

2023 Kansas Statutes

44-1704. Registration; requirements; application requirements; initial registration; renewal of registration; limited registration; audits. (a) A person engaged in the business of providing professional employer services pursuant to co-employment relationships in which all or a majority of the employees of a client are covered employees shall be registered pursuant to this section.

(b) A person who is not registered pursuant to this section shall not offer or provide professional employer services in this state, and shall not use the names PEO, professional employer organization, staff leasing company, employee leasing company, administrative employer or any other name or title representing professional employer services.

(c) Each applicant for registration shall submit an application to the commissioner in such form and manner as prescribed by the commissioner. The application shall contain the following information:

- (1) The name or names under which the professional employer organization conducts business;
- (2) the address of the principal place of business of the professional employer organization, and the address of each office the professional employer organization maintains in this state;
- (3) the professional employer organization's taxpayer or employer identification number;
- (4) a list, by jurisdiction, of each name under which the professional employer organization has operated in the preceding five years, including any alternative names, names of predecessors and, if known, successor business entities;
- (5) a statement of ownership that shall include the name and evidence of the business experience of any person that, individually, or acting in concert with one or more other persons, owns or controls, directly or indirectly, 15% or more of the equity interest of the professional employer organization;
- (6) a statement of management that shall include the name and evidence of the business experience of any individual who serves as president, chief executive officer or otherwise has the authority to act as senior executive officer of the professional employer organization; and
- (7) a financial statement setting forth the financial condition of the professional employer organization or professional employer group that shall comply with the provisions of subsection (h).

(d) (1) Each professional employer organization operating within this state as of the effective date of this act shall complete its initial registration not later than 60 days after the effective date of this act. Such initial registration shall be valid until 60 days from the end of the professional employer organization's first fiscal year that is more than one year after the effective date of this act.

(2) Each professional employer organization not operating within this state as of the effective date of this act shall complete its initial registration prior to initiating operations within this state. If a professional employer organization not registered in this state becomes aware that an existing client, not based in this state, has employees and operations in this state, the professional employer organization shall either decline to provide professional employer services for those employees, or notify the commissioner within five business days of the professional employer organization's knowledge of this fact and file a limited registration application pursuant to subsection (g), or a full registration if there are more than 50 covered employees employed by such client. The commissioner may issue an interim operating permit for the period of time the application is pending if the professional employer organization is currently registered or licensed by another state and the commissioner determines it is in the best interests of the potential covered employees.

(e) A registrant's application shall automatically expire 120 days after the end of the registrant's fiscal year. Within 120 days after the end of a registrant's fiscal year, such registrant shall renew its registration by notifying the commissioner of any changes in the information provided in such registrant's most recent registration or

renewal. A registrant's existing registration shall remain in effect for the period of time the renewal application is pending.

(f) Professional employer organizations in a professional employer group may satisfy any reporting and financial requirements of this section on a combined or consolidated basis, provided that each member of the professional employer group guarantees the financial capacity obligations required by K.S.A. 44-1706, and amendments thereto, of each other member of the professional employer group. In the case of a professional employer group that submits a combined or consolidated audited financial statement, including entities that are not professional employer organizations or that are not in the professional employer group, the controlling entity of the professional employer group under the consolidated or combined statement must guarantee the obligations of the professional employer organizations in the professional employer group.

(g) (1) A professional employer organization is eligible for a limited registration if such professional employer organization:

(A) Submits a written request for limited registration in such form and manner as prescribed by the commissioner;

(B) is domiciled outside this state and is licensed or registered as a professional employer organization in another state;

(C) does not maintain an office in this state or directly solicit clients located or domiciled within this state; and

(D) does not have more than 50 covered employees employed or domiciled in this state on any given day.

(2) A limited registration is valid for one year and may be renewed thereafter.

(3) A professional employer organization requesting limited registration under this subsection shall provide the commissioner with such information and documentation as required by the commissioner to show that the professional employer organization qualifies for a limited registration.

(4) The provisions of K.S.A. 44-1706, and amendments thereto, shall not apply to applicants for limited registration.

(h) At the time of initial registration, the applicant shall submit the most recent audit of the applicant or such applicant's parent holding company. The most recent audit shall not be older than 13 months. Thereafter, a professional employer organization or professional employer group shall file on an annual basis, within 120 days after the end of the professional employer organization's or parent holding company's fiscal year, a succeeding audit and renewal registration application. An applicant may apply to the commissioner for an extension of time to submit such audit, but any such request shall be accompanied by a letter from the auditor stating the reasons for the delay and the anticipated audit completion date. For the initial application, if the closing date of the audited financial statements required by this section is older than three months from the date of the application, the application also shall include updated, unaudited financial statements for the most recent quarter. The financial statement shall be prepared in accordance with generally accepted accounting principles and audited by an independent certified public accountant licensed to practice in the jurisdiction in which such accountant is located and shall be without qualification as to the going concern status of the professional employer organization. A professional employer group may submit combined or consolidated audited financial statements to meet the requirements of this section. A professional employer organization that has not had sufficient operating history to have audited financial statements based upon at least 12 months of operating history shall meet the financial capacity requirements of subsection (f) and present financial statements reviewed by a certified public accountant.

(i) The department shall maintain a list of professional employer organizations registered under this section, and such list shall be readily available to the public by electronic or other means.

(j) The commissioner, to the extent feasible, shall permit the acceptance of electronic filings, including applications, documents, reports and other filings required by the commissioner under this section. The commissioner may provide for the acceptance of electronic filings and other assurance documents by an independent and qualified entity approved by the commissioner that provides

satisfactory assurance of compliance acceptable to the commissioner consistent with, or in lieu of, the requirements of this section and K.S.A. 44-1706, and amendments thereto. The commissioner shall permit a professional employer organization to authorize such entity approved by the commissioner to act on the professional employer organization's behalf, including electronic filings of information and payment of registration fees in complying with the registration requirements of this section. Use of such an approved entity shall be optional and not mandatory for a registrant. Nothing in this subsection shall limit or change the commissioner's authority to register or terminate registration of a professional employer organization or to investigate or enforce any provision of K.S.A. 44-1701 through 44-1711, and amendments thereto.

History: L. 2012, ch. 142, § 4; L. 2021, ch. 108, § 20; July 1.