

# State of Wisconsin



2009 Senate Bill 216

Date of enactment: **July 8, 2009**  
Date of publication\*: **July 10, 2009**

## 2009 WISCONSIN ACT 29

AN ACT *to renumber and amend* 461.02 (1) and 461.02 (4); *to amend* 461.02 (1) (title), 461.02 (2) (intro.), 461.02 (3) (a), 461.02 (3) (b), 461.02 (5), 461.02 (6), 461.02 (7) (b), 461.02 (8) and 461.04 (1) (intro.); *to repeal and recreate* 461.02 (4) (title); and *to create* 440.08 (2) (a) 63p. and 461.02 (1) (b) of the statutes; **relating to:** professional employer organizations and professional employer groups.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

**SECTION 1.** 440.08 (2) (a) 63p. of the statutes is created to read:

440.08 (2) (a) 63p. Professional employer organization or professional employer group: July 31 of each year.

**SECTION 2.** 461.02 (1) (title) of the statutes, as created by 2007 Wisconsin Act 189, is amended to read:

461.02 (1) (title) REGISTRATION REQUIRED: USE OF TITLES.

**SECTION 3.** 461.02 (1) of the statutes, as created by 2007 Wisconsin Act 189, is renumbered 461.02 (1) (a) and amended to read:

461.02 (1) (a) No person may ~~offer or provide~~ operate as a professional employer services organization or professional employer group, advertise that the person is a professional employer organization or ~~that the person provides professional employer services~~ professional employer group, or otherwise hold itself out as a professional employer organization or professional employer group unless the person first registers with the department as provided in this section. ~~To register under this section, a person shall file the registration form under~~

~~sub. (2) and pay the initial credential fee determined by the department under s. 440.03 (9) (a).~~

**SECTION 4.** 461.02 (1) (b) of the statutes, as created by 2007 Wisconsin Act 189, is created to read:

461.02 (1) (b) No person may designate as the person's title, or append to the person's name the words or letters, "professional employer organization," "P.E.O.," "professional employer group," "P.E.G.," "staff leasing company," "registered staff leasing company," "employee leasing company," or "administrative employer," or other similar titles or letters, or use these titles, words, or letters to describe the person's business or represent that the person or the person's business is registered or licensed as "professional employer organization," "P.E.O.," "professional employer group," "P.E.G.," "staff leasing company," "registered staff leasing company," "employee leasing company," or "administrative employer," unless the person is registered by the department under this chapter.

**SECTION 5.** 461.02 (2) (intro.) of the statutes, as created by 2007 Wisconsin Act 189, is amended to read:

461.02 (2) REGISTRATION APPLICATION FORM. (intro.) ~~To apply~~ Except as provided in sub. (7) (b), an applicant for registration under this section, an applicant shall file with submit to the department ~~a~~ an application for regis-

\* Section 991.11, WISCONSIN STATUTES 2007-08 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

tration on a form prescribed by the department, together with the registration fee determined by the department under s. 440.03 (9) (a), that contains all of the following information:

**SECTION 6.** 461.02 (3) (a) of the statutes, as created by 2007 Wisconsin Act 189, is amended to read:

461.02 (3) (a) Each professional employer organization or professional employer group that is operating in this state on July 1, 2009, shall register with the department by no later than 180 days after that date. ~~An initial registration under this paragraph is valid until 180 days after the end of the first fiscal year of the registrant that ends more than one year after July 1, 2009.~~

**SECTION 7.** 461.02 (3) (b) of the statutes, as created by 2007 Wisconsin Act 189, is amended to read:

461.02 (3) (b) Any person that is not ~~engaged in the business of providing~~ operating as a professional employer services organization or a professional employer group in this state on July 1, 2009, shall register with the department before ~~engaging in that business operating as a professional employer organization or professional employer group~~ in this state. ~~An initial registration under this paragraph is valid until 180 days after the end of the first fiscal year of the registrant that ends after the date of initial registration.~~

**SECTION 8.** 461.02 (4) (title) of the statutes, as created by 2007 Wisconsin Act 189, is repealed and recreated to read:

461.02 (4) (title) REGISTRATION RENEWAL; EXTENSION FOR FILING UPDATED FINANCIAL STATEMENT.

**SECTION 9.** 461.02 (4) of the statutes, as created by 2007 Wisconsin Act 189, is renumbered 461.02 (4) (a) and amended to read:

461.02 (4) (a) ~~A~~ On or before the applicable renewal date specified under s. 440.08 (2) (a), and except as provided in par. (b) and sub. (7) (b), a registrant that wishes to renew its registration shall, by no later than 180 days after the end of the registrant's fiscal year, renew that registration by notifying submit to the department of any changes in the information specified in sub. (2) (a) to (e), filing, on forms furnished by the department, a renewal application, together with an updated financial statement as described in sub. (2) (f), and paying the renewal credential fee determined by the department under s. 440.03 (9) (a). A renewal of registration is valid for one year after the date of renewal.

(b) A registrant may apply to the department for an extension of the time within which to ~~renew a registration~~ submit the updated financial statement required under par. (a) by providing with the renewal application a letter from the certified public accountant who is auditing the registrant's financial statement stating the reasons for the delay and the anticipated completion date of the audit. ~~A renewal registration is valid for one year after the date of renewal.~~

**SECTION 10.** 461.02 (5) of the statutes, as created by 2007 Wisconsin Act 189, is amended to read:

461.02 (5) LIMITED REGISTRATION. (a) ~~A~~ Except as provided in sub. (7) (b), a professional employer organization or professional employer group that is domiciled outside this state, that is registered or licensed as a professional employer organization or professional employer group in another state, that does not maintain an office in this state or directly solicit clients that are located or domiciled in this state, and that has no more than 50 employees performing services for clients in this state on any given day may apply for limited registration under this section by filing with the department a limited registration form prescribed by the department and paying the initial credential fee determined by the department under s. 440.03 (9) (a). An applicant that is seeking limited registration shall, in addition to the information provided under sub. (2), provide the department with information and documentation showing that the applicant meets the qualifications specified in this paragraph for limited registration.

(b) ~~A~~ Except as provided in sub. (7) (b), a professional employer organization or professional employer group seeking limited registration that has employees performing services for clients in this state on July 1, 2009, shall register with the department as provided in sub. (3) (a), and the initial limited registration shall be valid as provided in sub. (3) (a).

(c) ~~A~~ Except as provided in sub. (7) (b), a professional employer organization or professional employer group seeking limited registration that does not have employees performing services for clients in this state on July 1, 2009, shall register with the department as provided in sub. (3) (b), before contracting with a client in this state, and the initial limited registration shall be valid as provided in sub. (3) (b).

(d) ~~A~~ registrant Except as provided in sub. (7) (b), a professional employer organization or professional employer group registered under this subsection that wishes to renew its limited registration shall, in addition to complying with sub. (4), provide the department with information and documentation showing that the registrant professional employer organization or professional employer group continues to meet the qualifications specified in par. (a) for limited registration, and the limited registration shall be valid as provided in sub. (4).

(e) ~~A limited registrant professional employer organization or professional employer group registered under this subsection~~ is not required to comply with the financial capability requirement under s. 461.03.

**SECTION 11.** 461.02 (6) of the statutes, as created by 2007 Wisconsin Act 189, is amended to read:

461.02 (6) PROFESSIONAL EMPLOYER GROUP REGISTRATION. ~~Two~~ Except as provided in sub. (7) (b), 2 or more professional employer organizations that are part of

a professional employer group may register under this section or renew a registration by providing the information required under sub. (2), (4), or (5) on a combined or consolidated basis, paying the initial credential or renewal fee determined by the department under s. 440.03 (9) (a), and guaranteeing each other's obligations. If a professional employer group provides a combined or consolidated financial statement under sub. (2) (f) that includes the financial condition of entities that are not part of the professional employer group, the person controlling the professional employer group shall guarantee the obligations of the professional employer organizations in the professional employer group.

**SECTION 12.** 461.02 (7) (b) of the statutes, as created by 2007 Wisconsin Act 189, is amended to read:

461.02 (7) (b) The department may by rule provide for registration of a professional employer organization or professional employer group without compliance with sub. (2), (4), (5), or (6), s. 461.03, or rules promulgated under s. 461.06 on acceptance by the department of assurance provided by a bonded, independent, and qualified assurance organization that has been approved by the department that provides assurance satisfactory to the department that the professional employer organization or professional employer group is qualified to ~~engage in the business of providing~~ operate as a professional employer services organization or a professional employer group in this state.

**SECTION 13.** 461.02 (8) of the statutes, as created by 2007 Wisconsin Act 189, is amended to read:

461.02 (8) ISSUANCE OF REGISTRATION. ~~On receipt of an application for registration or for renewal of a registration under subs. (3) to (7) and of the initial credential fee or renewal fee determined by the department under s. 440.03 (9) (a), the~~ The department shall investigate the applicant or registrant each applicant or registrant who submits to the department an application for registration or registration renewal under this section, together with

the applicable registration or registration renewal fee, to determine whether the applicant or registrant is qualified for registration or for renewal registration. Except as provided in s. 440.12 and 440.13, the department shall issue a registration or renewal registration if, after completing the investigation, the department determines that the applicant or registrant meets the requirements under this chapter and rules promulgated under s. 461.06 for issuance or renewal of a registration and is satisfied that the applicant or registrant will comply with this chapter and those rules.

**SECTION 14.** 461.04 (1) (intro.) of the statutes, as created by 2007 Wisconsin Act 189, is amended to read:

461.04 (1) PROFESSIONAL EMPLOYER SERVICES ORGANIZATION AND PROFESSIONAL EMPLOYER GROUP NOT INSURANCE. (intro.) A professional employer organization or professional employer group that offers, markets, sells, administers, or provides ~~professional employer services~~ that include the provision of employee benefit plans for the employees of the professional employer organization or professional employer group performing services for a client is not engaged in the business or sale of insurance or in the business of an employee benefit plan administrator under ch. 633. This subsection shall be liberally construed to permit professional employer organizations and professional employer groups to provide employee benefit plans as provided in this subsection without being considered to be engaged in the business or sale of insurance or in the business of an employee benefit plan administrator under ch. 633. If a professional employer organization or professional employer group provides life insurance, health care, or disability income benefits for its employees performing services for a client, all of the following apply:

**SECTION 15. Effective date.**

(1) This act takes effect on July 1, 2009, or on the day after publication, whichever is later.