

1 STATE OF OKLAHOMA

2 1st Session of the 53rd Legislature (2011)

3 HOUSE BILL 2078

By: Key

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5
6 AS INTRODUCED

7 An Act relating to the Oklahoma Professional Employer
8 Organization Recognition and Registration Act;
9 amending Section 4, Chapter 64, O.S.L. 2002, as
10 amended by Section 53, Chapter 222, O.S.L. 2010 (40
11 O.S. Supp. 2010, Section 600.4), which relates to
12 professional employer organization requirements;
13 modifying requirements; and providing an effective
14 date.

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

16 SECTION 1. AMENDATORY Section 4, Chapter 64, O.S.L.
17 2002, as amended by Section 53, Chapter 222, O.S.L. 2010 (40 O.S.
18 Supp. 2010, Section 600.4), is amended to read as follows:

19 Section 600.4 A. Registration required. Except as otherwise
20 provided in the Oklahoma Professional Employer Organization
21 Recognition and Registration Act, no person shall, unless the person
22 is registered as a PEO or PEO Group under the Oklahoma Professional
23 Employer Organization Recognition and Registration Act, provide,
24 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 Commissioner with information
5 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 The PEO or PEO Group shall provide documentation
2 demonstrating that the PEO or PEO Group has a
3 financial strength rating of B+ or better as
4 determined by A.M. Best Company, Inc. A PEO Group may
5 submit combined or consolidated audited or reviewed
6 financial statements to meet the requirements of this
7 section.

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

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

1 its state and federal payroll taxes, health and
2 workers' compensation premiums, and contributions to
3 employee retirement plans in a timely and appropriate
4 manner.

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

- 15 a. evidence that the assurance organization is
16 independent and has an established national program
17 for the accreditation and financial assurance of PEOs
18 and PEO Groups based on requirements similar to the
19 requirements of the Oklahoma Professional Employer
20 Organization Recognition and Registration Act, and any
21 rules promulgated for the implementation of the
22 Oklahoma Professional Employer Organization
23 Recognition and Registration Act,
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1 b. evidence that the assurance organization has
2 documented qualifications, standards, procedures, and
3 financial assurance acceptable to the Commissioner and
4 is licensed or otherwise approved by one or more
5 states to certify the qualifications of PEOs or PEO
6 Groups,

7 c. an agreement to provide information, compliance
8 monitoring services, and a level of financial
9 assurance as deemed acceptable by the Commissioner,

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

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

23 (2) authorize the Commissioner to accept information
24 shared by the assurance organization for

1 registration or renewal of registration of the
2 PEO or PEO Group as if the information was
3 provided directly to the Commissioner by the PEO
4 or PEO Group,

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

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

22 e. an agreement to provide written notice to the
23 Commissioner within two (2) business days of
24 determination by the assurance organization of the

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

15 C. Initial registration.

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

20 2. Each PEO or PEO Group not operating within this state as of
21 November 1, 2002, shall complete its initial registration prior to
22 commencement of operations within this state. A registration is
23 valid for a term of one (1) year.
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1 D. Renewal. A registration expires one (1) year following the
2 registration unless it is renewed pursuant to this subsection.

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

5 1. Remains in good standing and otherwise is entitled to be
6 registered pursuant to the Oklahoma Professional Employer
7 Organization Recognition and Registration Act;

8 2. Files with the Commissioner a renewal application on a form
9 prescribed by the Commissioner; and

10 3. Pays to the Commissioner a renewal fee as provided for in
11 Section 600.5 of this title.

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

17 F. Electronic filing and compliance. A PEO, PEO Group or an
18 approved independent and qualified assurance organization as
19 provided for in subsection B of this section may electronically
20 submit filings in conformance with Sections 15-101 through 15-121 of
21 Title 12A of the Oklahoma Statutes. Electronically submitted
22 filings include, but are not limited to, applications, documents,
23 reports, and other filings required under the Oklahoma Uniform
24 Electronic Transactions Act.

1 G. De minimis exemption.

2 1. A PEO is exempt from the registration requirements payable
3 under the Oklahoma Professional Employer Organization Recognition
4 and Registration Act if such PEO:

5 a. submits a properly executed request for exemption on a
6 form provided by the Department,

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

12 c. does not maintain an office in this state or solicit
13 in any manner clients located or domiciled within this
14 state, and

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

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

21 H. List. The Commissioner shall maintain a list of
22 professional employer organizations registered or exempted under the
23 Oklahoma Professional Employer Organization Recognition and
24 Registration Act and a list of approved assurance organizations.

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

3 J. The Commissioner is authorized to promulgate reasonable
4 rules necessary for the administration and implementation of this
5 section.

6 K. Nothing in this section shall limit or change the authority
7 of the Commissioner to register or terminate registration of a PEO
8 or PEO Group or to investigate or enforce any provision of the
9 Oklahoma Professional Employer Organization Recognition and
10 Registration Act.

11 SECTION 2. This act shall become effective November 1, 2011.

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13 53-1-5369 SDR 01/19/11

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