

1 ENGROSSED HOUSE
2 BILL NO. 2446

By: Quinn of the House

3 and

4 Brinkley of the Senate

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6
7 An Act relating to labor; amending 40 O.S. 2011,
8 Section 600.4, which relates to renewal of
9 registration by professional employer organizations;
10 providing for late-registration renewal fee;
11 authorizing Insurance Commissioner to take certain
12 actions on certain registrations; requiring certain
13 findings by Commissioner; providing civil penalties
14 for certain violations; authorizing Commissioner to
15 issue certain orders or file for injunctive relief;
16 providing for codification; and providing an
17 effective date.

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

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

21 Section 600.4 A. Registration required. Except as otherwise
22 provided in the Oklahoma Professional Employer Organization
23 Recognition and Registration Act, no person shall, unless the person
24 is registered as a PEO or PEO Group under the Oklahoma Professional
Employer Organization Recognition and Registration Act, provide,
advertise, or otherwise hold itself out as providing professional
employer services in this state.

1 B. Registration information.

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

17 a. the name or names under which the PEO or PEO Group
18 conducts business,

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

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

1 A PEO Group may submit combined or consolidated
2 audited or reviewed financial statements to meet the
3 requirements of this section.

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

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

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

11 a. evidence that the assurance organization is
12 independent and has an established national program
13 for the accreditation and financial assurance of PEOs
14 and PEO Groups based on requirements similar to the
15 requirements of the Oklahoma Professional Employer
16 Organization Recognition and Registration Act, and any
17 rules promulgated for the implementation of the
18 Oklahoma Professional Employer Organization
19 Recognition and Registration Act,

20 b. evidence that the assurance organization has
21 documented qualifications, standards, procedures, and
22 financial assurance acceptable to the Commissioner and
23 is licensed or otherwise approved by one or more
24

1 states to certify the qualifications of PEOs or PEO
2 Groups,

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

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

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

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

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

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

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

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

11 C. Initial registration.

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

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

20 D. Renewal. 1. A registration expires one (1) year following
21 the registration unless it is renewed pursuant to this subsection.
22 Before expiration of the registration, a registrant may renew the
23 registration for an additional one-year term if the registrant:

24 ~~1. Remains~~

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

5 ~~2. Files~~

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

8 ~~3. Pays~~

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

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

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

20 F. Electronic filing and compliance. A PEO, PEO Group or an
21 approved independent and qualified assurance organization as
22 provided for in subsection B of this section may electronically
23 submit filings in conformance with Sections 15-101 through 15-121 of
24 Title 12A of the Oklahoma Statutes. Electronically submitted

1 filings include, but are not limited to, applications, documents,
2 reports, and other filings required under the Oklahoma Uniform
3 Electronic Transactions Act.

4 G. De minimis exemption.

5 1. A PEO is exempt from the registration requirements payable
6 under the Oklahoma Professional Employer Organization Recognition
7 and Registration Act if such PEO:

8 a. submits a properly executed request for exemption on a
9 form provided by the Department,

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

15 c. does not maintain an office in this state or solicit
16 in any manner clients located or domiciled within this
17 state, and

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

20 2. An exemption of a professional employer organization from
21 the registration requirements under the Oklahoma Professional
22 Employer Organization Recognition and Registration Act shall be
23 valid for one (1) year, subject to renewal.

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

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

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

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

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

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

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

19 4. The applicant or any person named in the application
20 misrepresents material in the application;

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

1 6. The controlling person has violated a provision of the
2 Oklahoma Professional Employer Organization Recognition and
3 Registration Act.

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

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

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

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

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

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

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

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

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

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