

- 150 (c) assigning the employee to:
- 151 (i) perform services at or for the other person to support or supplement the other
- 152 person's employees;
- 153 (ii) provide assistance in a special work situation such as:
- 154 (A) an employee absence;
- 155 (B) a skill shortage; or
- 156 (C) a seasonal workload; or
- 157 (iii) perform a special assignment or project; and
- 158 (d) customarily reassigning the employee to another organization when the employee
- 159 finishes an assignment.

160 ~~[(17)]~~ (21) "Working capital" means the current assets minus the current liabilities of a

161 professional employer organization determined in accordance with generally accepted

162 accounting principles.

163 Section 2. Section 31A-40-212 is enacted to read:

164 **31A-40-212. Determination of joint employers -- Franchisors excluded.**

165 (1) ~~§→~~ (a) ~~←§~~ For purposes of determining whether two or more persons are considered

165a joint

166 employers under this chapter, an administrative ruling of a federal executive agency may not be

167 considered a generally applicable law unless that administrative ruling is determined to be

168 generally applicable by a court of law, or adopted by statute or rule.

168a ~~§→~~ (b) **Nothing in this Subsection (1) prohibits the commissioner, in making policy**

168b **decisions and taking enforcement action, from applying an administrative ruling or opinion**

168c **issued by the United States Department of Labor that decides or opines on whether an**

168d **employee welfare benefit plan is established and maintained for a single employer, multiple**

168e **employer, or co-employer under the Employee Retirement Income Security Act of 1974, 29**

168f **U.S.C. Sec. 1001 et seq.** ~~←§~~

- 169 (2) (a) For purposes of this chapter, a franchisor is not considered to be an employer of:
- 170 (i) a franchisee; or
- 171 (ii) a franchisee's employee.
- 172 (b) With respect to a specific claim for relief under this chapter made by a franchisee or
- 173 a franchisee's employee, this Subsection (2) does not apply to a franchisor under a franchise
- 174 that exercises a type or degree of control over the franchisee or the franchisee's employee not
- 175 customarily exercised by a franchisor for the purpose of protecting the franchisor's trademarks
- 176 and brand.