

Arkansas Insurance Department

Mike Beebe
Governor



Jay Bradford
Commissioner

BULLETIN NO.: 12-2009

TO: ALL PROFESSIONAL EMPLOYER ORGANIZATIONS OR EMPLOYEE LEASING FIRMS

FROM: ARKANSAS INSURANCE DEPARTMENT

SUBJECT: PROFESSIONAL EMPLOYER ORGANIZATION FORMS & INSTRUCTIONS FOR COMPLETING FORMS

DATE: SEPTEMBER 8, 2009

The purpose of this Bulletin is to update forms and instructions under Act 1750 of 2003 (the "Act") which is codified at A.C.A. §23-92-401 *et seq.*, for use by a PEO (hereinafter "PEO") or an applicant for a license to operate as a PEO. This Bulletin and the attached forms replace a previously published 2003 bulletin and forms for PEOs implementing the 2003 Act. Please be advised that to the extent there are conflicts between this Act and any filing requirements under Rule 58, "Employee Leasing Firms," which preceded the effective date of this Act, please adhere to the requirements in the Act and this Bulletin until such time that the Department repeals or modifies Rule 58.

Section 1. Forms Required.

(a) Of each applicant for a license, an initial application which shall be submitted by using one or more of the appropriate forms listed:

Form PEO-P	PEO Application
Form PEO-G	PEO Group Application
Form PEO-E	PEO Exemption Application

(b) Of each licensee, a biennial renewal shall be submitted by using one or more of the appropriate forms listed:

Form PEO-PR	PEO Renewal Application
Form PEO-GR	PEO Group Renewal Application
Form PEO-E	PEO Exemption Application

(c) Annually, each licensee shall file the following information unless that information is filed on a consolidated basis under subsection (e) of this section:

The annual financial information required by A.C.A. §23-92-408.
Any changes in either the name or address of its agent for service of process.

(d) Quarterly, each PEO shall file the following information unless that information is filed on a consolidated basis under subsection (e) of this Section:

The quarterly financial information required by A.C.A. §23-92-408.

(e) Annually, each PEO Group may file the following information on a consolidated basis:

The financial information required by A.C.A. §23-92-408.
Any changes in either the name or address of its agent for service of process.

(f) Quarterly, each PEO group shall file the following information:

The quarterly financial information required by A.C.A. §23-92-408.

(g) Every application for a change in control of any individual PEO or PEO group shall be submitted by using one or more of the appropriate forms listed:

Form PEO-C	PEO Change in Control
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(h) (i) The filings required by subsections (c), (d) (e) and (f) of this section shall be in a form that both sets forth the degree of adherence to A.C.A. §23-92-401 *et seq.* by the licensee and complies with the appropriate standards of the applicable governing board for certified public accountants.

(ii) In lieu of the an examination level attestation for the filings required by subsections (d) and (f) of this section, the statement by an independent certified public accountant that all applicable state payroll taxes for covered employees located in this state have been paid on a timely basis for the applicable calendar quarter should substantially address the following areas:

A. Inquire of management if all Arkansas payroll taxes and withholding taxes have been properly and timely reported and paid for the previous calendar quarter. Note any instances of known noncompliance.

B. Inquire of management regarding any communications from the State of Arkansas affecting state taxes tested in this quarter or prior quarters. If any communications were received, review the State of Arkansas correspondence of the PEO or PEO Group.

C. For state payroll taxes (including withholding and unemployment taxes), the following procedures should be addressed:

1) For each month in the quarter and, for each state report, trace the wages as reported on the state tax report to the general ledger or payroll records and note any differences. If a state tax report does not have tax liability broken out by month, perform these procedures on the entire quarterly tax liability.

2) Trace payments reported on each tax report to the cash disbursements journal, or its equivalent, or to cancelled checks, and note any differences in amount or date of payment.

3) Compare the reported date of payment to the date the payment cleared on the bank statement and note any payment that cleared the bank more than 15 business days after the date of the reported payment.

D. With respect to the above areas of concern, only note differences considered material by the CPA.

(i)(1) The above forms listed in this section are the currently prescribed forms which, from time to time, may be changed. No altered form shall be effective until it has been prescribed and published by the Commissioner according to A.C.A. 23-92-404(b).

(2) All prescribed forms are available in paper or electronic format by requesting a copy from the Department by telephone, mail, email or visiting the Department's website at <http://www.state.ar.us/insurance>.

Section 2. Fees.

(a) The initial fee for a PEO shall be \$1,000.00 for the initial fee and \$1,000.00 for each biennial renewal.

(b) The initial fee for an exempt PEO shall be \$100.00 for the initial fee and \$100.00 for each biennial renewal if otherwise still eligible.

(c) All fees are non-refundable.

Section 3. Exemption.

(a) If the provisions of Ark. Code Ann. §23-92-404(f) are present, then a PEO or PEO group may apply for an exemption for licensing. Such exemption is valid for two years and prior to its expiration, the exempt PEO or PEO group must either apply for renewal provided it continues to qualify for the exemption, apply for a regular license or cease providing professional employer services.

(b) The conditions to obtain this exemption are:

- (1) Submit Form PEO-E, PEO Exemption Application;
- (2) Do not maintain an office in this state or otherwise solicit clients located or domiciled with this state;
- (3) Have one hundred (100) or fewer covered employees employed or domiciled in Arkansas;
- (4) Submit copies of laws under which the applicant is currently licensed that are equal to or exceed the requirement of Arkansas law. A law is considered equal to or having greater requirements than Act 1750 of 2003 if it requires similar and no less stringent qualifications:
 - (i) to do business;
 - (ii) in respect to its annual and quarterly reports; and regarding changes in control; and
- (5) Pay the appropriate filing fee.

Section 4. License Not Assignable.

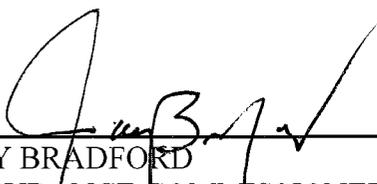
A licensee to not conduct business under any name other than that specified in the license. A license issued under the Act is not assignable. A licensee may not conduct business under any fictitious or assumed name without prior written authorization from the Commissioner. A licensee may not conduct business under more than one name unless it has obtained a separate license for each name.

For additional information about becoming and operating as a PEO or PEO group, please contact the Property and Casualty Division, 501-371-2800. Additional information as well as email contacts and forms is contained at the following web addresses:

<http://www.insurance.arkansas.gov/PandC/divpage.htm>

<http://www.insurance.arkansas.gov/PandC/PeoPage.htm>

<http://www.insurance.arkansas.gov/PandC/DivStaffPage.htm>



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DATE