

1 ENGROSSED SENATE  
2 BILL NO. 196

By: Rader of the Senate

3 and

4 Boatman of the House

5  
6 [ Oklahoma Professional Employer Organization  
7 Recognition and Registration Act - registration and  
8 tax requirements - financial statements and payment  
9 of payroll taxes - effective date ]

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

11 SECTION 1. AMENDATORY 40 O.S. 2011, Section 600.2, is  
12 amended to read as follows:

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

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

17 3. "Coemployment relationship" means:

18 a. as between coemployers, a relationship whereby the  
19 rights, duties and obligations of an employer which  
20 arise out of an employment relationship have been  
21 allocated between coemployers pursuant to a  
22 professional employer agreement and the Oklahoma  
23 Professional Employer Organization Recognition and  
24 Registration Act, and which is intended to be an

1 ongoing relationship, rather than a temporary or  
2 ~~project specific~~ project-specific relationship, and

3 b. as between each PEO and a covered employee as to which  
4 a professional employer agreement applies, an  
5 employment relationship whereby:

6 (1) such PEO is entitled to enforce those rights, and  
7 obligated to perform those duties and  
8 obligations, allocated to such PEO by the  
9 professional employer agreement and the Oklahoma  
10 Professional Employer Organization Recognition  
11 and Registration Act, and

12 (2) such covered employee is entitled to enforce  
13 against such PEO those duties and obligations  
14 allocated to the PEO by the professional employer  
15 agreement and the Oklahoma Professional Employer  
16 Organization Recognition and Registration Act;

17 c. as between each client and a covered employee to which  
18 a professional employer agreement applies and  
19 employment relationship whereby:

20 (1) such client is entitled to enforce those rights,  
21 and obligated to provide and perform those  
22 employer obligations allocated to such client by  
23 the professional employer agreement and the  
24 Oklahoma Professional Employer Organization

1 Recognition and Registration Act and whereby such  
2 client is responsible for any employer right or  
3 obligation not otherwise allocated by the  
4 professional employer agreement of the Oklahoma  
5 Professional Employer Organization Recognition  
6 and Registration Act, and

7 (2) such covered employee is entitled to enforce  
8 against such client those duties and obligations  
9 allocated to the client by the professional  
10 employer agreement and the Oklahoma Professional  
11 Employer Organization Recognition and  
12 Registration Act and any other duties and  
13 obligations of an employer not otherwise  
14 allocated by the professional employer agreement  
15 or the Oklahoma Professional Employer  
16 Organization Recognition and Registration Act;

17 4. "Commissioner" means the Insurance Commissioner of the State  
18 of Oklahoma;

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

1       6. "Department" means the Department of Insurance of the State  
2 of Oklahoma;

3       7. "Person" means any individual, partnership, corporation,  
4 limited liability company, association, or any other form of legally  
5 recognized entity;

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

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

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

1        11. "Qualified attorney" means an attorney licensed to practice  
2 in the jurisdiction in which such attorney is located who is  
3 competent based on the attorney's education, training and experience  
4 in matters requiring a statement, registration or certification for  
5 a Professional Employer Organization (PEO) involving federal and  
6 State of Oklahoma income tax withholding payment requirements,  
7 payment of employer-sponsored health insurance premiums, payment of  
8 State of Oklahoma unemployment and workers' compensation insurance  
9 premiums, payment of financial contributions to employee retirement  
10 plans and review or preparation of financial statements prepared in  
11 accordance with generally accepted accounting principles;

12        12. "Registrant" means a PEO registered under the Oklahoma  
13 Professional Employer Organization Recognition and Registration Act;  
14 and

15        ~~12.~~ 13. "Temporary help services" means a service whereby a  
16 person hires workers and assigns them to a person for a temporary  
17 time period or nonpermanent basis to support or supplement the other  
18 person's workforce in special work situations such as, but not  
19 limited to, employee absences, temporary skill shortages, seasonal  
20 workloads, and special assignments and projects. Temporary help  
21 services shall not be deemed professional employer services.

22        SECTION 2.        AMENDATORY        40 O.S. 2011, Section 600.4, as  
23 amended by Section 1, Chapter 238, O.S.L. 2012 (40 O.S. Supp. 2020,  
24 Section 600.4), is amended to read as follows:

1 Section 600.4. A. Registration required. Except as otherwise  
2 provided in the Oklahoma Professional Employer Organization  
3 Recognition and Registration Act, no person shall, unless the person  
4 is registered as a PEO or PEO Group under the Oklahoma Professional  
5 Employer Organization Recognition and Registration Act, provide,  
6 advertise, or otherwise hold itself out as providing professional  
7 employer services in this state.

8 B. Registration information.

9 1. Each PEO or PEO Group required to be registered under the  
10 Oklahoma Professional Employer Organization Recognition and  
11 Registration Act shall provide the Insurance Commissioner with  
12 information required by the Commissioner on forms prescribed by the  
13 Commissioner. Pursuant to paragraph 2 of this subsection, a PEO or  
14 PEO Group may use a qualified assurance organization as approved by  
15 the Commissioner to provide services related to the registration of  
16 the PEO or PEO Group. A PEO or PEO Group may authorize an assurance  
17 organization to act on behalf of the PEO or PEO Group in complying  
18 with the registration requirements set forth in the Oklahoma  
19 Professional Employer Organization Recognition and Registration Act,  
20 including, but not limited to, electronic filings of information and  
21 payment of registration fees. At a minimum, PEOs, PEO Groups or an  
22 approved assurance organization acting on behalf of the PEO or PEO  
23 Group shall provide the following information:  
24

- 1 a. the name or names under which the PEO or PEO Group  
2 conducts business,
- 3 b. the address of the principal place of business of the  
4 PEO or PEO Group and the address of each office it  
5 maintains in this state,
- 6 c. the PEO's or PEO Group's taxpayer or employer  
7 identification number,
- 8 d. a list by jurisdiction of each name under which the  
9 PEO or PEO Group has operated in the preceding five  
10 (5) years, including any alternative names, names of  
11 predecessors and, if known, successor business  
12 entities,
- 13 e. a statement of ownership, which shall include the name  
14 and evidence of the business experience of any person  
15 that, individually or acting in concert with one or  
16 more other persons, owns or controls, directly or  
17 indirectly, twenty-five percent (25%) or more of the  
18 equity interests of the PEO or PEO Group,
- 19 f. a statement of management, which shall include the  
20 name and evidence of the business experience of any  
21 person who serves as president, chief executive  
22 officer, or otherwise has the authority to act as  
23 senior executive officer of the PEO or PEO Group, and  
24

1 g. a financial statement setting forth the financial  
2 condition of the PEO or PEO Group, as of a date not  
3 earlier than one hundred eighty (180) days prior to  
4 the date submitted to the Commissioner, prepared in  
5 accordance with generally accepted accounting  
6 principles, and certified by a qualified attorney or  
7 audited or reviewed by an independent certified public  
8 accountant licensed to practice in the jurisdiction in  
9 which such accountant is located. A PEO Group may  
10 submit combined or consolidated audited or reviewed  
11 financial statements to meet the requirements of this  
12 section.

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

- 18 a. evidence that is acceptable to the Commissioner that  
19 it is licensed or registered in good standing in  
20 another state with equal or greater requirements than  
21 the requirements of the Oklahoma Professional Employer  
22 Organization Recognition and Registration Act,  
23 b. quarterly financial statements of management for each  
24 calendar quarter as of the most recent audit that



1 demonstrate continuing financial operations acceptable  
2 to the Commissioner, and

3 c. the certification of a qualified attorney or an  
4 independent Certified Public Accountant that as of the  
5 end of the most recent calendar quarter, the PEO or  
6 PEO Group has paid all of its state and federal  
7 payroll taxes, health and workers' compensation  
8 premiums, and contributions to employee retirement  
9 plans in a timely and appropriate manner.

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

20 a. evidence that the assurance organization is  
21 independent and has an established national program  
22 for the accreditation and financial assurance of PEOs  
23 and PEO Groups based on requirements similar to the  
24 requirements of the Oklahoma Professional Employer

1 Organization Recognition and Registration Act, and any  
2 rules promulgated for the implementation of the  
3 Oklahoma Professional Employer Organization  
4 Recognition and Registration Act,

5 b. evidence that the assurance organization has  
6 documented qualifications, standards, procedures, and  
7 financial assurance acceptable to the Commissioner and  
8 is licensed or otherwise approved by one or more  
9 states to certify the qualifications of PEOs or PEO  
10 Groups,

11 c. an agreement to provide information, compliance  
12 monitoring services, and a level of financial  
13 assurance as deemed acceptable by the Commissioner,

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

20 (1) authorize the assurance organization to share  
21 with the Commissioner any application and  
22 compliance reporting information required under  
23 the Oklahoma Professional Employer Organization  
24 Recognition and Registration Act that has been

1 provided to the assurance organization by the PEO  
2 or PEO Group,

3 (2) authorize the Commissioner to accept information  
4 shared by the assurance organization for  
5 registration or renewal of registration of the  
6 PEO or PEO Group as if the information was  
7 provided directly to the Commissioner by the PEO  
8 or PEO Group,

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

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

- e. an agreement to provide written notice to the Commissioner within two (2) business days of determination by the assurance organization of the failure of a PEO or PEO Group to meet the qualifications for registration under the Oklahoma Professional Employer Organization Recognition and Registration Act or determination by the assurance organization of the failure of the PEO or PEO Group to meet the qualifications for accreditation or certification by the assurance organization, and
- f. an agreement to share with the Commissioner in a timely manner the information and supporting documentation provided to the assurance organization by the PEO or PEO Group similar to the information and documentation required for registration or renewal of registration under the Oklahoma Professional Employer Organization Recognition and Registration Act.

C. Initial registration.

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

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

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

9           a. remains in good standing and otherwise is entitled to  
10 be registered pursuant to the Oklahoma Professional  
11 Employer Organization Recognition and Registration  
12 Act,

13           b. files with the Commissioner a renewal application on a  
14 form prescribed by the Commissioner, and

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

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

21           E. Group registration. Any two or more PEOs held under common  
22 control of any other person or persons acting in concert may be  
23 registered as a PEO Group. A PEO Group may satisfy any reporting  
24

1 and financial requirements of this registration law on a  
2 consolidated basis.

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

11 G. De minimis exemption.

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

- 15 a. submits a properly executed request for exemption on a  
16 form provided by the Department,
- 17 b. is domiciled outside this state and is licensed or  
18 registered as a professional employer organization in  
19 another state that has the same or greater  
20 requirements as the Oklahoma Professional Employer  
21 Organization Recognition and Registration Act,
- 22 c. does not maintain an office in this state or solicit  
23 in any manner clients located or domiciled within this  
24 state, and

1           d.    does not have more than twenty-five covered employees  
2                   employed or domiciled in this state.

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

7           H.    List.   The Commissioner shall maintain a list of  
8 professional employer organizations registered or exempted under the  
9 Oklahoma Professional Employer Organization Recognition and  
10 Registration Act and a list of approved assurance organizations.

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

13          J.    The Commissioner is authorized to promulgate reasonable  
14 rules necessary for the administration and implementation of this  
15 section.

16          K.    The Commissioner may reject an application for registration,  
17 renewal of registration, or for an exemption from registration if  
18 the Commissioner finds that:

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

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

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

23           4.    The applicant or any person named in the application  
24 misrepresents material in the application;

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 3.       AMENDATORY       40 O.S. 2011, Section 600.6, is  
8 amended to read as follows:

9       Section 600.6. A. Net worth and bonding. Each PEO shall  
10 maintain either:

11       1. A minimum net worth of Fifty Thousand Dollars (\$50,000.00),  
12 as reflected in the financial statements submitted to the  
13 Commissioner with the initial registration and each annual renewal;  
14 or

15       2. A bond or securities with a minimum market value of Fifty  
16 Thousand Dollars (\$50,000.00), held by a depository designated by  
17 the Commissioner, securing payment by the PEO of all taxes, wages,  
18 benefits or other entitlement due to or with respect to a covered  
19 employee, if the PEO does not make such payments when due. Any bond  
20 or securities deposited under this subsection shall not be included  
21 for the purpose of calculation of the minimum net worth required by  
22 this subsection.

23       B. Payroll tax payments. A PEO shall submit to the  
24 Commissioner, within ninety (90) days after the end of each calendar



1 quarter, a statement by a qualified attorney or an independent  
2 certified public accountant that all applicable state payroll taxes  
3 for covered employees located in this state have been paid on a  
4 timely basis for that quarter.

5 C. Record confidentiality. All records, reports and other  
6 information obtained from a PEO under the Oklahoma Professional  
7 Employer Organization Recognition and Registration Act, except to  
8 the extent necessary for the proper administration of the Oklahoma  
9 Professional Employer Organization Recognition and Registration Act  
10 by the Department, shall be confidential and shall not be published  
11 or open to public inspection other than to public employees in the  
12 performance of their public duties.

13 SECTION 4. This act shall become effective November 1, 2021.

14 Passed the Senate the 11th day of March, 2021.

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Presiding Officer of the Senate

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18 Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,

19 2021.

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Presiding Officer of the House  
of Representatives

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