

1 STATE OF OKLAHOMA

2 2nd Session of the 53rd Legislature (2012)

3 COMMITTEE SUBSTITUTE

4 FOR

5 HOUSE BILL NO. 2446

By: Quinn

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7 COMMITTEE SUBSTITUTE

8 An Act relating to labor; amending 40 O.S. 2011,
9 Section 600.4, which relates to renewal of
10 registration by professional employer organizations;
11 providing for late-registration renewal fee;
12 authorizing Insurance Commissioner to take certain
13 actions on certain registrations; requiring certain
14 findings by Commissioner; providing civil penalties
15 for certain violations; authorizing Commissioner to
16 issue certain orders or file for injunctive relief;
17 providing for codification; and providing an
18 effective date.

19 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

20 SECTION 1. AMENDATORY 40 O.S. 2011, Section 600.4, is
21 amended to read as follows:

22 Section 600.4 A. Registration required. Except as otherwise
23 provided in the Oklahoma Professional Employer Organization
24 Recognition and Registration Act, no person shall, unless the person
is registered as a PEO or PEO Group under the Oklahoma Professional
Employer Organization Recognition and Registration Act, provide,

1 advertise, or otherwise hold itself out as providing professional
2 employer services in this state.

3 B. Registration information.

4 1. Each PEO or PEO Group required to be registered under the
5 Oklahoma Professional Employer Organization Recognition and
6 Registration Act shall provide the Insurance Commissioner with
7 information required by the Commissioner on forms prescribed by the
8 Commissioner. Pursuant to paragraph 2 of this subsection, a PEO or
9 PEO Group may use a qualified assurance organization as approved by
10 the Commissioner to provide services related to the registration of
11 the PEO or PEO Group. A PEO or PEO Group may authorize an assurance
12 organization to act on behalf of the PEO or PEO Group in complying
13 with the registration requirements set forth in the Oklahoma
14 Professional Employer Organization Recognition and Registration Act,
15 including, but not limited to, electronic filings of information and
16 payment of registration fees. At a minimum, PEOs, PEO Groups or an
17 approved assurance organization acting on behalf of the PEO or PEO
18 Group, shall provide the following information:

19 a. the name or names under which the PEO or PEO Group
20 conducts business,

21 b. the address of the principal place of business of the
22 PEO or PEO Group and the address of each office it
23 maintains in this state,

24

- 1 c. the PEO's or PEO Group's taxpayer or employer
2 identification number,
- 3 d. a list by jurisdiction of each name under which the
4 PEO or PEO Group has operated in the preceding five
5 (5) years, including any alternative names, names of
6 predecessors and, if known, successor business
7 entities,
- 8 e. a statement of ownership, which shall include the name
9 and evidence of the business experience of any person
10 that, individually or acting in concert with one or
11 more other persons, owns or controls, directly or
12 indirectly, twenty-five percent (25%) or more of the
13 equity interests of the PEO or PEO Group,
- 14 f. a statement of management, which shall include the
15 name and evidence of the business experience of any
16 person who serves as president, chief executive
17 officer, or otherwise has the authority to act as
18 senior executive officer of the PEO or PEO Group, and
- 19 g. a financial statement setting forth the financial
20 condition of the PEO or PEO Group, as of a date not
21 earlier than one hundred eighty (180) days prior to
22 the date submitted to the Commissioner, prepared in
23 accordance with generally accepted accounting
24 principles, and audited or reviewed by an independent

1 certified public accountant licensed to practice in
2 the jurisdiction in which such accountant is located.
3 A PEO Group may submit combined or consolidated
4 audited or reviewed financial statements to meet the
5 requirements of this section.

6 2. The financial statement required by subparagraph g of
7 paragraph 1 of this subsection may be dated as of a date that is not
8 earlier than three hundred sixty-five (365) days before the date on
9 which the application is submitted in the event the PEO or PEO Group
10 provides the following:

- 11 a. evidence that is acceptable to the Commissioner that
12 it is licensed or registered in good standing in
13 another state with equal or greater requirements than
14 the requirements of the Oklahoma Professional Employer
15 Organization Recognition and Registration Act,
- 16 b. quarterly financial statements of management for each
17 calendar quarter as of the most recent audit that
18 demonstrate continuing financial operations acceptable
19 to the Commissioner, and
- 20 c. the certification of an independent Certified Public
21 Accountant that as of the end of the most recent
22 calendar quarter, the PEO or PEO Group has paid all of
23 its state and federal payroll taxes, health and
24 workers' compensation premiums, and contributions to

1 employee retirement plans in a timely and appropriate
2 manner.

3 3. For purposes of the Oklahoma Professional Employer
4 Organization Recognition and Registration Act, "assurance
5 organization" means an independent entity approved by the
6 Commissioner to certify the qualifications of a PEO or PEO Group for
7 registration under this section and Section 600.6 of this title and
8 any related requirements and procedures. To be considered for
9 approval as an independent and qualified assurance organization, the
10 assurance organization shall submit a written request for approval
11 to the Commissioner. The written request shall include, but not be
12 limited to, the following:

- 13 a. evidence that the assurance organization is
14 independent and has an established national program
15 for the accreditation and financial assurance of PEOs
16 and PEO Groups based on requirements similar to the
17 requirements of the Oklahoma Professional Employer
18 Organization Recognition and Registration Act, and any
19 rules promulgated for the implementation of the
20 Oklahoma Professional Employer Organization
21 Recognition and Registration Act,
- 22 b. evidence that the assurance organization has
23 documented qualifications, standards, procedures, and
24 financial assurance acceptable to the Commissioner and

1 is licensed or otherwise approved by one or more
2 states to certify the qualifications of PEOs or PEO
3 Groups,

4 c. an agreement to provide information, compliance
5 monitoring services, and a level of financial
6 assurance as deemed acceptable by the Commissioner,

7 d. an agreement to provide the Commissioner with an
8 application that has been executed by each PEO or PEO
9 Group requesting alternative registration under this
10 section and Section 600.6 of this title and related
11 requirements and procedures in a form approved by the
12 Commissioner. The application shall:

13 (1) authorize the assurance organization to share
14 with the Commissioner any application and
15 compliance reporting information required under
16 the Oklahoma Professional Employer Organization
17 Recognition and Registration Act that has been
18 provided to the assurance organization by the PEO
19 or PEO Group,

20 (2) authorize the Commissioner to accept information
21 shared by the assurance organization for
22 registration or renewal of registration of the
23 PEO or PEO Group as if the information was
24

1 provided directly to the Commissioner by the PEO
2 or PEO Group,

3 (3) provide the certification of the PEO or PEO Group
4 that the information provided by the assurance
5 organization to the Commissioner is true and
6 complete and that the PEO or PEO Group is in full
7 and complete compliance with all requirements of
8 the Oklahoma Professional Employer Organization
9 Recognition and Registration Act, and

10 (4) provide the certification of the assurance
11 organization that the PEO or PEO Group is in
12 compliance with the standards and procedures of
13 the assurance organization which are similar to
14 the requirements of the Oklahoma Professional
15 Employer Organization Recognition and
16 Registration Act and is qualified for
17 registration or renewal of registration under the
18 Oklahoma Professional Employer Organization
19 Recognition and Registration Act,

20 e. an agreement to provide written notice to the
21 Commissioner within two (2) business days of
22 determination by the assurance organization of the
23 failure of a PEO or PEO Group to meet the
24 qualifications for registration under the Oklahoma

1 Professional Employer Organization Recognition and
2 Registration Act or determination by the assurance
3 organization of the failure of the PEO or PEO Group to
4 meet the qualifications for accreditation or
5 certification by the assurance organization, and
6 f. an agreement to share with the Commissioner in a
7 timely manner the information and supporting
8 documentation provided to the assurance organization
9 by the PEO or PEO Group similar to the information and
10 documentation required for registration or renewal of
11 registration under the Oklahoma Professional Employer
12 Organization Recognition and Registration Act.

13 C. Initial registration.

14 1. Each PEO or PEO Group operating within this state as of
15 November 1, 2002, shall complete its initial registration not later
16 than one hundred eighty (180) days after the end of the PEO's or PEO
17 Group's first fiscal year ending after November 1, 2002.

18 2. Each PEO or PEO Group not operating within this state as of
19 November 1, 2002, shall complete its initial registration prior to
20 commencement of operations within this state. A registration is
21 valid for a term of one (1) year.

22 D. Renewal. 1. A registration expires one (1) year following
23 the registration unless it is renewed pursuant to this subsection.
24

1 Before expiration of the registration, a registrant may renew the
2 registration for an additional one-year term if the registrant:

3 ~~1. Remains~~

4 a. remains in good standing and otherwise is entitled to
5 be registered pursuant to the Oklahoma Professional
6 Employer Organization Recognition and Registration
7 Act~~†~~.

8 ~~2. Files~~

9 b. files with the Commissioner a renewal application on a
10 form prescribed by the Commissioner~~†~~ and

11 ~~3. Pays~~

12 c. pays to the Commissioner a renewal fee as provided for
13 in Section 600.5 of this title.

14 2. A registration shall be considered late thirty (30) days
15 after the renewal date. Any registration received more than thirty
16 (30) days after the renewal date shall be accompanied by a late
17 registration fee of Five Hundred Dollars (\$500.00).

18 E. Group registration. Any two or more PEOs held under common
19 control of any other person or persons acting in concert may be
20 registered as a PEO Group. A PEO Group may satisfy any reporting
21 and financial requirements of this registration law on a
22 consolidated basis.

23 F. Electronic filing and compliance. A PEO, PEO Group or an
24 approved independent and qualified assurance organization as

1 provided for in subsection B of this section may electronically
2 submit filings in conformance with Sections 15-101 through 15-121 of
3 Title 12A of the Oklahoma Statutes. Electronically submitted
4 filings include, but are not limited to, applications, documents,
5 reports, and other filings required under the Oklahoma Uniform
6 Electronic Transactions Act.

7 G. De minimis exemption.

8 1. A PEO is exempt from the registration requirements payable
9 under the Oklahoma Professional Employer Organization Recognition
10 and Registration Act if such PEO:

11 a. submits a properly executed request for exemption on a
12 form provided by the Department,

13 b. is domiciled outside this state and is licensed or
14 registered as a professional employer organization in
15 another state that has the same or greater
16 requirements as the Oklahoma Professional Employer
17 Organization Recognition and Registration Act,

18 c. does not maintain an office in this state or solicit
19 in any manner clients located or domiciled within this
20 state, and

21 d. does not have more than twenty-five covered employees
22 employed or domiciled in this state; ~~and~~.

23 2. An exemption of a professional employer organization from
24 the registration requirements under the Oklahoma Professional

1 Employer Organization Recognition and Registration Act shall be
2 valid for one (1) year, subject to renewal.

3 H. List. The Commissioner shall maintain a list of
4 professional employer organizations registered or exempted under the
5 Oklahoma Professional Employer Organization Recognition and
6 Registration Act and a list of approved assurance organizations.

7 I. Forms. The Commissioner may prescribe forms necessary to
8 promote the efficient administration of this section.

9 J. The Commissioner is authorized to promulgate reasonable
10 rules necessary for the administration and implementation of this
11 section.

12 ~~K. Nothing in this section shall limit or change the authority~~
13 ~~of the Commissioner to register or terminate registration of a PEO~~
14 ~~or PEO Group or to investigate or enforce any~~ The Commissioner may
15 reject an application for registration, renewal of registration, or
16 for an exemption from registration if the Commissioner finds that:

17 1. The application is not fully completed or properly executed;

18 2. Documents required to supplement the application are not
19 included in the application packet or are inadequate;

20 3. The registration fee is not submitted with the application;

21 4. The applicant or any person named in the application
22 misrepresents material in the application;

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1 5. The applicant, or any of its officers, is determined by the
2 Commissioner to lack good moral character, business integrity, or
3 financial responsibility; or

4 6. The controlling person has violated a provision of the
5 Oklahoma Professional Employer Organization Recognition and
6 Registration Act.

7 SECTION 2. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 600.9 of Title 40, unless there
9 is created a duplication in numbering, reads as follows:

10 The Insurance Commissioner may, after notice and opportunity for
11 hearing, refuse to register any person, suspend or revoke the
12 registration of any professional employer organization, or impose
13 administrative fines as provided for in the Oklahoma Professional
14 Employer Organization Recognition and Registration Act if the
15 Commissioner finds:

16 1. That the registrant or applicant has violated any of the
17 provisions of this section, rules lawfully promulgated by the
18 Commissioner, or the conditions of financial assurances required by
19 this act;

20 2. That the registrant or applicant has engaged in a
21 fraudulent, deceptive, or dishonest practice; or

22 3. For good and sufficient cause, that the registrant or
23 applicant is unfit to be a professional employer organization within
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1 the meaning of this act or of any of the rules lawfully promulgated
2 by the Commissioner.

3 SECTION 3. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 600.10 of Title 40, unless there
5 is created a duplication in numbering, reads as follows:

6 A. Any person who violates any of the provisions of the
7 Oklahoma Professional Employer Organization Recognition and
8 Registration Act or who violates any rules promulgated by the
9 Insurance Commissioner shall be liable for a civil penalty for each
10 offense of not less than Five Hundred Dollars (\$500.00) nor more
11 than Five Thousand Dollars (\$5,000.00) for each violation.

12 B. If the Commissioner has reason to believe or it appears that
13 any person or entity has violated or is threatening to violate this
14 act, or any rule promulgated pursuant to this act, the Commissioner
15 may issue an ex parte cease and desist order, or may institute in
16 the District Court of Oklahoma County a civil suit for injunctive
17 relief to restrain the person from continuing the violation or
18 threat of violation.

19 SECTION 4. This act shall become effective November 1, 2012.
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