

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

\*\*\*\*\* 338.3727.new THIS NEW SECTION IS EFFECTIVE JULY 1, 2011 \*\*\*\*\*

**338.3727.new Provider of professional employer services; license; fee; application; prohibitions relating to person convicted of certain felony; licensure of 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, 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 providing 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 within Michigan.

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

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

(e) A statement of ownership, which shall include the name and evidence of the business experience of any person, individually or acting in concert with 1 or more other persons, owning or controlling, directly or indirectly, 10% or more of the equity interests of the PEO.

(f) A statement of management, which shall include the name and evidence of the business experience of any person who serves as president, 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. Before December 31, 2010, applicants may file an unaudited financial statement. On or after January 1, 2011, 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 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 upon 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 the 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 for an extension with the department except that any request must be accompanied by 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) 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 within this state on the effective date of this act shall file its completed application and submit the license fee not later than 180 days after the effective date of this act. Initial licensure is valid until the end of the PEO's first fiscal year end that is more than 1 year after the effective date of this act. A PEO not operating within this state on the effective date of this act shall submit its initial licensure application prior to commencement of operations within this state.

(5) Within 180 days after the end of a licensee's fiscal year, the licensee shall renew its license by submitting a renewal application to the department providing 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 on a combined or consolidated basis provided that each member of the PEO group guarantees the obligations under this act of each other member of the PEO group. In the case of a PEO group that 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, allow the acceptance of electronic filings, including applications, documents, reports, and other filings required under this act. The department may allow for the acceptance of 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 and 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 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.