

HOUSE BILL NO. 1237

Introduced by

Representative Owens

Senator Burckhard

1 A BILL ~~for an Act to amend and reenact subsection 2 of section 43-55-03, section 43-55-05, and~~
2 ~~subsection 2 of section 43-55-09 of the North Dakota Century Code, relating to bond~~
3 ~~requirements for professional employer organizations; and to provide for application~~ for an Act
4 to amend and reenact section 43-55-05 of the North Dakota Century Code, relating to
5 professional employer organization bonding requirements.

6 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

7 ~~— **SECTION 1. AMENDMENT.** Subsection 2 of section 43-55-03 of the North Dakota Century~~
8 ~~Code is amended and reenacted as follows:~~

9 ~~— 2. Each applicant for licensure shall provide the secretary of state with the following~~
10 ~~information:~~

11 ~~— a. The name of the professional employer organization and any name under which~~
12 ~~the professional employer organization intends to conduct business in this state.~~

13 ~~— b. The designation of organization of the applicant whether domestic or foreign; a~~
14 ~~corporation, limited liability company, general partnership, limited partnership,~~
15 ~~limited liability partnership, limited liability limited partnership, sole proprietor, or~~
16 ~~any other person subject to a governing statute; and the jurisdiction of origin of~~
17 ~~the organization.~~

18 ~~— c. The address of the principal place of business of the professional employer~~
19 ~~organization and the address of each office it maintains in this state.~~

20 ~~— d. The professional employer organization's taxpayer or employer identification~~
21 ~~number.~~

22 ~~— e. The date of the end of the applicant's fiscal year.~~

- 1 ~~_____ f. A list of jurisdictions in which the professional employer organization has~~
2 ~~operated in the preceding five years, including any alternative names, names of~~
3 ~~predecessors, and, if known, successor business entities.~~
- 4 ~~_____ g. A statement of ownership, which must include the name and address of any~~
5 ~~person that owns or controls twenty-five percent or more of the equity interests of~~
6 ~~the professional employer organization.~~
- 7 ~~_____ h. A statement of management, which must include the name and address of any~~
8 ~~individual who serves as president, chief executive officer, or otherwise has the~~
9 ~~authority to act as a senior executive officer of the professional employer~~
10 ~~organization.~~
- 11 ~~_____ i. A bond as provided under section 43-55-05.~~
- 12 ~~_____ j. A copy of the employer's quarterly contribution and wage report to job service-~~
13 ~~North Dakota for the quarter ending immediately before the date submitted to the~~
14 ~~secretary of state. A professional employer organization that has not filed an~~
15 ~~employer's quarterly contribution and wage report with job service North Dakota~~
16 ~~shall submit a bond in the amount as provided under section 43-55-05.~~

17 ~~_____ **SECTION 2. AMENDMENT.** Section 43-55-05 of the North Dakota Century Code is~~
18 ~~amended and reenacted as follows:~~

19 ~~_____ **43-55-05. Bond.**~~

- 20 ~~_____ 1. A professional employer organization shall maintain a bond with a minimum value of~~
21 ~~the greater amount of one hundred thousand dollars or five percent of the total wages~~
22 ~~reported on the employer's quarterly contribution and wage report to job service North~~
23 ~~Dakota for the quarter ending immediately before the date submitted to the secretary~~
24 ~~of state but not to exceed five hundred thousand dollars.~~
- 25 ~~_____ 2. A professional employer organization that has not filed an employer's quarterly~~
26 ~~contribution and wage report with job service North Dakota shall submit a bond in the~~
27 ~~amount of one hundred thousand dollars.~~
- 28 ~~_____ 3. The bond must be held by the secretary of state and secure payment by the~~
29 ~~professional employer organization of any tax, wage, benefit, or other entitlement due~~
30 ~~to or with respect to a covered employee if the professional employer organization~~
31 ~~does not make the payment when due.~~

1 ~~4.3.~~ Notice of cancellation or nonrenewal of the surety bond required by this section shall
2 be provided to the secretary of state at least forty-five days before cancellation or
3 nonrenewal.

4 ~~SECTION 3. AMENDMENT.~~ Subsection 2 of section 43-55-09 of the North Dakota Century
5 Code is amended and reenacted as follows:

6 ~~2.~~ All audited financial reports and the employers' quarterly contribution and wage report
7 to job service North Dakota are confidential except to the extent necessary for the
8 proper administration of this chapter by the secretary of state or the attorney general.

9 ~~SECTION 4. APPLICATION.~~ Section 3 of this Act applies to records received by the state
10 on or after the effective date of this Act and does not change the confidential status of any
11 record in the state's possession before the effective date of this Act.

12 **SECTION 1. AMENDMENT.** Section 43-55-05 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **43-55-05. Bond.**

15 1. A professional employer organization shall maintain a bond with a minimum value of
16 the ~~greater~~ lesser amount of one hundred thousand dollars or five percent of the total
17 wages reported on the employer's quarterly contribution and wage report to job
18 service North Dakota for the quarter ending immediately before the date submitted to
19 the secretary of state ~~but not to exceed five hundred thousand dollars.~~

20 2. A professional employer organization that has not filed an employer's quarterly
21 contribution and wage report with job service North Dakota shall submit a bond in the
22 amount of one hundred thousand dollars.

23 3. The bond must be held by the secretary of state and secure payment by the
24 professional employer organization of any tax, wage, benefit, or other entitlement due
25 to or with respect to a covered employee if the professional employer organization
26 does not make the payment when due.

27 4. ~~Notice~~ A professional employer organization shall provide the secretary of state notice
28 of cancellation or nonrenewal of the ~~surety~~ bond required by this section ~~shall be~~
29 ~~provided to the secretary of state~~ at least forty-five days before cancellation or
30 nonrenewal of the bond.

31 5. As used in this section, "bond" means a surety bond or an irrevocable letter of credit.