

1 **SENATE FLOOR VERSION**

2 February 27, 2023

3 SENATE BILL NO. 638

By: Montgomery of the Senate

4 and

5 Sneed of the House

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7
8 An Act relating to the Oklahoma Professional Employer
9 Organization Recognition and Registration Act;
10 amending 40 O.S. 2021, Section 600.4, which relates
11 to registration; requiring electronic submission of
12 registration application; extending time period for
13 the submission of a financial statement; requiring
14 electronic submission of a change in name, address,
15 or contact information by certain time; prescribing a
16 fee; removing provisions for initial registration;
17 modifying provisions for renewal of registration;
18 increasing time frame for renewal; requiring
19 reapplication if past certain time frame; prescribing
20 fees for late registration; requiring response to
21 Insurance Commissioner inquiry in a certain time
22 frame; expanding scope for rejection of application;
23 and providing an effective date.
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18 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

19 SECTION 1. AMENDATORY 40 O.S. 2021, 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

1 Employer Organization Recognition and Registration Act, provide,
2 advertise, or otherwise hold itself out as providing professional
3 employer services in this state.

4 B. Registration information.

5 1. Each PEO or PEO Group required to be registered under the
6 Oklahoma Professional Employer Organization Recognition and
7 Registration Act shall ~~provide~~ electronically submit a complete
8 registration application to the Insurance Commissioner with
9 ~~information required by the Commissioner on forms~~ in a manner and
10 form prescribed by the Commissioner, along with any applicable fees.

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

22 a. the name or names under which the PEO or PEO Group
23 conducts business,

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- 1 b. the address of the principal place of business of the
2 PEO or PEO Group and the address of each office it
3 maintains in this state,
- 4 c. the PEO's or PEO Group's taxpayer or employer
5 identification number,
- 6 d. a list by jurisdiction of each name under which the
7 PEO or PEO Group has operated in the preceding five
8 (5) years, including any alternative names, names of
9 predecessors and, if known, successor business
10 entities,
- 11 e. a statement of ownership, which shall include the name
12 and evidence of the business experience of any person
13 that, individually or acting in concert with one or
14 more other persons, owns or controls, directly or
15 indirectly, twenty-five percent (25%) or more of the
16 equity interests of the PEO or PEO Group,
- 17 f. a statement of management, which shall include the
18 name and evidence of the business experience of any
19 person who serves as president, chief executive
20 officer, or otherwise has the authority to act as
21 senior executive officer of the PEO or PEO Group, and
- 22 g. a financial statement setting forth the financial
23 condition of the PEO or PEO Group, as of a date not
24 earlier than ~~one hundred eighty (180)~~ three hundred

1 sixty-five (365) days prior to the date submitted to
2 the Commissioner, prepared in accordance with
3 generally accepted accounting principles, and audited
4 or reviewed by an independent certified public
5 accountant licensed to practice in the jurisdiction in
6 which such accountant is located. A PEO Group may
7 submit combined or consolidated audited or reviewed
8 financial statements to meet the requirements of this
9 section.

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

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

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

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

18 a. evidence that the assurance organization is
19 independent and has an established national program
20 for the accreditation and financial assurance of PEOs
21 and PEO Groups based on requirements similar to the
22 requirements of the Oklahoma Professional Employer
23 Organization Recognition and Registration Act, and any
24 rules promulgated for the implementation of the

1 Oklahoma Professional Employer Organization

2 Recognition and Registration Act,

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

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

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

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

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

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

14 (4) provide the certification of the assurance
15 organization that the PEO or PEO Group is in
16 compliance with the standards and procedures of
17 the assurance organization which are similar to
18 the requirements of the Oklahoma Professional
19 Employer Organization Recognition and
20 Registration Act and is qualified for
21 registration or renewal of registration under the
22 Oklahoma Professional Employer Organization
23 Recognition and Registration Act,
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- 1 e. an agreement to provide written notice to the
2 Commissioner within two (2) business days of
3 determination by the assurance organization of the
4 failure of a PEO or PEO Group to meet the
5 qualifications for registration under the Oklahoma
6 Professional Employer Organization Recognition and
7 Registration Act or determination by the assurance
8 organization of the failure of the PEO or PEO Group to
9 meet the qualifications for accreditation or
10 certification by the assurance organization, and
11 f. an agreement to share with the Commissioner in a
12 timely manner the information and supporting
13 documentation provided to the assurance organization
14 by the PEO or PEO Group similar to the information and
15 documentation required for registration or renewal of
16 registration under the Oklahoma Professional Employer
17 Organization Recognition and Registration Act.

18 4. Each person, PEO, or PEO Group shall electronically submit,
19 in a form and manner prescribed by the Commissioner, along with any
20 applicable fees, any change of legal business name, "doing business
21 as" or assumed name, address, or contact email address within thirty
22 (30) days after the change occurred. Any submission of a change of
23 legal name, "doing business as" or assumed name, address, or contact
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1 email address received more than thirty (30) days after the change
2 occurred shall be accompanied by a fee of Fifty Dollars (\$50.00).

3 C. ~~Initial registration.~~

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

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

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

16 a. remains in good standing and otherwise is entitled to
17 be registered pursuant to the Oklahoma Professional
18 Employer Organization Recognition and Registration
19 Act,

20 b. files with the Commissioner a renewal application on a
21 form prescribed by the Commissioner, and

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

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1 2. ~~A registration shall be considered late thirty (30) days~~
2 ~~after the renewal date. Any registration received more than thirty~~
3 ~~(30) days after the renewal date shall be accompanied by a late~~
4 ~~registration fee of Five Hundred Dollars (\$500.00) A registration~~
5 expired for failure to submit a renewal application may be
6 reinstated within ninety (90) days after the expiration date by
7 electronically submitting a fee in an amount that is twice the
8 amount of the renewal fee and a renewal application in the form and
9 manner prescribed by the Insurance Commissioner, along with any
10 transaction or other applicable fees. The Commissioner shall
11 require a person, PEO, or PEO Group whose registration has been
12 expired for more than ninety (90) days to reapply as if a new
13 applicant and pay an application fee equal to an amount that is
14 twice the initial application fee in addition to any fines imposed.
15 All applications received after the registration has been expired
16 for more than ninety (90) days shall include a detailed report of
17 professional employer services provided in this state during the
18 period of expired registration.

19 ~~E.~~ D. Group registration. Any two or more PEOs held under
20 common control of any other person or persons acting in concert may
21 be registered as a PEO Group. A PEO Group may satisfy any reporting
22 and financial requirements of this registration law on a
23 consolidated basis.

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

9 ~~G.~~ F. De minimis exemption.

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

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

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

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

9 ~~I.~~ H. Forms. The Commissioner may prescribe forms necessary to
10 promote the efficient administration of this section.

11 ~~J.~~ I. The Commissioner is authorized to promulgate reasonable
12 rules necessary for the administration and implementation of this
13 section.

14 J. Every person, PEO, or PEO Group, upon receipt of any inquiry
15 from the Commissioner, shall, within twenty (20) days from the date
16 of receipt of the inquiry, furnish the Commissioner with an adequate
17 response to the inquiry.

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

- 21 1. The application is not fully completed or properly executed;
- 22 2. Documents required to supplement the application are not
23 included in the application packet or are inadequate;
- 24 3. The registration fee is not submitted with the application;

1 4. The applicant or any person named in the application
2 misrepresents material in the application;

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

6 6. The controlling person has violated a provision of the
7 Oklahoma Professional Employer Organization Recognition and
8 Registration Act or rules promulgated thereto.

9 SECTION 2. This act shall become effective November 1, 2023.

10 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS AND COMMERCE
11 February 27, 2023 - DO PASS
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