ALABAMA DEPARTMENT OF WORKFORCE
WORKERS' COMPENSATION
ADMINISTRATIVE CODE

CHAPTER 480-5-7
PROFESSIONAL EMPLOYER ORGANIZATIONS

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480-5-7-.01 Requirements Of Registration For Professional Employer Organizations

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(1) Registration of Professional Employer Organizations in Alabama is authorized by Alabama Act No. 2006-229. The following rules and regulations are adopted pursuant to the authority contained therein.

(2) Definitions as used herein:

(a) **Professional Employer Organization** – a person or entity engaged in the business of providing professional employer services through one or more professional employer organization arrangements. A person or entity providing professional employer services shall be deemed a professional employer organization regardless of its identification of itself or its services under one or more of the following terms – PEO, staff leasing company, registered staff leasing company, employee leasing company, or any other name.

(b) **Director** – the Director of the Department of Industrial Relations or the Director's official designee.

(c) **Division** – The Department of Industrial Relations, Workers' Compensation Division, Montgomery, Alabama 36131, phone number (334) 242-2868.

(d) **Act** – Alabama Professional Employer Organization Registration Act.

(e) **Security Amount** – the monetary security amount determined by the Director of the Department of Industrial Relations to constitute adequate security to insure the payment of any and all Alabama workers' compensation claims or unemployment taxes which a registered professional employer organization may be reasonably expected to incur.

(f) **Certificate** – A certificate of registration issued by the Alabama Department of Industrial Relations to a person or entity operating and registered as a professional employer organization.

(g) **Registrant** – A person or entity registered as a professional employer organization under the Alabama Professional Employer Organization Registration Act, or renewing a registration under the act.

(h) **Client** – A person or entity that enters into a professional employer agreement with a professional employer organization, including a worksite employer.

(i) **Controlling Person** – An officer or director of a corporation operating as a professional employer organization, a shareholder holding 25 percent or more of the voting stock or a corporation operating as a professional employer organization, a partner of a partnership operating as a professional employer organization, an individual who possesses, directly or indirectly, the power to direct or cause the direction of the management or policies of a company operating as a professional employer organization through the ownership of voting securities, by contract or otherwise, and who is actively involved in the day-to-day management of the company.

(3) Registration. Every professional employer organization seeking authority to operate as a PEO in Alabama shall register with the Department of Industrial Relations prior to commencement of operations within this state. The registration form shall be made on a form prescribed and approved by the Director, and shall include as attachments the following:

(a) A financial statement setting forth the financial condition of the professional employer organization as of a date not earlier than 180 days prior to the date submitted to the department and audited or reviewed by an independent certified public accountant licensed to practice in the jurisdiction in which such accountant is located, prepared in accordance with generally accepted accounting principles. If the audited or reviewed financial statements are dated more than 180 days prior to the date of registration, the Director may require interim certified financial statements or other interim reports as deemed reasonably appropriate. Any new PEO in business for less than one year may request a waiver of the audit or review procedures for financial statements. The Director shall have complete discretion whether to allow or disallow the waiver. In no event shall a registrant be allowed to request such a waiver after its first year of existence;

(b) A complete and current listing of all client employers located in Alabama or who have worksite employees that work in Alabama or are residents of Alabama;

(c) Proof of workers' compensation insurance for each covered employee in Alabama from a carrier properly licensed by the Alabama Department of Insurance, from a self-insured group fund properly approved by the Alabama Department of Industrial Relations, or by individual self-insurance authority granted by the Alabama Department of Industrial Relations;

(d) A list, by jurisdiction, of each name under which the registrant has operated in the preceding five (5) years; and

(e) An organizational chart of the registrant if part of a group/multiple professional employer organization majority owned by the same parent, entity or persons.

(f) The Director may request any other documents, forms, materials and information as are reasonably necessary to ascertain whether individuals affiliated with the registrant are qualified to serve as controlling persons.

(g) Such other supporting documents as may be deemed reasonably necessary by the act and the Director.

(4) Limited Registration. Every professional employer organization seeking authority to operate as a PEO in Alabama under a limited registration shall register with the Department of Industrial Relations prior to commencement of operations within this state. The limited registration form shall be made on a form prescribed and approved by the Director, verifying the professional employer organization:

(a) is domiciled outside the State of Alabama and registered or licensed as a professional employer organization in another state with substantially the same or similar requirements of those in Alabama;

(b) does not maintain an office in this state or solicit clients located or domiciled in Alabama; and

(c) does not have more than fifty (50) covered employees employed or domiciled in Alabama on any given day.

(5) Consolidated Registration. Every professional employer organization seeking to file a consolidated registration form for multiple PEO's majority owned by the same parent, entity or persons may do so on a form prescribed and approved by the Director.

(a) A subsidiary corporation may submit with is registration the consolidated financial statement of its parent corporation in lieu of its own along with a Parental Guarantee.

(b) Multiple professional employer organizations may only file reports and meet financial requirements on a consolidated basis if each company that is a part of the multiple employer organization group provides a guarantee for the obligations of each other member of the group.

(c) Such a guarantee may be in the form of an indemnification agreement or a resolution of the board of directors of the parent company authorizing the guarantee of workers' compensation and unemployment tax liabilities of a subsidiary PEO in the consolidated registration.

(d) Each professional employer organization involved in the consolidated registration must pay a separate registration fee.

(6) A registration fee, in the amount as specified below, shall accompany each registration form and shall be made payable to "DIR/PEO Fund" - Professional Employer Organization Registration Administrative Trust Fund. All registration fees are non-refundable, and any registration received without the appropriate fee cannot be considered and will be returned.

(a) $1,000.00 initial registration fee for each individual PEO.

(b) $500.00 renewal fee for each individual PEO.

(c) For initial consolidated registrations involving multiple PEO's, include $1,000.00 for the parent organization and $1,000.00 for each member of the group.

(d) For renewal consolidated registrations involving multiple PEO's, include $500.00 for the parent organization and $500.00 for each member of the group.

(e) $500.00 initial fee for each limited registration.

(f) $250.00 renewal fee for each limited registration.

(7) Financial Qualification Standards. A registrant must furnish satisfactory proof of sufficient financial resources to pay all workers' compensation claims and unemployment taxes for which it may become liable.

(a) A registrant must have and maintain, at all times, a net worth of not less than $100,000.00, as shown on the submitted audited or reviewed financial statements.

(b) The Director may accept net worth based upon audited financial statements in whole or in part for the financial requirements.

(c) The Director may accept additional securities acceptable to the Director in whole or in part for the financial requirements.

(d) In the event a Professional Employee Organization does not meet the $100,000 net worth requirement as demonstrated by audited financials, the Director may require a registrant to post a security amount in the form of a cash deposit with the Alabama State Treasury, or other security subject to the approval of the Director, to secure the payment of all unemployment taxes and workers' compensation claims payment due to or with respect to covered employees.

(e) The Director may require that any security or asset used to secure the payments of unemployment taxes and workers' compensation claims shall be maintained by a financial institution located in the State of Alabama.

(8) Certificate of Registration. The Director may issue a Certificate of Registration to each professional employer organization that has successfully registered with the Department, and that has controlling persons who are qualified to serve in said capacity. The certificate shall remain valid for a period of one year from the date of registration. Registrations cannot be accepted or approved retroactively.

(a) A certificate of registration shall be valid only to that entity to which it is issued. No professional employer organization has the authority to extend use of its registration certificate to any other person, firm or corporation, and the unauthorized extension of said use shall constitute good cause for refusal to renew the certificate.

(b) The Director may refuse to register or renew the registration of any professional employer organization that has violated or is in danger of violating the terms of these administrative rules or the act.

(9) Notice – Any notice required to be given by these rules and regulations to the Director shall be deemed proper if made in writing, addressed to Director, Department of Industrial Relations, Workers' Compensation Division, Montgomery, Alabama 36131. Any notice required by these rules and regulations to be given to a registered professional employer organization shall be deemed properly given if in writing and addressed to the employer at the address shown on either the registration form or the last annual report.
Author: Workers' Compensation Division
Statutory Authority: Alabama Act No. 2006-229.

History: New Rule: Filed August 9, 2006; effective September 13, 2006.