



**Rules of
Elected Officials
Division 30—Secretary of State
Chapter 130—Professional Employer Organization Act**

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Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 130—Professional Employer
Organization Act

15 CSR 30-130.010 Definitions

PURPOSE: This rule facilitates the administration of the Professional Employer Act in accordance with sections 285.700–285.750, RSMo. This rule provides definitions of terms in addition to those found in section 285.705, RSMo for the administration of the Act.

(1) “Assurance Organization” means an independent and qualified entity approved by the secretary of state to certify the qualifications of a PEO for registration pursuant to the alternative registration provisions and procedures of the Act, these PEO rules and the standards and procedures of the assurance organization.

(2) “Business experience” (as used in the application and renewal forms) shall mean a narrative detailed description of business-related achievements, credentials, and experience of an individual. Alternatively, a resume may be used in lieu of a narrative description if it contains, at a minimum, the following information: current contact information, relevant degree(s)/certification(s), and a five-(5)-year work history.

(3) “PEO” as used in this rule shall mean a professional employer organization including a PEO Group, a controlling person of a PEO, or a person offering PEO services.

(4) “Secretary” shall mean the secretary of state or his designee.

AUTHORITY: section 285.705, RSMo Supp. 2018. Emergency rule filed Nov. 30, 2018, effective Dec. 10, 2018, expired June 7, 2019. Original rule filed Nov. 30, 2018, effective May 30, 2019.*

**Original authority: 285.705, RSMo 2018.*

15 CSR 30-130.020 Applications, Interim Operating Permits, and Forms

PURPOSE: This rule provides instructions for full, limited, or group applications along with renewals. It also provides instructions for obtaining an interim operating permit pursuant to section 285.715, RSMo.

(1) Every application shall conform to the requirements within section 285.715, RSMo

including evidence of business experience and an audited financial statement. The audited financial statement may not express any ongoing concerns.

(2) A professional employer organization (PEO) not registered in Missouri, must decline to provide services or notify the secretary within five (5) business days of obtaining knowledge that an existing client not based in Missouri has employees or operations in Missouri.

(A) If the PEO does not decline to provide services to the existing client, the PEO must immediately file a limited registration application if the client has less than fifty (50) employees based in Missouri.

(B) The PEO may request an interim operating permit until such application is approved. The secretary may issue an interim operating permit if—

1. The PEO is currently registered or licensed by another state;

2. The PEO makes the request for an interim operating permit in writing indicating in what other states it is licensed or registered;

3. The secretary determines it is in the best interest of the potential covered employees to grant an interim operating permit; and

4. The PEO has filed a limited registration application.

(3) Application and renewal forms may be found on the secretary’s website at www.sos.mo.gov/peo.

AUTHORITY: section 285.715, RSMo Supp. 2018. Emergency rule filed Nov. 30, 2018, effective Dec. 10, 2018, expired June 7, 2019. Original rule filed Nov. 30, 2018, effective May 30, 2019.*

**Original authority: 285.715, RSMo 2018.*

15 CSR 30-130.030 Fees

PURPOSE: This rule provides the fee structure for professional employer organization (PEO) applications and renewal.

(1) The following fees for a PEO shall apply:

- (A) Full Application - \$500.00;
- (B) Full Renewal - \$250.00;
- (C) Limited Application - \$250.00;
- (D) Limited Renewal - \$250.00;
- (E) Group Application - \$500.00, plus \$250.00 for each entity in the PEO Group;
- (F) Group Renewal - \$250.00, plus \$125.00 for each entity in the PEO Group.

AUTHORITY: section 285.725, RSMo Supp. 2018. Emergency rule filed Nov. 30, 2018, effective Dec. 10, 2018, expired June 7, 2019. Original rule filed Nov. 30, 2018, effective May 30, 2019.*

**Original authority: 285.725, RSMo 2018.*

15 CSR 30-130.040 Approval of Assurance Organizations

PURPOSE: This rule addresses how an assurance organization may be approved to submit applications and renewals on behalf of their members.

(1) An applicant or registered professional employer organization (PEO) may enter into an agreement with an assurance organization approved by the secretary to act on its behalf in accomplishing the provisions of the Professional Employer Organization Act or these rules.

(2) The approval of an assurance organization by the secretary, to act on behalf of an applicant or registered PEO, does not relieve the applicant or registered PEO from the ultimate responsibility to comply with its obligations pursuant to the Act or these rules.

(3) An assurance organization desiring to become approved by the secretary shall submit to the secretary—

(A) A letter requesting approval;

(B) Evidence that the assurance organization is qualified to perform the functions on behalf of the applicant or registered PEO; and

(C) An explanation of how the assurance organization will certify each of the criteria and obligations required of the applicant or registered PEO by the Act or rule.

(4) An assurance organization’s approval by the secretary shall remain in effect until such time the secretary, after written notice, terminates the approval, or until such time the assurance organization, by written notice, withdraws or terminates its status as an approved assurance organization.

(5) An assurance organization that has been approved by the secretary shall notify the secretary annually, in writing, on the anniversary of its approval date, of any material change in the assurance organization’s national accreditation and financial assurances during the previous year.

(6) The secretary shall make available to the public a current list of approved assurance



organizations, upon request.

(7) The secretary shall notify the assurance organization, in writing, if the secretary becomes aware of any information that indicates that the assurance organization is failing to adequately monitor or provide compliance assistance as intended by the Act.

(8) The assurance organization shall respond to the secretary within thirty (30) days of its receipt of such notification of deficiency. The secretary may terminate an assurance organization's approval based on a finding that the assurance organization is no longer in compliance.

*AUTHORITY: section 285.715, RSMo Supp. 2018. * Emergency rule filed Nov. 30, 2018, effective Dec. 10, 2018, expired June 7, 2019. Original rule filed Nov. 30, 2018, effective May 30, 2019.*

**Original authority: 285.715, RSMo 2018.*

15 CSR 30-130.050 Use of Assurance Organization by Applicant

PURPOSE: This rule sets forth the process for an applicant to use a secretary-approved assurance organization.

(1) The secretary shall accept an approved assurance organization's written certification as evidence that an applicant has met, and continues to meet, the criteria and obligations set forth in the Act and rules. The secretary retains the right to independently verify any information or certification provided by the assurance organization, including the ability to verify information contained in the assurance organization's regulatory portal that applicant has authorized assurance organization to share with the secretary.

(2) For an applicant using an assurance organization, satisfactory assurance of compliance and the secretary's continuous electronic access to information regarding applicant will satisfy the application requirements of section 285.715, RSMo. Additionally, renewal requirements under section 285.715, RSMo, will be waived provided that the appropriate renewal fee is paid prior to the due date.

(3) An approved assurance organization shall notify the secretary in writing no later than ten (10) days after it has made a determination that an applicant or registered professional employer organization (PEO) it represents is—

(A) Not in compliance with its obligations under the Act;

(B) In violation of assurance organization's standards; or

(C) No longer accredited by assurance organization.

(4) In the event that a registered PEO loses its accreditation with an assurance organization, the secretary reserves the right to immediately suspend the license of the PEO and require the registered PEO to submit relevant documents and information directly to the secretary in order to comply with the application requirements of the Act. Failure to timely do so will result in the secretary taking appropriate disciplinary action against the PEO.

*AUTHORITY: section 285.715, RSMo Supp. 2018. * Emergency rule filed Nov. 30, 2018, effective Dec. 10, 2018, expired June 7, 2019. Original rule filed Nov. 30, 2018, effective May 30, 2019.*

**Original authority: 285.715, RSMo 2018.*

15 CSR 30-130.060 Proof of Positive Working Capital, Bonds, and Letters

PURPOSE: This rule describes positive working capital, as well as, the posting of bonds and letters of credit.

(1) An applicant or registered professional employer organization (PEO) must demonstrate positive working capital. This must be demonstrated in the financial audit that—

(A) Was prepared in accordance with generally accepted accounting principles;

(B) Was audited by an independent certified public accountant without qualification as to the ongoing concern status of the applicant or registered PEO;

(C) Reflects positive working capital; and

(D) Is based on adequate reserves for taxes, insurance, and incurred claims that are not paid.

(2) An applicant who does not have a positive working capital may provide a bond—

(A) With a minimum market value equaling the deficiency plus one hundred thousand dollars (\$100,000);

(B) Held by a lender authorized to do business in the state of Missouri and found on <https://treasurer.mo.gov/LinkedDepositProgramParticipatingInstitutions/default.aspx>;

(C) Is payable to the Missouri secretary of state; and

(D) States that the surety will provide the secretary written notice sixty (60) days prior to cancelling the bond.

(3) In the alternative, an applicant who does not have a positive working capital may provide a letter of credit with a minimum market value equaling the deficiency plus one hundred thousand dollars (\$100,000) that—

(A) Is irrevocable;

(B) Is issued by a financial institution authorized to do business in the state of Missouri and which is financially responsible for the amount of the letter;

(C) Does not require examination of the performance of the underlying transaction between the secretary and the applicant;

(D) Is payable to the secretary on sight or within a reasonable period of time after presentation of all required documents; and

(E) Does not include any condition that makes payment to the secretary contingent upon the consent of, or other actions by, the applicant or other party.

*AUTHORITY: section 285.725, RSMo Supp. 2018. * Emergency rule filed Nov. 30, 2018, effective Dec. 10, 2018, expired June 7, 2019. Original rule filed Nov. 30, 2018, effective May 30, 2019.*

**Original authority: 285.725, RSMo 2018.*

15 CSR 30-130.070 Disciplinary Actions

PURPOSE: This rule describes the disciplinary action the secretary may take pursuant to section 285.750, RSMo, and the notice provided to initiate a disciplinary action.

(1) Upon a decision to take disciplinary action for violation of section 285.750, RSMo, the secretary shall mail such professional employer organization (PEO) written notice, by certified mail, at the address on file with the secretary.

(2) The secretary shall notify a PEO, in writing, by certified mail that the secretary intends to take disciplinary action. The notice shall contain the following information:

(A) The PEO's name and address;

(B) The specific allegations for the disciplinary action; and

(C) Instructions for requesting a hearing.

(3) If disciplinary action is taken against a PEO who registered through an assurance organization, the secretary may provide such notice to the assurance organization. Such notice shall constitute sufficient notice for section 285.750.3, RSMo.

*AUTHORITY: section 285.750, RSMo Supp. 2018. * Emergency rule filed Nov. 30, 2018,*



effective Dec. 10, 2018, expired June 7, 2019. Original rule filed Nov. 30, 2018, effective May 30, 2019.

*Original authority: 285.750, RSMo 2018.

15 CSR 30-130.080 Request for Hearing

PURPOSE: This rule prescribes how a professional employer organization (PEO) may request a hearing for any disciplinary action the secretary intends to take.

(1) When a PEO receives a notice of disciplinary action from the secretary, the PEO may request a hearing. A request for hearing must be received by the secretary no later than thirty (30) calendar days after the PEO receives the notice of discipline. Failure to file a request for hearing within thirty (30) calendar days of receipt of said notice shall constitute waiver of a hearing.

(2) If a PEO does not request a hearing, or fails to request a hearing within thirty (30) calendar days, as outlined in section (1) above, the secretary shall still make findings pursuant to section 285.750.3, RSMo.

(3) A request for hearing must be signed by the PEO or its attorney. It must also contain the name, mailing address, and telephone number of the PEO (or the name, address, and telephone number of the PEO's attorney). The request for hearing must be mailed to the Office of the Secretary of State, PEO Registration, PO Box 1767, Jefferson City, MO 65102.

(4) A PEO may request that a hearing be conducted by telephone. If so, the PEO must include that information in its request for hearing and provide a good telephone number that the PEO will use during the hearing. The PEO is responsible for a good connection if it requests a telephone hearing, and the secretary is not responsible for any disruption caused by a poor cell phone signal. If a party or witness leaves the phone for any reason, or the connection is disconnected, all such action shall be considered voluntary, and the hearing shall proceed without such party or witness.

AUTHORITY: section 285.750, RSMo Supp. 2018.* Emergency rule filed Nov. 30, 2018, effective Dec. 10, 2018, expired June 7, 2019. Original rule filed Nov. 30, 2018, effective May 30, 2019.

*Original authority: 285.750, RSMo 2018.

15 CSR 30-130.090 Hearings

PURPOSE: This rule describes the nature and process of disciplinary hearings conducted by the secretary.

(1) All disciplinary hearings shall be governed by the administrative hearing process found in Chapter 536, RSMo.

(2) No disciplinary hearing will be held less than thirty (30) days after the secretary receives a written request for a hearing.

(3) Notice of hearing will be provided to the professional employer organization (PEO) by certified mail and shall include the date, time, and place of the hearing.

(4) Hearings will be open to the public and notice of the hearing shall be posted pursuant to Chapter 610, RSMo.

(5) All hearings will be audio recorded unless the PEO requests the hearing be transcribed by a court reporter. If a PEO requests a court reporter, the PEO is responsible for the cost of the court reporter and all copies of the transcripts.

(6) Oral evidence shall be taken on oath or affirmation. Each party shall have the right to call and examine witnesses, introduce exhibits, and cross-examine witnesses on any relevant issue related to the disciplinary action.

(7) Each party shall provide copies of all exhibits it intends to use at the hearing to the other party and the secretary no later than five (5) working days prior to the hearing.

(8) A list of all documents and exhibits submitted at the hearing shall become part of the record and officially noted in the transcript/recording.

(9) Copies of writings, documents, and records shall be admissible without proof that the originals thereof cannot be produced if it appears by testimony or otherwise that the copy offered is a true copy of the original.

(10) The secretary or his/her representative shall present evidence first. The PEO shall then have the opportunity to present its evidence in the same manner. Each party has the right to rebut the evidence presented and present closing statements.

(11) The secretary shall issue written findings of facts and conclusions of law. Such findings shall include the violations found and the dis-

ciplinary action to be taken as authorized under section 285.750, RSMo. Such findings shall be a final adjudication of the matter.

AUTHORITY: section 285.750, RSMo Supp. 2018.* Emergency rule filed Nov. 30, 2018, effective Dec. 10, 2018, expired June 7, 2019. Original rule filed Nov. 30, 2018, effective May 30, 2019.

*Original authority: 285.750, RSMo 2018.

15 CSR 30-130.100 Appeals

PURPOSE: This rule describes how a professional employer organization (PEO) may appeal the secretary's findings that disciplinary action should be taken against it.

(1) A PEO who receives findings of fact and conclusions of law as provided in 15 CSR 30-130.090 upholding any disciplinary action may seek judicial review as provided for in Chapter 536, RSMo.

AUTHORITY: section 285.750, RSMo Supp. 2018.* Emergency rule filed Nov. 30, 2018, effective Dec. 10, 2018, expired June 7, 2019. Original rule filed Nov. 30, 2018, effective May 30, 2019.

*Original authority: 285.750, RSMo 2018.