

MICHIGAN PROFESSIONAL EMPLOYER ORGANIZATION REGULATORY ACT (EXCERPT)
Act 370 of 2010

***** 338.3727.amended THIS AMENDED SECTION IS EFFECTIVE JANUARY 1, 2012 *****

338.3727.amended Provider of professional employer services; license; fee; application; prohibitions relating to person convicted of certain felony; filing by PEO operating on effective date of act; renewal application; combined or consolidated audited financial statement; electronic filings.

Sec. 7. (1) Except as otherwise provided in this act, beginning September 1, 2012, a person shall not provide, advertise, or otherwise hold itself out as providing professional employer services in this state, unless licensed or exempt from licensure under this act.

(2) An applicant for licensure shall submit to the department the application fee imposed in section 13 and a completed application that provides the following information:

(a) The name or names under which the PEO conducts business.

(b) The address of the principal place of business of the PEO and the address of each office it maintains in this state.

(c) The PEO's taxpayer or employer identification number.

(d) A list by jurisdiction of each name under which the PEO has operated in the preceding 5 years, including any alternative names, names of predecessors, and, if known, successor business entities.

(e) A statement of ownership that includes the name and evidence of the business experience of any person, individually or acting in concert with 1 or more other persons, that directly or indirectly owns or controls 10% or more of the equity interests of the PEO.

(f) A statement of management that includes the name and evidence of the business experience of any individual who serves as president or chief executive officer or otherwise has the authority to act as senior executive officer of the PEO.

(g) A financial statement describing the financial condition of the PEO or PEO group, prepared in accordance with generally accepted accounting principles and audited by an independent certified public accountant licensed to practice in the jurisdiction in which that accountant is located and is without qualification as to the going concern status of the PEO. A PEO group may submit combined or consolidated audited financial statements to meet the requirements of this subsection. A PEO that has not had sufficient operating history to have audited financials based on at least 12 months of operating history must meet the financial capacity requirements described in section 15 and present financial statements reviewed by a licensed certified public accountant.

(h) A financial audit of the applicant. At the time of application for an initial license, the applicant shall submit its most recent audit, which may not be older than 13 months. Thereafter, a PEO or PEO group shall file on an annual basis, within 270 days after the end of the PEO or PEO group's fiscal year, a succeeding audit. An applicant may apply to the department for an extension, except that any request must include a letter from the auditors stating the reasons for the delay and the anticipated audit completion date.

(i) A certification that the PEO has made an election under section 13m of the Michigan employment security act, 1936 (Ex Sess) PA 1, MCL 421.13m.

(3) Beginning September 1, 2012, a person that has been convicted of a felony related to the operation of a PEO shall not own or control, directly or indirectly, a PEO doing business in this state.

(4) Each PEO operating in this state on the effective date of this act shall file its completed application and submit the license fee by July 1, 2012.

(5) Before a license expires, the licensee may renew its license by submitting a renewal application to the department that includes any changes in the information provided in the licensee's prior application.

(6) PEOs in a PEO group may satisfy the reporting and financial requirements of this section on a combined or consolidated basis if each member of the PEO group guarantees the obligations under this act of each other member of the PEO group. If a PEO group submits a combined or consolidated audited financial statement, including entities that are not PEOs or that are not in the PEO group, the controlling entity of the PEO group under the consolidated or combined statement must guarantee the obligations of the PEOs in the PEO group. The department shall determine whether the requirements of this subsection are satisfied.

(7) The department shall, to the extent practical, accept electronic filing of applications, documents, reports, and other filings required under this act. The department may accept electronic filings and other assurance by an independent and qualified assurance organization that provides satisfactory assurance of compliance acceptable to the department consistent with, or in lieu of, the requirements of this section, sections 9 and 15, and other requirements of this act. The department shall allow a PEO to authorize an

assurance organization, approved by the director, to act on the PEO's behalf in complying with the licensure requirements of this act including, but not limited to, electronic filings of information and payment of license fees. Use of an approved assurance organization by a PEO is optional. This subsection does not limit or change the department's authority to license, to rescind, revoke, or deny a license, or to investigate or enforce any provision of this act.

History: 2010, Act 370, Eff. July 1, 2011;—Am. 2011, Act 125, Eff. Jan. 1, 2012.