

COMMITTEE AMENDMENT

HOUSE OF REPRESENTATIVES

State of Oklahoma

SPEAKER:

CHAIR:

I move to amend SB196 _____
 _____ Of the printed Bill
 Page _____ Section _____ Lines _____
 _____ Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Amendment submitted by: Jeff Boatman

Adopted: _____

Reading Clerk

1 STATE OF OKLAHOMA

2 2nd Session of the 58th Legislature (2022)

3 PROPOSED
4 COMMITTEE SUBSTITUTE
5 FOR ENGROSSED
6 SENATE BILL NO. 196

By: Rader of the Senate

and

Boatman of the House

7
8
9
10 PROPOSED COMMITTEE SUBSTITUTE

11 An Act relating to the Oklahoma Professional Employer
12 Organization Recognition and Registration Act;
13 amending 40 O.S. 2021, Sections 600.2, 600.4, and
14 600.6, which relate to registration and tax
15 requirements; modifying definitions; authorizing
16 owner to certify certain financial statements,
17 payment of payroll taxes, and other employer
18 payments; providing an effective date.

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

20 SECTION 1. AMENDATORY 40 O.S. 2021, Section 600.2, is
21 amended to read as follows:

22 Section 600.2 1. "Client" means any person who enters into a
23 coemployment relationship as a coemployer with a professional
24 employer organization (PEO);

2. "Coemployer" means either a PEO or a client;

3. "Coemployment relationship" means:

1 a. as between coemployers, a relationship whereby the
2 rights, duties and obligations of an employer which
3 arise out of an employment relationship have been
4 allocated between coemployers pursuant to a
5 professional employer agreement and the Oklahoma
6 Professional Employer Organization Recognition and
7 Registration Act, and which is intended to be an
8 ongoing relationship, rather than a temporary or
9 ~~project-specific~~ project-specific relationship, and

10 b. as between each PEO and a covered employee as to which
11 a professional employer agreement applies, an
12 employment relationship whereby:

13 (1) such PEO is entitled to enforce those rights, and
14 obligated to perform those duties and
15 obligations, allocated to such PEO by the
16 professional employer agreement and the Oklahoma
17 Professional Employer Organization Recognition
18 and Registration Act, and

19 (2) such covered employee is entitled to enforce
20 against such PEO those duties and obligations
21 allocated to the PEO by the professional employer
22 agreement and the Oklahoma Professional Employer
23 Organization Recognition and Registration Act;

24

1 c. as between each client and a covered employee to which
2 a professional employer agreement applies and
3 employment relationship whereby:

4 (1) such client is entitled to enforce those rights,
5 and obligated to provide and perform those
6 employer obligations allocated to such client by
7 the professional employer agreement and the
8 Oklahoma Professional Employer Organization
9 Recognition and Registration Act and whereby such
10 client is responsible for any employer right or
11 obligation not otherwise allocated by the
12 professional employer agreement of the Oklahoma
13 Professional Employer Organization Recognition
14 and Registration Act, and

15 (2) such covered employee is entitled to enforce
16 against such client those duties and obligations
17 allocated to the client by the professional
18 employer agreement and the Oklahoma Professional
19 Employer Organization Recognition and
20 Registration Act and any other duties and
21 obligations of an employer not otherwise
22 allocated by the professional employer agreement
23 or the Oklahoma Professional Employer
24 Organization Recognition and Registration Act;

1 4. "Commissioner" means the Insurance Commissioner of the State
2 of Oklahoma;

3 5. "Covered Employee" means an individual having a coemployment
4 relationship with a PEO and a client who have entered into a
5 professional employer agreement with respect to such person, and
6 shall include the client's officers, directors, shareholders,
7 partners and managers to the extent such persons act as operational
8 managers or perform services for the client;

9 6. "Department" means the Department of Insurance of the State
10 of Oklahoma;

11 7. "Owner" means (i) any individual who operates a Professional
12 Employer Organization as a sole proprietorship, or (ii) any
13 individual who owns a majority of the issued and outstanding shares
14 of stock in the case of a corporation, units in the case of a
15 limited liability entity, or partnership/association interest in the
16 case of a partnership/association, or, (iii) in the case of a
17 business entity where no single individual owns a majority of the
18 issued and outstanding shares of stock, units, or
19 partnership/association interest, any individual who owns as many
20 shares of issued and outstanding shares of stock, units, or
21 partnership/association interest as any other owner, or (iv) the
22 president, chairperson of the board, managing member, or general
23 partner of the Professional Employer Organization;
24

1 8. "Person" means any individual, partnership, corporation,
2 limited liability company, association, or any other form of legally
3 recognized entity;

4 ~~8.~~ 9. "Professional employer agreement" means a written
5 contract by and between a client and a PEO under which the PEO and
6 the client agree to establish a coemployment relationship and which
7 satisfies the requirements of subsection C of Section ~~7 of this act~~
8 600.7 of this title;

9 ~~9.~~ 10. "Professional Employer Organization" or PEO means any
10 person engaged in the business of providing professional employer
11 services. A person engaged in the business of providing
12 professional employer services shall be subject to registration
13 under the Oklahoma Professional Employer Organization Recognition
14 and Registration Act regardless of its use of the term "professional
15 employer organization", "PEO", "staff leasing company", "registered
16 staff leasing company", "employee leasing company", or any other
17 name;

18 ~~10.~~ 11. "Professional employer services" means the service of
19 entering into coemployment relationships under the Oklahoma
20 Professional Employer Organization Recognition and Registration Act,
21 in which, except in isolated instances, all or a majority of the
22 employees providing services to a client or to a division or work
23 unit of client are covered employees;

24

1 ~~11.~~ 12. "Registrant" means a PEO registered under the Oklahoma
2 Professional Employer Organization Recognition and Registration Act;
3 and

4 ~~12.~~ 13. "Temporary help services" means a service whereby a
5 person hires workers and assigns them to a person for a temporary
6 time period or nonpermanent basis to support or supplement the other
7 person's workforce in special work situations such as, but not
8 limited to, employee absences, temporary skill shortages, seasonal
9 workloads, and special assignments and projects. Temporary help
10 services shall not be deemed professional employer services.

11 SECTION 2. AMENDATORY 40 O.S. 2011, Section 600.4, is
12 amended to read as follows:

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

20 B. Registration information.

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

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

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

24

- 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 certified by an owner or audited or
18 reviewed by an independent certified public accountant
19 licensed to practice in the jurisdiction in which such
20 accountant is located. A PEO Group may submit
21 combined or consolidated audited or reviewed financial
22 statements to meet the 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 owner or an independent
14 Certified Public Accountant that as of the end of the
15 most recent calendar quarter, the PEO or PEO Group has
16 paid all of its state and federal payroll taxes,
17 health and workers' compensation premiums, and
18 contributions to employee retirement plans in a timely
19 and appropriate 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,
24

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 a. remains in good standing and otherwise is entitled to
20 be registered pursuant to the Oklahoma Professional
21 Employer Organization Recognition and Registration
22 Act,
23 b. files with the Commissioner a renewal application on a
24 form prescribed by the Commissioner, and

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

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

7 E. Group registration. Any two or more PEOs held under common
8 control of any other person or persons acting in concert may be
9 registered as a PEO Group. A PEO Group may satisfy any reporting
10 and financial requirements of this registration law on a
11 consolidated basis.

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

20 G. De minimis exemption.

21 1. A PEO is exempt from the registration requirements payable
22 under the Oklahoma Professional Employer Organization Recognition
23 and Registration Act if such PEO:
24

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

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

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

21 I. Forms. The Commissioner may prescribe forms necessary to
22 promote the efficient administration of this section.
23
24

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

4 K. The Commissioner may reject an application for registration,
5 renewal of registration, or for an exemption from registration if
6 the Commissioner finds that:

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

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

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

11 4. The applicant or any person named in the application
12 misrepresents material in the application;

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

16 6. The controlling person has violated a provision of the
17 Oklahoma Professional Employer Organization Recognition and
18 Registration Act.

19 SECTION 3. AMENDATORY 40 O.S. 2021, Section 600.6, is
20 amended to read as follows:

21 Section 600.6 A. Net worth and bonding. Each PEO shall
22 maintain either:

23 1. A minimum net worth of Fifty Thousand Dollars (\$50,000.00),
24 as reflected in the financial statements submitted to the

1 Commissioner with the initial registration and each annual renewal;
2 or

3 2. A bond or securities with a minimum market value of Fifty
4 Thousand Dollars (\$50,000.00), held by a depository designated by
5 the Commissioner, securing payment by the PEO of all taxes, wages,
6 benefits or other entitlement due to or with respect to a covered
7 employee, if the PEO does not make such payments when due. Any bond
8 or securities deposited under this subsection shall not be included
9 for the purpose of calculation of the minimum net worth required by
10 this subsection.

11 B. Payroll tax payments. A PEO shall submit to the
12 Commissioner, within ninety (90) days after the end of each calendar
13 quarter, a statement by an owner or an independent certified public
14 accountant that all applicable state payroll taxes for covered
15 employees located in this state have been paid on a timely basis for
16 that quarter.

17 C. Record confidentiality. All records, reports and other
18 information obtained from a PEO under the Oklahoma Professional
19 Employer Organization Recognition and Registration Act, except to
20 the extent necessary for the proper administration of the Oklahoma
21 Professional Employer Organization Recognition and Registration Act
22 by the Department, shall be confidential and shall not be published
23 or open to public inspection other than to public employees in the
24 performance of their public duties.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

SECTION 4. This act shall become effective November 1, 2022.

58-2-11205 MAH 03/30/22