED BETWEEN COEMPLOYERS  
16 PURSUANT TO AN EMPLOYEE LEASING COMPANY CONTRACT AND THIS  
17 SECTION. IN A COEMPLOYMENT RELATIONSHIP:

18 (A) THE EMPLOYEE LEASING COMPANY IS ENTITLED TO ENFORCE  
19 ONLY SUCH EMPLOYER RIGHTS AND IS SUBJECT TO ONLY THOSE

1 OBLIGATIONS SPECIFICALLY ALLOCATED TO THE EMPLOYEE LEASING  
2 COMPANY BY THE EMPLOYEE LEASING COMPANY CONTRACT AND THIS  
3 SECTION;

4 (B) THE WORK-SITE EMPLOYER MAY ENFORCE THOSE RIGHTS AND  
5 SHALL PROVIDE AND PERFORM THOSE EMPLOYER OBLIGATIONS  
6 ALLOCATED TO THE WORK-SITE EMPLOYER BY THE EMPLOYEE LEASING  
7 COMPANY CONTRACT AND THIS SECTION; AND

8 (C) THE WORK-SITE EMPLOYER MAY ENFORCE ANY RIGHT AND  
9 SHALL PERFORM ANY OBLIGATION OF AN EMPLOYER NOT SPECIFICALLY  
10 ALLOCATED TO THE EMPLOYEE LEASING COMPANY BY THE EMPLOYEE  
11 LEASING COMPANY CONTRACT OR THIS SECTION.

12 (III) (A) "COVERED EMPLOYEE" OR "WORK-SITE EMPLOYEE"  
13 MEANS AN INDIVIDUAL WHO IS IN AN EMPLOYMENT RELATIONSHIP WITH  
14 BOTH AN EMPLOYEE LEASING COMPANY AND A WORK-SITE EMPLOYER AND HAS RECEIVED WRITTEN NOTICE OF THE COEMPLOYMENT WITH THE EMPLOYEE LEASING COMPANY.

15 (B) THE PROVISIONS OF SUB-SUBPARAGRAPH (A) OF THIS  
16 SUBPARAGRAPH (III) RELATE SOLELY TO THE EMPLOYEE LEASING  
17 CONTRACT, AND NOT TO ANY CONTRACT FOR WORKERS' COMPENSATION  
18 INSURANCE OR ENTITLEMENT TO WORKERS' COMPENSATION BENEFITS.

19 (IV) "DEPARTMENT" MEANS THE DEPARTMENT OF LABOR AND  
20 EMPLOYMENT.

21 (V) "Employee leasing company" means any person, business,  
22 or other entity that provides services to a work-site employer, as defined  
23 in subparagraph (VII) of this paragraph (a), pursuant to an employee  
24 leasing company contract, as defined in subparagraph (VI) of this  
25 paragraph (a).

1           ~~(H)~~ (VI) "Employee leasing company contract" means any written  
2 staff leasing contract, extended employee staffing or supply contract, or  
3 other contract under which an employee leasing company procures or  
4 receives from a work-site employer specified coemployer responsibilities  
5 for specified employees, designating itself as employer of such  
6 employees, and retaining the right of direction and control of such  
7 employees with regard to those employer responsibilities, including the  
8 rights and responsibilities set forth in paragraph (b) of this subsection (2).  
9 An employee leasing company may have other responsibilities pursuant  
10 to an employee leasing company contract, including provision of  
11 professional guidance with regard to employment matters.

12           ~~(H)~~ (VII) "Work-site employer" means any person, business, or  
13 other entity that procures the services of an employee leasing company  
14 under an employee leasing company contract and otherwise retains  
15 direction and control of the employees specified in the contract regarding  
16 responsibilities not specified in the contract pertaining to the business of  
17 the work-site employer.

18           (b) Notwithstanding the provisions of subsection (1) of this  
19 section, an employee leasing company shall be considered an employing  
20 unit or the coemployer of a work-site employer's employees if, pursuant  
21 to an employee leasing company contract with the work-site employer, it  
22 has the following rights and responsibilities:

23           (VII) EACH EMPLOYEE LEASING COMPANY SHALL PAY WAGES AND  
24 COLLECT, REPORT, AND PAY ALL PAYROLL-RELATED TAXES FROM ITS OWN  
25 ACCOUNTS FOR ALL COVERED EMPLOYEES. EACH EMPLOYEE LEASING  
26 COMPANY SHALL PAY UNEMPLOYMENT COMPENSATION INSURANCE TAXES  
27 AND PROVIDE, MAINTAIN, AND SECURE ALL RECORDS AND DOCUMENTS

1     REQUIRED OF WORK-SITE EMPLOYERS UNDER THE UNEMPLOYMENT  
2     INSURANCE LAWS OF THIS STATE FOR COVERED EMPLOYEES. FOR  
3     UNEMPLOYMENT REPORTING PURPOSES, EACH EMPLOYEE LEASING  
4     COMPANY IS THE ONLY EMPLOYING UNIT FOR COVERED EMPLOYEES AND  
5     SHALL HAVE the responsibility for unemployment compensation insurance  
6     as required of an employer pursuant to the "Colorado Employment  
7     Security Act", articles 70 to 82 of this title.

8             (VIII) An employee leasing company, as the employing unit or  
9     coemployer, may aggregate all employees for the purpose of sponsoring  
10    and administering workers' compensation plans pursuant to article 44 of  
11    this title and fully insured health coverage plans, as defined in section  
12    10-16-102 (22.5), C.R.S., employee pension benefit plans, and provision  
13    of benefits pursuant to such plans. As employing units or coemployers,  
14    employee leasing companies shall be entitled to sponsor fully insured  
15    employer plans and offer employee benefits to the full extent afforded  
16    employers by law. A health plan sponsored by an employee leasing  
17    company with an aggregate of more than fifty employees shall comply  
18    with all the provisions of Colorado law that apply to large employer  
19    health plans, including consumer and provider protections, mandated  
20    benefits, nondiscrimination and fair marketing rules, preexisting  
21    limitations, and other required health plan policy provisions, and the  
22    carrier underwriting the plan shall be responsible for assuring compliance  
23    with this requirement pursuant to section 10-16-214 (5), C.R.S.  
24    Notwithstanding any provision of this section to the contrary, any  
25    workers' compensation insurance carrier may issue an insurance policy  
26    that insures either the employee leasing company or the work-site  
27    employer as the employer pursuant to the "Workers' Compensation Act

1 of Colorado", articles 40 to 47 of this title. ARTICLE 41 OF THIS TITLE  
2 SHALL APPLY TO BOTH THE EMPLOYEE LEASING COMPANY AND THE  
3 WORK-SITE EMPLOYER, REGARDLESS OF WHETHER THE POLICY IS ISSUED  
4 TO THE EMPLOYEE LEASING COMPANY OR THE WORK-SITE EMPLOYER.  
5 Notwithstanding any provision of this section to the contrary, any  
6 insurance carrier may issue an insurance policy that insures the employee  
7 leasing company as the employer pursuant to article 16 of title 10, C.R.S.  
8 An insurance carrier that issues an insurance policy to an employee  
9 leasing company shall be entitled to rely upon a copy of the certification  
10 filed by the employee leasing company with the department of labor and  
11 employment under paragraph (e) of this subsection (2), if such  
12 certification is currently valid, for the purpose of determining whether the  
13 leasing company is an "employer" under Colorado law.

14 (e) Each employee leasing company shall maintain and have open  
15 for inspection by the department of labor and employment a listing of its  
16 work-site employers and their collective employees and shall maintain the  
17 records and reports as required by the "Colorado Employment Security  
18 Act", as described in articles 70 to 82 of this title. Each employee leasing  
19 company shall annually certify with an independent opinion of counsel to  
20 the department that it is in compliance with the rights and responsibilities  
21 set forth in paragraph (b) of this subsection (2) and that it is offering to  
22 all clients in its service agreements those items required in paragraph (b)  
23 of this subsection (2). THE EXECUTIVE DIRECTOR OF THE DEPARTMENT  
24 SHALL PRESCRIBE FORMS AND PROMULGATE RULES TO PROMOTE THE  
25 EFFICIENT ADMINISTRATION OF THIS PARAGRAPH (e). The department of  
26 labor and employment may require employee leasing companies to submit  
27 documentation to show compliance with the provisions of paragraph (b)

1 of this subsection (2) and may conduct any necessary review to verify that  
2 the employee leasing company is an employing unit or coemployer under  
3 this section. EACH EMPLOYEE LEASING COMPANY SHALL FILE AN ANNUAL  
4 RENEWAL OF ITS CERTIFICATION ON OR BEFORE JUNE 30 OF EACH YEAR.

5 (g) (I) EACH EMPLOYEE LEASING COMPANY OPERATING WITHIN  
6 THIS STATE AS OF THE EFFECTIVE DATE OF THIS PARAGRAPH (g) SHALL  
7 COMPLETE ITS INITIAL CERTIFICATION NOT LATER THAN SIXTY DAYS AFTER  
8 THE EFFECTIVE DATE OF THIS PARAGRAPH (g). THE INITIAL CERTIFICATION  
9 SHALL BE VALID UNTIL THE END OF THE STATE'S FIRST FISCAL YEAR THAT  
10 IS MORE THAN ONE YEAR AFTER THE EFFECTIVE DATE OF THIS PARAGRAPH  
11 (g).

12 (II) AN EMPLOYEE LEASING COMPANY NOT OPERATING WITHIN  
13 THIS STATE AS OF THE EFFECTIVE DATE OF THIS PARAGRAPH (g) SHALL  
14 COMPLETE ITS INITIAL CERTIFICATION PRIOR TO COMMENCEMENT OF  
15 OPERATIONS WITHIN THIS STATE.

16 (III) EACH EMPLOYEE LEASING COMPANY SHALL ANNUALLY  
17 CERTIFY AND PROVIDE EVIDENCE TO THE DEPARTMENT THAT IT MEETS ONE  
18 OF THE FOLLOWING CRITERIA TO PROVIDE SECURITIZATION OF  
19 UNEMPLOYMENT TAXES:

20 (A) EXECUTE AND FILE A SURETY BOND OR DEPOSIT WITH THE  
21 DIVISION MONEY OR A LETTER OF CREDIT EQUIVALENT TO FIFTY PERCENT  
22 OF THE AVERAGE ANNUAL AMOUNT OF UNEMPLOYMENT TAX ASSESSED  
23 WITHIN THE PREVIOUS CALENDAR YEAR. FOR A NEW EMPLOYEE LEASING  
24 COMPANY, THE INITIAL BOND AMOUNT WILL BE THE STANDARD TAX RATE  
25 MULTIPLIED BY FIFTY PERCENT OF THE ESTIMATED PROJECTED TAXABLE  
26 PAYROLL FOR THE CURRENT CALENDAR YEAR AS ESTIMATED BY THE  
27 EMPLOYEE LEASING COMPANY.

1           (B) PROVIDE THE MOST RECENT INDEPENDENTLY AUDITED  
2 FINANCIAL STATEMENT PREPARED BY A CERTIFIED PUBLIC ACCOUNTANT  
3 PURSUANT TO GENERALLY ACCEPTED ACCOUNTING PRINCIPLES, WHICH  
4 STATEMENT MAY NOT BE OLDER THAN THIRTEEN MONTHS. THE AUDIT  
5 SHALL ALSO INCLUDE ITEMS THAT DEMONSTRATE AN ACCOUNTING  
6 WORKING CAPITAL OF NOT LESS THAN ONE HUNDRED THOUSAND DOLLARS.  
7 FOR THE PURPOSES OF THIS SUB-SUBPARAGRAPH (B), "WORKING CAPITAL"  
8 OF AN EMPLOYEE LEASING COMPANY MEANS THE EMPLOYEE LEASING  
9 COMPANY'S CURRENT ASSETS MINUS THE EMPLOYEE LEASING COMPANY'S  
10 CURRENT LIABILITIES AS DETERMINED BY GENERALLY ACCEPTED  
11 ACCOUNTING PRINCIPLES.

12           (C) PROVIDE SUFFICIENT EVIDENCE ON AN ANNUAL BASIS THAT IT  
13 HAS BEEN ACCREDITED BY A BONDED, INDEPENDENT, AND QUALIFIED  
14 ASSURANCE ORGANIZATION APPROVED BY THE DIRECTOR OF THE DIVISION  
15 THAT PROVIDES SATISFACTORY ASSURANCE OF COMPLIANCE ACCEPTABLE  
16 TO THE DEPARTMENT.

17           (IV) THE DEPARTMENT MAY, AT ITS DISCRETION, REDUCE OR  
18 WAIVE THE BONDING, MONEY, OR LETTER OF CREDIT REQUIREMENTS IN  
19 SUB-SUBPARAGRAPH (A) OF SUBPARAGRAPH (III) OF THIS PARAGRAPH (g).  
20 THIS WAIVER OR REDUCTION MAY BE REVIEWED AT ANY TIME, AND IN THE  
21 DEPARTMENT'S DISCRETION, IT MAY REQUIRE THE EMPLOYEE LEASING  
22 COMPANY TO RESUME COMPLIANCE WITH SUB-SUBPARAGRAPH (A) OF  
23 SUBPARAGRAPH (III) OF THIS PARAGRAPH (g) OR PROVIDE EVIDENCE OF  
24 COMPLIANCE WITH SUB-SUBPARAGRAPH (B) OR (C) OF SUBPARAGRAPH  
25 (III) OF THIS PARAGRAPH (g) IMMEDIATELY.

26           (V) AN EMPLOYEE LEASING COMPANY SHALL, WITHIN FIFTEEN  
27 DAYS FOLLOWING ANY DEDUCTION FROM A MONEY DEPOSIT OR SALE OF

1 DEPOSITED SECURITIES UNDER THE PROVISIONS OF SUB-SUBPARAGRAPH  
2 (A) OF SUBPARAGRAPH (III) OF THIS PARAGRAPH (g), DEPOSIT SUFFICIENT  
3 ADDITIONAL MONEYS OR SECURITIES TO MAKE WHOLE THE EMPLOYEE  
4 LEASING COMPANY'S DEPOSIT AT THE PRIOR LEVEL. ANY CASH REMAINING  
5 FROM THE DEPARTMENT'S SALE OF SUCH SECURITIES SHALL BE A PART OF  
6 THE EMPLOYEE LEASING COMPANY'S ESCROW ACCOUNT. THE  
7 DEPARTMENT MAY, AT ANY TIME, REVIEW THE ADEQUACY OF THE DEPOSIT  
8 MADE BY ANY EMPLOYEE LEASING COMPANY. IF, AS A RESULT OF SUCH  
9 REVIEW, THE DEPARTMENT DETERMINES THAT AN ADJUSTMENT IS  
10 NECESSARY, IT SHALL REQUIRE THE EMPLOYEE LEASING COMPANY TO  
11 MAKE AN ADDITIONAL DEPOSIT WITHIN THIRTY DAYS AFTER RECEIPT OF  
12 WRITTEN NOTICE OF THE DEPARTMENT'S DETERMINATION OR SHALL  
13 RETURN TO THE EMPLOYEE LEASING COMPANY SUCH PORTION OF THE  
14 DEPOSIT AS THE DEPARTMENT NO LONGER CONSIDERS NECESSARY,  
15 WHICHEVER ACTION IS APPROPRIATE.

16 (VI) UPON FILING AN ANNUAL CERTIFICATION UNDER THIS  
17 SECTION, AN EMPLOYEE LEASING COMPANY SHALL PAY A FEE, AS  
18 DETERMINED BY RULE OF THE DEPARTMENT, NOT TO EXCEED FIVE  
19 HUNDRED DOLLARS. FEES COLLECTED PURSUANT TO THIS SECTION SHALL  
20 BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE  
21 SAME TO THE EMPLOYEE LEASING COMPANY CERTIFICATION FUND,  
22 REFERRED TO IN THIS SECTION AS THE "FUND", WHICH IS HEREBY CREATED  
23 IN THE STATE TREASURY. MONEYS IN THE FUND SHALL BE SUBJECT TO  
24 ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY FOR  
25 IMPLEMENTATION OF THIS SECTION. THE MONEYS IN THE FUND AND  
26 INTEREST EARNED ON THE MONEYS IN THE FUND SHALL NOT REVERT TO  
27 THE GENERAL FUND OR BE TRANSFERRED TO ANY OTHER FUND AND SHALL

1 BE EXEMPT FROM SECTION 24-75-402, C.R.S. NO FEE CHARGED PURSUANT  
2 TO THIS SECTION SHALL EXCEED THE AMOUNT REASONABLY NECESSARY  
3 FOR THE ADMINISTRATION OF THIS SECTION.

4 (VII) THE DEPARTMENT SHALL MAINTAIN A LIST OF EMPLOYEE  
5 LEASING COMPANIES THAT SUBMIT CERTIFICATIONS REQUIRED UNDER  
6 PARAGRAPH (e) OF THIS SUBSECTION (2) THAT IS READILY AVAILABLE TO  
7 THE PUBLIC BY ELECTRONIC OR OTHER MEANS.

8 (VIII) ALL RECORDS, REPORTS, AND OTHER INFORMATION  
9 OBTAINED FROM AN EMPLOYEE LEASING COMPANY UNDER THIS SECTION,  
10 EXCEPT TO THE EXTENT NECESSARY FOR THE PROPER ADMINISTRATION OF  
11 THIS SECTION BY THE DEPARTMENT, SHALL BE HELD CONFIDENTIAL AND  
12 SHALL NOT BE PUBLISHED OR OPEN TO PUBLIC INSPECTION OTHER THAN TO  
13 PUBLIC EMPLOYEES IN THE PERFORMANCE OF THEIR PUBLIC DUTIES,  
14 PURSUANT TO PROVISIONS GOVERNING RECORDS AND REPORTS IN THIS  
15 TITLE.

16 **SECTION 2.** 80-70-114, Colorado Revised Statutes, is amended  
17 BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to  
18 read:

19 **8-70-114. Employing unit - definitions - rules - employee**  
20 **leasing company certification fund. (7) Employment arrangements.**

21 NOTHING IN THIS SECTION OR IN ANY EMPLOYEE LEASING COMPANY  
22 CONTRACT SHALL:

23 (a) DIMINISH, ABOLISH, OR REMOVE RIGHTS OF COVERED  
24 EMPLOYEES OF A WORK-SITE EMPLOYER OR OBLIGATIONS OF SUCH  
25 WORK-SITE EMPLOYER TO A COVERED EMPLOYEE EXISTING PRIOR TO THE  
26 EFFECTIVE DATE OF THE EMPLOYEE LEASING COMPANY CONTRACT;

27 (b) AFFECT, MODIFY, OR AMEND ANY CONTRACTUAL RELATIONSHIP

1 OR RESTRICTIVE COVENANT BETWEEN A COVERED EMPLOYEE AND ANY  
2 WORK-SITE EMPLOYER IN EFFECT AT THE TIME AN EMPLOYEE LEASING  
3 COMPANY CONTRACT BECOMES EFFECTIVE. NOR SHALL IT PROHIBIT OR  
4 AMEND ANY CONTRACTUAL RELATIONSHIP OR RESTRICTIVE COVENANT  
5 THAT IS ENTERED INTO SUBSEQUENTLY BETWEEN A WORK-SITE EMPLOYER  
6 AND A COVERED EMPLOYEE. AN EMPLOYEE LEASING COMPANY SHALL  
7 HAVE NO RESPONSIBILITY OR LIABILITY IN CONNECTION WITH, OR ARISING  
8 OUT OF, ANY SUCH EXISTING OR NEW CONTRACTUAL RELATIONSHIP OR  
9 RESTRICTIVE COVENANT UNLESS THE EMPLOYEE LEASING COMPANY HAS  
10 SPECIFICALLY AGREED OTHERWISE IN WRITING.

11 (c) CREATE ANY NEW OR ADDITIONAL ENFORCEABLE RIGHT OF A  
12 COVERED EMPLOYEE AGAINST AN EMPLOYEE LEASING COMPANY THAT IS  
13 NOT SPECIFICALLY PROVIDED BY THE EMPLOYEE LEASING COMPANY  
14 CONTRACT OR THIS SECTION.

15 (8) **Prohibited acts and enforcement.** (a) A PERSON SHALL NOT  
16 OFFER OR PROVIDE EMPLOYEE LEASING COMPANY SERVICES OR USE THE  
17 NAMES EMPLOYEE LEASING COMPANY, PROFESSIONAL EMPLOYER  
18 ORGANIZATION, PEO, STAFF LEASING, EMPLOYEE LEASING,  
19 ADMINISTRATIVE EMPLOYER, OR OTHER TITLE REPRESENTING EMPLOYEE  
20 LEASING SERVICES WITHOUT FIRST OBTAINING CERTIFICATION FROM THE  
21 DEPARTMENT UNDER THIS SECTION.

22 (b) A PERSON SHALL NOT KNOWINGLY PROVIDE FALSE OR  
23 FRAUDULENT INFORMATION TO THE DEPARTMENT IN CONJUNCTION WITH  
24 ANY CERTIFICATIONS OR IN ANY REPORT REQUIRED UNDER THIS SECTION.

25 (c) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT MAY TAKE  
26 DISCIPLINARY ACTION AGAINST AN EMPLOYEE LEASING COMPANY FOR A  
27 VIOLATION OF PARAGRAPH (a) OR (b) OF THIS SUBSECTION (8), FOR THE

1 CONVICTION IN A COURT OF LAW FOR A CRIME ARISING FROM THE  
2 OPERATION OF AN EMPLOYEE LEASING COMPANY RELATING TO FRAUD OR  
3 DECEIT OR THE ABILITY OF THE EMPLOYEE LEASING COMPANY TO OPERATE  
4 AS SUCH, FOR KNOWINGLY MAKING A MATERIAL MISREPRESENTATION TO  
5 THE DEPARTMENT OR OTHER GOVERNMENTAL AGENCY, OR FOR A WILLFUL  
6 VIOLATION OF THIS SECTION OR ANY ORDER OR RULE ISSUED BY THE  
7 DEPARTMENT UNDER THIS SECTION.

8 (d) UPON FINDING, AFTER NOTICE AND OPPORTUNITY FOR  
9 HEARING, THAT AN EMPLOYEE LEASING COMPANY HAS VIOLATED ONE OR  
10 MORE PROVISIONS OF THIS SECTION, THE DIRECTOR OF THE DIVISION MAY:

11 (I) PLACE THE CERTIFIED EMPLOYEE LEASING COMPANY ON  
12 PROBATION FOR A PERIOD AND SUBJECT TO CONDITIONS THAT THE  
13 DIRECTOR OF THE DIVISION SPECIFIES;

14 (II) IMPOSE AN ADMINISTRATIVE PENALTY IN AN AMOUNT NOT TO  
15 EXCEED ONE THOUSAND DOLLARS FOR EACH MATERIAL VIOLATION; AND

16 (III) REFUSE TO ACCEPT THE CERTIFICATION AND RESCIND THE  
17 EMPLOYEE LEASING COMPANY'S ABILITY TO MAKE UNEMPLOYMENT  
18 INSURANCE CONTRIBUTIONS FOR WORK-SITE EMPLOYEES UNDER ITS  
19 UNEMPLOYMENT INSURANCE ACCOUNT.

20 **SECTION 3. Appropriation.** In addition to any other  
21 appropriation, there is hereby appropriated, out of any moneys in the  
22 employee leasing company certification cash fund created in section  
23 8-70-114 (2) (g) (VI), Colorado Revised Statutes, not otherwise  
24 appropriated, to the department of labor and employment, for allocation  
25 to the division of employment and training, for the fiscal year beginning  
26 July 1, 2008, the sum of forty-four thousand six hundred fifty-nine dollars  
27 (\$44,659) cash funds and 0.9 FTE, or so much thereof as may be

1 necessary, for the implementation of this act.

2           **SECTION 4. Effective date.** This act shall take effect at 12:01  
3 a.m. on the day following the expiration of the ninety-day period after  
4 final adjournment of the general assembly that is allowed for submitting  
5 a referendum petition pursuant to article V, section 1 (3) of the state  
6 constitution, (August 6, 2008, if adjournment sine die is on May 7, 2008);  
7 except that, if a referendum petition is filed against this act or an item,  
8 section, or part of this act within such period, then the act, item, section,  
9 or part, if approved by the people, shall take effect on the date of the  
10 official declaration of the vote thereon by proclamation of the governor.