

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 2446

By: Quinn

4
5 AS INTRODUCED

6 An Act relating to labor; amending 40 O.S. 2011,
7 Section 600.4, which relates to renewal of
8 registration by professional employer organizations;
9 providing for late-registration renewal fee; and
10 providing an effective date.

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

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

14 Section 600.4 A. Registration required. Except as otherwise
15 provided in the Oklahoma Professional Employer Organization
16 Recognition and Registration Act, no person shall, unless the person
17 is registered as a PEO or PEO Group under the Oklahoma Professional
18 Employer Organization Recognition and Registration Act, provide,
19 advertise, or otherwise hold itself out as providing professional
20 employer services in this state.

21 B. Registration information.

22 1. Each PEO or PEO Group required to be registered under the
23 Oklahoma Professional Employer Organization Recognition and
24 Registration Act shall provide the Insurance Commissioner with

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

- 13 a. the name or names under which the PEO or PEO Group
14 conducts business,
- 15 b. the address of the principal place of business of the
16 PEO or PEO Group and the address of each office it
17 maintains in this state,
- 18 c. the PEO's or PEO Group's taxpayer or employer
19 identification number,
- 20 d. a list by jurisdiction of each name under which the
21 PEO or PEO Group has operated in the preceding five
22 (5) years, including any alternative names, names of
23 predecessors and, if known, successor business
24 entities,

- 1 e. a statement of ownership, which shall include the name
2 and evidence of the business experience of any person
3 that, individually or acting in concert with one or
4 more other persons, owns or controls, directly or
5 indirectly, twenty-five percent (25%) or more of the
6 equity interests of the PEO or PEO Group,
- 7 f. a statement of management, which shall include the
8 name and evidence of the business experience of any
9 person who serves as president, chief executive
10 officer, or otherwise has the authority to act as
11 senior executive officer of the PEO or PEO Group, and
- 12 g. a financial statement setting forth the financial
13 condition of the PEO or PEO Group, as of a date not
14 earlier than one hundred eighty (180) days prior to
15 the date submitted to the Commissioner, prepared in
16 accordance with generally accepted accounting
17 principles, and audited or reviewed by an independent
18 certified public accountant licensed to practice in
19 the jurisdiction in which such accountant is located.
20 A PEO Group may submit combined or consolidated
21 audited or reviewed financial statements to meet the
22 requirements of this section.

23 2. The financial statement required by subparagraph g of
24 paragraph 1 of this subsection may be dated as of a date that is not

1 earlier than three hundred sixty-five (365) days before the date on
2 which the application is submitted in the event the PEO or PEO Group
3 provides the following:

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

20 3. For purposes of the Oklahoma Professional Employer
21 Organization Recognition and Registration Act, "assurance
22 organization" means an independent entity approved by the
23 Commissioner to certify the qualifications of a PEO or PEO Group for
24 registration under this section and Section 600.6 of this title and

1 any related requirements and procedures. To be considered for
2 approval as an independent and qualified assurance organization, the
3 assurance organization shall submit a written request for approval
4 to the Commissioner. The written request shall include, but not be
5 limited to, the following:

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

15 b. evidence that the assurance organization has
16 documented qualifications, standards, procedures, and
17 financial assurance acceptable to the Commissioner and
18 is licensed or otherwise approved by one or more
19 states to certify the qualifications of PEOs or PEO
20 Groups,

21 c. an agreement to provide information, compliance
22 monitoring services, and a level of financial
23 assurance as deemed acceptable by the Commissioner,
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1 d. an agreement to provide the Commissioner with an
2 application that has been executed by each PEO or PEO
3 Group requesting alternative registration under this
4 section and Section 600.6 of this title and related
5 requirements and procedures in a form approved by the
6 Commissioner. The application shall:

7 (1) authorize the assurance organization to share
8 with the Commissioner any application and
9 compliance reporting information required under
10 the Oklahoma Professional Employer Organization
11 Recognition and Registration Act that has been
12 provided to the assurance organization by the PEO
13 or PEO Group,

14 (2) authorize the Commissioner to accept information
15 shared by the assurance organization for
16 registration or renewal of registration of the
17 PEO or PEO Group as if the information was
18 provided directly to the Commissioner by the PEO
19 or PEO Group,

20 (3) provide the certification of the PEO or PEO Group
21 that the information provided by the assurance
22 organization to the Commissioner is true and
23 complete and that the PEO or PEO Group is in full
24 and complete compliance with all requirements of

1 the Oklahoma Professional Employer Organization
2 Recognition and Registration Act, and

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

- 13 e. an agreement to provide written notice to the
14 Commissioner within two (2) business days of
15 determination by the assurance organization of the
16 failure of a PEO or PEO Group to meet the
17 qualifications for registration under the Oklahoma
18 Professional Employer Organization Recognition and
19 Registration Act or determination by the assurance
20 organization of the failure of the PEO or PEO Group to
21 meet the qualifications for accreditation or
22 certification by the assurance organization, and
23 f. an agreement to share with the Commissioner in a
24 timely manner the information and supporting

1 documentation provided to the assurance organization
2 by the PEO or PEO Group similar to the information and
3 documentation required for registration or renewal of
4 registration under the Oklahoma Professional Employer
5 Organization Recognition and Registration Act.

6 C. Initial registration.

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

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

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

19 ~~1. Remains~~

20 a. remains in good standing and otherwise is entitled to
21 be registered pursuant to the Oklahoma Professional
22 Employer Organization Recognition and Registration
23 Act, ~~1.~~

24 ~~2. Files~~

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

- 4 a. submits a properly executed request for exemption on a
5 form provided by the Department,
- 6 b. is domiciled outside this state and is licensed or
7 registered as a professional employer organization in
8 another state that has the same or greater
9 requirements as the Oklahoma Professional Employer
10 Organization Recognition and Registration Act,
- 11 c. does not maintain an office in this state or solicit
12 in any manner clients located or domiciled within this
13 state, and
- 14 d. does not have more than twenty-five covered employees
15 employed or domiciled in this state; and

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

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

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, 2012.

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