

**As Passed by the House**

**129th General Assembly  
Regular Session  
2011-2012**

**Sub. S. B. No. 139**

**Senator Hughes**

**Cosponsors: Senators Schaffer, Seitz, Patton, Bacon, Beagle, Daniels,**

**Faber, Hite, Jones, Niehaus, Obhof, Tavares**

**Representatives Adams, R., Anielski, Antonio, Baker, Beck, Blessing, Bulp,**

**Buchy, Carney, Combs, Damschroder, Duffey, Garland, Gonzales, Goodwin,**

**Grossman, Hagan, C., Hall, Henne, Hottinger, Letson, Mallory, McClain,**

**Milkovich, Murray, O'Brien, Pelanda, Ruhl, Scherer, Slesnick, Stebelton,**

**Stinziano, Uecker, Young, Yuko**

—

**A B I L L**

To amend sections 4123.291, 4125.01, 4125.02, 1  
4125.03, 4125.05, 4125.07, 4125.08, 4141.24, and 2  
5747.07 and to enact sections 4125.041, 4125.042, 3  
4125.051, 4125.10, and 4125.11 of the Revised Code 4  
to establish certain financial capacity 5  
requirements for professional employer 6  
organizations, clarify rights and liabilities of 7  
professional employer organizations and client 8  
employers, and make other changes to the 9  
professional employer organization law. 10

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 4123.291, 4125.01, 4125.02, 4125.03, 11  
4125.05, 4125.07, 4125.08, 4141.24, and 5747.07 be amended and 12  
sections 4125.041, 4125.042, 4125.051, 4125.10, and 4125.11 of the 13  
Revised Code be enacted to read as follows: 14

Sec. 4123.291. (A) An adjudicating committee appointed by the administrator of workers' compensation to hear any matter specified in divisions (B)(1) to (7) of this section shall hear the matter within sixty days of the date on which an employer files the request, protest, or petition. An employer desiring to file a request, protest, or petition regarding any matter specified in divisions (B)(1) to (7) of this section shall file the request, protest, or petition to the adjudicating committee on or before twenty-four months after the administrator sends notice of the determination about which the employer is filing the request, protest, or petition.

(B) An employer who is adversely affected by a decision of an adjudicating committee appointed by the administrator may appeal the decision of the committee to the administrator or the administrator's designee. The employer shall file the appeal in writing within thirty days after the employer receives the decision of the adjudicating committee. The administrator or the designee shall hear the appeal and hold a hearing, provided that the decision of the adjudicating committee relates to one of the following:

(1) An employer request for a waiver of a default in the payment of premiums pursuant to section 4123.37 of the Revised Code;

(2) An employer request for the settlement of liability as a noncomplying employer under section 4123.75 of the Revised Code;

(3) An employer petition objecting to the assessment of a premium pursuant to section 4123.37 of the Revised Code and the rules adopted pursuant to that section;

(4) An employer request for the abatement of penalties assessed pursuant to section 4123.32 of the Revised Code and the rules adopted pursuant to that section;

(5) An employer protest relating to an audit finding or a determination of a manual classification, experience rating, or transfer or combination of risk experience; 46  
47  
48

(6) Any decision relating to any other risk premium matter under Chapters 4121., 4123., and 4131. of the Revised Code; 49  
50

(7) An employer petition objecting to the amount of security required under division ~~(C)~~(D) of section 4125.05 of the Revised Code and the rules adopted pursuant to that section. 51  
52  
53

(C) The bureau of workers' compensation board of directors, based upon recommendations of the workers' compensation actuarial committee, shall establish the policy for all adjudicating committee procedures, including, but not limited to, specific criteria for manual premium rate adjustment. 54  
55  
56  
57  
58

**Sec. 4125.01.** As used in this chapter: 59

(A) "Assurance organization" means an independent and qualified entity approved by the administrator of workers' compensation to certify the qualifications of a professional employer organization or professional employer organization reporting entity. 60  
61  
62  
63  
64

(B) "Client employer" means a sole proprietor, partnership, association, limited liability company, or corporation that enters into a professional employer organization agreement and is assigned shared employees by the professional employer organization. 65  
66  
67  
68  
69

~~(B)~~(C) "Coemploy" means the sharing of the responsibilities and liabilities of being an employer. 70  
71

~~(C)~~(D) "Professional employer organization" means a sole proprietor, partnership, association, limited liability company, or corporation that enters into an agreement with one or more client employers for the purpose of coemploying all or part of the 72  
73  
74  
75

client employer's workforce at the client employer's work site. 76

~~(D)~~(E) "Professional employer organization agreement" means a 77  
written contract to coemploy employees between a professional 78  
employer organization and a client employer with a duration of not 79  
less than twelve months in accordance with the requirements of 80  
this chapter. 81

~~(E)~~(F) "Professional employer organization reporting entity" 82  
means two or more professional employer organizations that are 83  
majority owned or commonly controlled by the same entity, parent, 84  
or controlling person and that satisfy reporting entity control 85  
rules as defined by the financial accounting standards board and 86  
under generally accepted accounting principles. 87

(G) "Shared employee" means an individual intended to be 88  
assigned to a client employer on a permanent basis, not as a 89  
temporary supplement to the client employer's workforce, who is 90  
coemployed by a professional employer organization and a client 91  
employer pursuant to a professional employer organization 92  
agreement. 93

~~(F)~~(H) "Trade secret" has the same meaning as in section 94  
1333.61 of the Revised Code. 95

(I) "Working capital" means the excess of current assets over 96  
current liabilities as determined by generally accepted accounting 97  
principles. 98

**Sec. 4125.02.** The administrator of ~~the bureau of~~ workers' 99  
compensation shall adopt rules in accordance with Chapter 119. of 100  
the Revised Code to administer and enforce this chapter, including 101  
rules to administer and enforce division (B) of section 4125.03 of 102  
the Revised Code. 103

The administrator may adopt rules for the acceptance of 104  
electronic filings in accordance with Chapter 1306. of the Revised 105

Code for applications, documents, reports, and other filings 106  
required by this chapter. 107

The administrator may allow an independent assurance 108  
organization to act on behalf of a professional employer 109  
organization or professional employer organization reporting 110  
entity in complying with this chapter and any rules adopted under 111  
it. The assurance organization shall be approved by the 112  
administrator before acting on behalf of the professional employer 113  
organization or the professional employer organization reporting 114  
entity and shall abide by all standards and procedures established 115  
by the administrator for that approval. The administrator may 116  
permit a professional employer organization or professional 117  
employer organization reporting entity to authorize an assurance 118  
organization approved by the administrator to act on behalf of the 119  
professional employer organization or professional employer 120  
organization reporting entity, and the administrator shall specify 121  
certain provisions of this chapter that may be satisfied by an 122  
assurance organization acting with that authority. The rules shall 123  
also stipulate that the use of an assurance organization by a 124  
professional employer organization to comply with this chapter is 125  
not required and is strictly voluntary. 126

**Sec. 4125.03.** (A) The professional employer organization with 127  
whom a shared employee is coemployed shall do all of the 128  
following: 129

(1) Pay wages associated with a shared employee pursuant to 130  
the terms and conditions of compensation in the professional 131  
employer organization agreement between the professional employer 132  
organization and the client employer; 133

(2) Pay all related payroll taxes associated with a shared 134  
employee independent of the terms and conditions contained in the 135  
professional employer organization agreement between the 136

professional employer organization and the client employer;	137
(3) Maintain workers' compensation coverage, pay all workers' compensation premiums and manage all workers' compensation claims, filings, and related procedures associated with a shared employee in compliance with Chapters 4121. and 4123. of the Revised Code, except that when shared employees include family farm officers, ordained ministers, or corporate officers of the client employer, payroll reports shall include the entire amount of payroll associated with those persons;	138 139 140 141 142 143 144 145
(4) Provide written notice to each shared employee it assigns to perform services to a client employer of the relationship between and the responsibilities of the professional employer organization and the client employer;	146 147 148 149
(5) Maintain complete records separately listing the manual classifications of each client employer and the payroll reported to each manual classification for each client employer for each payroll reporting period during the time period covered in the professional employer organization agreement;	150 151 152 153 154
(6) Maintain a record of workers' compensation claims for each client employer;	155 156
(7) <u>Make periodic reports, as determined by the administrator of workers' compensation, of client employers and total workforce to the administrator;</u>	157 158 159
(8) <u>Report individual client employer payroll, claims, and classification data under a separate and unique subaccount to the administrator;</u>	160 161 162
(9) Within fourteen days after receiving notice from the bureau of workers' compensation that a refund or rebate will be applied to workers' compensation premiums, provide a copy of that notice to any client employer to whom that notice is relevant.	163 164 165 166

(B) The professional employer organization with whom a shared employee is coemployed shall provide a list of all of the following information to the client employer upon the written request of the client employer: 167  
168  
169  
170

(1) All workers' compensation claims, premiums, and payroll associated with that client employer; 171  
172

(2) Compensation and benefits paid and reserves established for each claim listed under division (B)(1) of this section; 173  
174

(3) Any other information available to the professional employer organization from the bureau of workers' compensation regarding that client employer. 175  
176  
177

(C)(1) A professional employer organization shall provide the information required under division (B) of this section in writing to the requesting client employer within forty-five days after receiving a written request from the client employer. 178  
179  
180  
181

(2) For purposes of division (C) of this section, a professional employer organization has provided the required information to the client employer when the information is received by the United States postal service or when the information is personally delivered, in writing, directly to the client employer. 182  
183  
184  
185  
186  
187

(D) Except as provided in section 4125.08 of the Revised Code and unless otherwise agreed to in the professional employer organization agreement, the professional employer organization with whom a shared employee is coemployed has a right of direction and control over each shared employee assigned to a client employer's location. However, a client employer shall retain sufficient direction and control over a shared employee as is necessary to do any of the following: 188  
189  
190  
191  
192  
193  
194  
195

(1) Conduct the client employer's business, including training and supervising shared employees; 196  
197

<u>(2) Ensure the quality, adequacy, and safety of the goods or services produced or sold in the client employer's business;</u>	198
	199
<u>(3) Discharge any fiduciary responsibility that the client employer may have;</u>	200
	201
<u>(4) Comply with any applicable licensure, regulatory, or statutory requirement of the client employer.</u>	202
	203
<del>(C) Notwithstanding division (B) of this section, a client employer may retain sufficient direction and control over a shared employee as is necessary to conduct the client employer's business and to discharge any fiduciary responsibility that it may have, or to comply with any applicable licensure, regulatory, or statutory requirement of the client employer</del>	204
	205
	206
	207
	208
	209
<u>(E) Unless otherwise agreed to in the professional employer organization agreement, liability for acts, errors, and omissions shall be determined as follows:</u>	210
	211
	212
<u>(1) A professional employer organization shall not be liable for the acts, errors, and omissions of a client employer or a shared employee when those acts, errors, and omissions occur under the direction and control of the client employer.</u>	213
	214
	215
	216
<u>(2) A client employer shall not be liable for the acts, errors, and omissions of a professional employer organization or a shared employee when those acts, errors, and omissions occur under the direction and control of the professional employer organization.</u>	217
	218
	219
	220
	221
<u>(F) Nothing in divisions (D) and (E) of this section shall be construed to limit any liability or obligation specifically agreed to in the professional employer organization agreement.</u>	222
	223
	224
<b><u>Sec. 4125.041. A shared employee under a professional employer organization agreement shall not, solely as a result of being a shared employee, be considered an employee of the</u></b>	225
	226
	227



professional employer organization for purposes of general 228  
liability insurance, fidelity bonds, surety bonds, employer 229  
liability not otherwise covered by Chapters 4121. and 4123. of the 230  
Revised Code, or liquor liability insurance carried by the 231  
professional employer organization, unless the professional 232  
employer organization agreement and applicable prearranged 233  
employment contract, insurance contract, or bond specifically 234  
states otherwise. 235

**Sec. 4125.042.** (A) For purposes of determining tax credits 236  
and other economic incentives that are provided by this state or 237  
any political subdivision and based on employment, shared 238  
employees under a professional employer organization agreement 239  
shall be considered employees solely of the client employer. 240

(1) A client employer shall be entitled to the benefit of any 241  
tax credit, economic incentive, or similar benefit arising as the 242  
result of the client employer's employment of shared employees. If 243  
the grant or amount of any tax credit, economic incentive, or 244  
other benefit is based on number of employees, each client 245  
employer shall be treated as employing only those shared employees 246  
coemployed by the client employer. Shared employees working for 247  
other client employers of the professional employer organization 248  
shall not be counted as employees for that purpose. 249

(2) Upon request by a client employer or an agency or 250  
department of this state, a professional employer organization 251  
shall provide employment information reasonably required by the 252  
agency or department responsible for administration of the tax 253  
credit or economic incentive and necessary to support any request, 254  
claim, application, or other action by a client employer seeking 255  
the tax credit or economic incentive. 256

(B) Shared employees whose services are subject to sales tax 257  
shall be considered the employees of the client employer for 258

purposes of collecting and levying sales tax on the services 259  
performed by the shared employee. Nothing contained in this 260  
chapter shall relieve a client employer or professional employer 261  
organization of any sales tax liability with respect to its goods 262  
or services. 263

(C) Any tax assessed on a per capita or per employee basis 264  
shall be assessed against the client employer for shared employees 265  
and against the professional employer organization for employees 266  
of the professional employer organization who are not shared 267  
employees coemployed with a client employer. 268

(D) For purposes of computing any tax that is imposed or 269  
calculated upon the basis of total payroll, the professional 270  
employer organization shall be eligible to use any small business 271  
allowance or exemption based solely on the employees of the 272  
professional employer organization who are not shared employees 273  
with any client employer. The eligibility of a client employer for 274  
the allowance or exemption shall be based solely upon the payroll 275  
of the employees of the client employer, including any shared 276  
employees coemployed by the client employer. 277

**Sec. 4125.05.** (A) Not later than thirty days after November 278  
5, 2004, or not later than thirty days after the formation of a 279  
professional employer organization, whichever date occurs later, a 280  
professional employer organization operating in this state shall 281  
register with the administrator of ~~the bureau of workers'~~ 282  
compensation on forms provided by the administrator. Following 283  
initial registration, each professional employer organization 284  
shall register with the administrator annually on or before the 285  
thirty-first day of December. Commonly owned or controlled 286  
applicants may register as a professional employer organization 287  
reporting entity or register individually. Registration as a part 288  
of a professional employer organization reporting entity shall not 289

<u>disqualify an individual professional employer organization from</u>	290
<u>participating in a group-rated plan under division (A)(4) of</u>	291
<u>section 4123.29 of the Revised Code.</u>	292
(B) Initial registration and each annual registration renewal	293
shall include all of the following:	294
(1) A list of each of the professional employer	295
organization's client employers current as of the date of	296
registration for purposes of initial registration or current as of	297
the date of annual registration renewal, or within fourteen days	298
of adding or releasing a client, that includes the client	299
employer's name, address, federal tax identification number, and	300
bureau of workers' compensation risk number;	301
(2) A fee as determined by the administrator;	302
(3) The name or names under which the professional employer	303
organization conducts business;	304
(4) The address of the professional employer organization's	305
principal place of business and the address of each office it	306
maintains in this state;	307
(5) The professional employer organization's taxpayer or	308
employer identification number;	309
(6) A list of each state in which the professional employer	310
organization has operated in the preceding five years, and the	311
name, corresponding with each state, under which the professional	312
employer organization operated in each state, including any	313
alternative names, names of predecessors, and if known, successor	314
business entities;	315
<u>(7) The most recent financial statement prepared and audited</u>	316
<u>pursuant to division (B) of section 4125.051 of the Revised Code;</u>	317
<u>(8) If there is any deficit in the working capital required</u>	318
<u>under division (A) of section 4125.051 of the Revised Code, a</u>	319

bond, irrevocable letter of credit, or securities with a minimum 320  
market value in an amount sufficient to cover the deficit in 321  
accordance with the requirements of that section; 322

(9) An attestation of the accuracy of the data submissions 323  
from the chief executive officer of the professional employer 324  
organization. 325

(C) Upon terms and for periods that the administrator 326  
considers appropriate, the administrator may issue a limited 327  
registration to a professional employer organization or 328  
professional employer organization reporting entity that provides 329  
all of the following items: 330

(1) A properly executed request for limited registration on a 331  
form provided by the administrator; 332

(2) All information and materials required for registration 333  
in divisions (B)(1) to (6) of this section; 334

(3) Information and documentation necessary to show that the 335  
professional employer organization or professional employer 336  
organization reporting entity satisfies all of the following 337  
criteria: 338

(a) It is domiciled outside of this state. 339

(b) It is licensed or registered as a professional employer 340  
organization in another state. 341

(c) It does not maintain an office in this state. 342

(d) It does not participate in direct solicitations for 343  
client employers located or domiciled in this state. 344

(e) It has fifty or fewer shared employees employed or 345  
domiciled in this state on any given day. 346

(D)(1) The administrator, with the advice and consent of the 347  
bureau of workers' compensation board of directors, shall adopt 348  
rules in accordance with Chapter 119. of the Revised Code to 349

require, in addition to the requirement under division (B)(8) of 350  
this section and except as otherwise specified in division 351  
~~(C)(D)~~(2) of this section, a professional employer organization to 352  
provide security in the form of a bond or letter of credit 353  
assignable to the Ohio bureau of workers' compensation not to 354  
exceed an amount equal to the premiums and assessments incurred 355  
for the two most recent payroll periods, prior to any discounts or 356  
dividends, to meet the financial obligations of the professional 357  
employer organization pursuant to this chapter and Chapters 4121. 358  
and 4123. of the Revised Code. 359

(2) As an alternative to providing security in the form of a 360  
bond or letter of credit under division (D)(1) of this section, 361  
the administrator shall permit a professional employer 362  
organization to make periodic payments of prospective premiums and 363  
assessments to the bureau ~~or to submit proof of being certified by~~ 364  
~~either a nationally recognized organization that certifies~~ 365  
~~professional employer organizations or by a government entity~~ 366  
~~approved by the administrator.~~ 367

(3) A professional employer organization may appeal the 368  
amount of the security required pursuant to rules adopted under 369  
division ~~(C)(D)~~(1) of this section in accordance with section 370  
4123.291 of the Revised Code. 371

~~(D)(E)~~ Notwithstanding division ~~(C)(D)~~ of this section, a 372  
professional employer organization that qualifies for 373  
self-insurance or retrospective rating under section 4123.29 or 374  
4123.35 of the Revised Code shall abide by the financial 375  
disclosure and security requirements pursuant to those sections 376  
and the rules adopted under those sections in place of the 377  
requirements specified in division ~~(C)(D)~~ of this section or 378  
specified in rules adopted pursuant to that division. 379

~~(E)(F)~~ Except to the extent necessary for the administrator 380  
to administer the statutory duties of the administrator and for 381

employees of the state to perform their official duties, all 382  
records, reports, client lists, and other information obtained 383  
from a professional employer organization and professional 384  
employer organization reporting entity under divisions (A), (B), 385  
and ~~(B)~~(C) of this section are confidential and shall be 386  
considered trade secrets and shall not be published or open to 387  
public inspection. 388

~~(F)~~(G) The list described in division (B)(1) of this section 389  
shall be considered a trade secret. 390

~~(G)~~(H) The administrator shall establish the fee described in 391  
division (B)(2) of this section in an amount that does not exceed 392  
the cost of the administration of the initial and renewal 393  
registration process. 394

(I) A financial statement required under division (B)(7) of 395  
this section for initial registration shall be the most recent 396  
financial statement of the professional employer organization or 397  
professional employer organization reporting entity of which the 398  
professional employer organization is a member and shall not be 399  
older than thirteen months. For each registration renewal, the 400  
professional employer organization shall file the required 401  
financial statement within one hundred eighty days after the end 402  
of the professional employer organization's or professional 403  
employer organization reporting entity's fiscal year. A 404  
professional employer organization may apply to the administrator 405  
for an extension beyond that time if the professional employer 406  
organization provides the administrator with a letter from the 407  
professional employer organization's auditor stating the reason 408  
for delay and the anticipated completion date. 409

(J) Multiple, unrelated professional employer organizations 410  
shall not combine together for purposes of obtaining workers' 411  
compensation coverage or for forming any type of self-insurance 412  
arrangement available under this chapter. Multiple, unrelated 413

professional employer organization reporting entities shall not 414  
combine together for purposes of obtaining workers' compensation 415  
coverage or for forming any type of self-insurance arrangement 416  
available under this chapter. 417

(K) The administrator shall maintain a list of professional 418  
employer organizations and professional employer organization 419  
reporting entities registered under this section that is readily 420  
available to the public by electronic or other means. 421

**Sec. 4125.051.** (A) A professional employer organization, or a 422  
professional employer organization reporting entity of which the 423  
professional employer organization is a member, shall maintain 424  
positive working capital at initial or annual registration, as 425  
reflected in the financial statements submitted to the bureau. If 426  
a deficit in working capital is reflected in the financial 427  
statements submitted to the bureau, the professional employer 428  
organization or the professional employer organization reporting 429  
entity shall do both of the following for that registration 430  
period: 431

(1) Obtain a bond, irrevocable letter of credit, or 432  
securities with a minimum market value in an amount sufficient to 433  
cover the deficit in working capital; 434

(2) Submit to the administrator of workers' compensation a 435  
quarterly financial statement for each calendar quarter during 436  
which there is a deficit in working capital, accompanied by an 437  
attestation of the chief executive officer of the professional 438  
employer organization that all wages, taxes, workers' compensation 439  
premiums, and employee benefits have been paid by the professional 440  
employer organization or members of the professional employer 441  
organization reporting entity. 442

The bond, letter of credit, or securities required under 443  
division (A)(1) of this section shall be held by a depository 444

designated by the administrator and shall secure payment by the 445  
professional employer organization or professional employer 446  
organization reporting entity of all taxes, wages, benefits, or 447  
other entitlements due or otherwise pertaining to shared 448  
employees, if the professional employer organization or 449  
professional employer organization reporting entity does not make 450  
those payments when due. 451

(B) A professional employer organization, or a professional 452  
employer organization reporting entity of which the professional 453  
employer organization is a member, shall prepare financial 454  
statements in accordance with generally accepted accounting 455  
principles and submit them for registration and registration 456  
renewal under section 4125.05 of the Revised Code. 457

The financial statements shall be audited by an independent 458  
certified public accountant authorized to practice in the 459  
jurisdiction in which that accountant is located. 460

(1) The resulting report of the auditor shall not include 461  
either of the following: 462

(a) A qualification or disclaimer of opinion as to adherence 463  
to generally accepted accounting principles; 464

(b) A statement expressing substantial doubt about the 465  
ability of the professional employer organization or professional 466  
employer organization reporting entity to continue as a going 467  
concern. 468

(2) However, if a professional employer organization does not 469  
have at least twelve months of operating history on which to base 470  
financial statements, the financial statements shall be reviewed 471  
by a certified public accountant. 472

(3) Notwithstanding division (B)(1)(a) of this section, if a 473  
professional employer organization or professional employer 474  
organization reporting entity is a subsidiary or is related to a 475



variable interest entity, the professional employer organization 476  
or professional employer organization entity may submit financial 477  
statements of the professional employer organization or 478  
professional employer organization reporting entity. 479

(C) The bureau shall deny initial or annual registration to 480  
an applicant or professional employer organization reporting 481  
entity that does not meet the requirements of this section. 482

(D) Professional employer organizations in a professional 483  
employer organization reporting entity may satisfy the 484  
requirements of this section on a combined or consolidated basis 485  
provided that each member of the professional employer 486  
organization reporting entity guarantees each other members' 487  
satisfaction of the requirements under division (A) of this 488  
section. 489

For purposes of satisfying the registration and registration 490  
renewal requirements described in division (B)(7) of section 491  
4125.05 of the Revised Code, a professional employer organization 492  
reporting entity may submit a combined or consolidated financial 493  
statement that satisfies the requirements of this section. If the 494  
combined or consolidated financial statement includes entities 495  
that are not professional employer organizations or that are not 496  
in the professional employer organization reporting entity, the 497  
controlling entity of the professional employer organization 498  
reporting entity that is submitting the consolidated or combined 499  
financial statement shall guarantee that the professional employer 500  
organizations of the professional employer organization reporting 501  
entity have satisfied the requirements under division (A) of this 502  
section and shall include supplemental combining schedules to 503  
guarantee that the requirements under division (A) of this section 504  
are satisfied by the professional employer organization or 505  
professional employer organization reporting entity. 506

**Sec. 4125.07.** Not later than fourteen calendar days after the 507  
date on which a professional employer organization agreement is 508  
terminated, the professional employer organization is adjudged 509  
bankrupt, the professional employer organization ceases operations 510  
within the state of Ohio, or the registration of the professional 511  
employer organization is revoked, the professional employer 512  
organization shall submit to the administrator ~~of the bureau~~ of 513  
workers' compensation and each client employer associated with 514  
that professional employer organization a completed workers' 515  
compensation lease termination notice form provided by the 516  
administrator. The completed form shall include all client payroll 517  
and claim information listed in a format specified by the 518  
administrator and notice of all workers' compensation claims that 519  
have been reported to the professional employer organization in 520  
accordance with its internal reporting policies. 521

A professional employer organization shall report any 522  
transfer of employees between related professional employer 523  
organization entities or professional employer organization 524  
reporting entities to the administrator within fourteen calendar 525  
days after the date of the transfer on a form prescribed by the 526  
administrator. The professional employer organization or 527  
professional employer organization reporting entity shall include 528  
in the form all client payroll and claim information regarding the 529  
transferred employees listed in a format specified by the 530  
administrator and a notice of all workers' compensation claims 531  
that have been reported to the professional employer organization 532  
or professional employer organization reporting entity in 533  
accordance with the internal reporting policies of the 534  
professional employer organization or professional employer 535  
organization reporting entity. 536

**Sec. 4125.08.** Nothing in this chapter exempts a professional 537

employer organization, client employer, or shared employee from 538  
any applicable federal, state, or local licensing, registration, 539  
or certification statutes or regulations. An individual required 540  
to obtain and maintain a license, registration, or certification 541  
under law and who is a shared employee of a professional employer 542  
organization and a client employer is an employee of the client 543  
employer for purposes of obtaining and maintaining the appropriate 544  
license, registration, or certification as required by law. A 545  
professional employer organization does not engage in any 546  
occupation, trade, or profession that requires a license, 547  
certification, or registration solely by entering into a 548  
professional employer agreement with a client employer or 549  
coemploying a shared employee. 550

A client employer shall have the sole right of direction and 551  
control of the professional or licensed activities of shared 552  
employees and of the client employer's business. The shared 553  
employees and client employers shall remain subject to regulation 554  
by the board, commission, or agency responsible for licensing, 555  
registration, or certification of the shared employees or client 556  
employers. 557

Sec. 4125.10. Nothing contained in this chapter or in any 558  
professional employer organization agreement shall do any of the 559  
following: 560

(A) Diminish, abolish, or remove the rights and obligations 561  
of client employers and shared employees existing prior to the 562  
effective date of the professional employer organization 563  
agreement; 564

(B) Affect, modify, or amend any contractual relationship or 565  
restrictive covenant between a shared employee and any client 566  
employer in effect at the time a professional employer 567  
organization agreement becomes effective; 568

(C) Prohibit or amend any contractual relationship or restrictive covenant between a client employer and a shared employee that is entered into after the professional employer organization agreement becomes effective; 569  
570  
571  
572

(D) Create any new or additional enforcement right of a shared employee against a professional employer organization that is not specifically provided by the professional employer organization agreement or this chapter. 573  
574  
575  
576

A professional employer organization shall have no responsibility or liability in connection with, or arising out of, any contractual relationship or restrictive covenant between a client employer and a shared employee unless the professional employer organization has specifically agreed otherwise in writing. 577  
578  
579  
580  
581  
582

Sec. 4125.11. For purposes of a bid, contract, purchase order, or agreement entered into with the state or any political subdivision, a client employer's status or certification as a small, minority-owned, disadvantaged, or woman-owned business enterprise or as a historically underutilized business shall not be affected as a result of the client employer entering into a professional employer organization agreement or using the services of a professional employer organization. 583  
584  
585  
586  
587  
588  
589  
590

Sec. 4141.24. (A)(1) The director of job and family services shall maintain a separate account for each employer and, except as otherwise provided in division (B) of section 4141.25 of the Revised Code respecting mutualized contributions, shall credit such employer's account with all the contributions, or payments in lieu of contributions, which the employer has paid on the employer's own behalf. 591  
592  
593  
594  
595  
596  
597

(2) If, as of the computation date, a contributory employer's 598

account shows a negative balance computed as provided in division 599  
(A)(3) of section 4141.25 of the Revised Code, less any 600  
contributions due and unpaid on such date, which negative balance 601  
is in excess of the limitations imposed by divisions (A)(2)(a), 602  
(b), and (c) of this section and if the employer's account is 603  
otherwise eligible for the transfer, then before the employer's 604  
contribution rate is computed for the next succeeding contribution 605  
period, an amount equal to the amount of the excess eligible for 606  
transfer shall be permanently transferred from the account of such 607  
employer and charged to the mutualized account provided in 608  
division (B) of section 4141.25 of the Revised Code. 609

(a) If as of any computation date, a contributory employer's 610  
account shows a negative balance in excess of ten per cent of the 611  
employer's average annual payroll, then before the employer's 612  
contribution rate is computed for the next succeeding contribution 613  
period, an amount equal to the amount of the excess shall be 614  
transferred from the account as provided in this division. No 615  
contributory employer's account may have any excess transferred 616  
pursuant to division (A)(2)(a) of this section, unless the 617  
employer's account has shown a positive balance for at least two 618  
consecutive computation dates prior to the computation date with 619  
respect to which the transfer is proposed. Each time a transfer is 620  
made pursuant to division (A)(2)(a) of this section, the 621  
employer's account is ineligible for any additional transfers 622  
under that division, until the account shows a positive balance 623  
for at least two consecutive computation dates subsequent to the 624  
computation date of which the most recent transfer occurs pursuant 625  
to division (A)(2)(a), (b), or (c) of this section. 626

(b) If at the next computation date after the computation 627  
date at which a transfer from the account occurs pursuant to 628  
division (A)(2)(a) of this section, a contributory employer's 629  
account shows a negative balance in excess of fifteen per cent of 630

the employer's average annual payroll, then before the employer's 631  
contribution rate is computed for the next succeeding contribution 632  
period an amount equal to the amount of the excess shall be 633  
permanently transferred from the account as provided in this 634  
division. 635

(c) If at the next computation date subsequent to the 636  
computation date at which a transfer from a contributory 637  
employer's account occurs pursuant to division (A)(2)(b) of this 638  
section, the employer's account shows a negative balance in excess 639  
of twenty per cent of the employer's average annual payroll, then 640  
before the employer's contribution rate is computed for the next 641  
succeeding contribution period, an amount equal to the amount of 642  
the excess shall be permanently transferred from the account as 643  
provided in this division. 644

(d) If no transfer occurs pursuant to division (A)(2)(b) or 645  
(c) of this section, the employer's account is ineligible for any 646  
additional transfers under division (A)(2) of this section until 647  
the account requalifies for a transfer pursuant to division 648  
(A)(2)(a) of this section. 649

(B) Any employer may make voluntary payments in addition to 650  
the contributions required under this chapter, in accordance with 651  
rules established by the director. Such payments shall be included 652  
in the employer's account as of the computation date, provided 653  
they are received by the director by the thirty-first day of 654  
December following such computation date. Such voluntary payment, 655  
when accepted from an employer, will not be refunded in whole or 656  
in part. In determining whether an employer's account has a 657  
positive balance on two consecutive computation dates and is 658  
eligible for transfers under division (A)(2) of this section, the 659  
director shall exclude any voluntary payments made subsequent to 660  
the last transfer made under division (A)(2) of this section. 661

(C) All contributions to the fund shall be pooled and 662

available to pay benefits to any individual entitled to benefits 663  
irrespective of the source of such contributions. 664

(D)(1) For the purposes of this section and sections 4141.241 665  
and 4141.242 of the Revised Code, an employer's account shall be 666  
charged only for benefits based on remuneration paid by such 667  
employer. Benefits paid to an eligible individual shall be charged 668  
against the account of each employer within the claimant's base 669  
period in the proportion to which wages attributable to each 670  
employer of the claimant bears to the claimant's total base period 671  
wages. Charges to the account of a base period employer with whom 672  
the claimant is employed part-time at the time the claimant's 673  
application for a determination of benefits rights is filed shall 674  
be charged to the mutualized account when all of the following 675  
conditions are met: 676

(a) The claimant also worked part-time for the employer 677  
during the base period of the claim. 678

(b) The claimant is unemployed due to loss of other 679  
employment. 680

(c) The employer is not a reimbursing employer under section 681  
4141.241 or 4141.242 of the Revised Code. 682

(2) Notwithstanding division (D)(1) of this section, charges 683  
to the account of any employer, including any reimbursing 684  
employer, shall be charged to the mutualized account if it finally 685  
is determined by a court on appeal that the employer's account is 686  
not chargeable for the benefits. 687

(3) Any benefits paid to a claimant under section 4141.28 of 688  
the Revised Code prior to a final determination of the claimant's 689  
right to the benefits shall be charged to the employer's account 690  
as provided in division (D)(1) of this section, provided that if 691  
there is no final determination of the claim by the subsequent 692  
thirtieth day of June, the employer's account shall be credited 693

with the total amount of benefits that has been paid prior to that 694  
date, based on the determination that has not become final. The 695  
total amount credited to the employer's account shall be charged 696  
to a suspense account, which shall be maintained as a separate 697  
bookkeeping account and administered as a part of this section, 698  
and shall not be used in determining the account balance of the 699  
employer for the purpose of computing the employer's contribution 700  
rate under section 4141.25 of the Revised Code. 701

If it is finally determined that the claimant is entitled to 702  
all or a part of the benefits in dispute, the suspense account 703  
shall be credited and the appropriate employer's account charged 704  
with the benefits. If it is finally determined that the claimant 705  
is not entitled to all or any portion of the benefits in dispute, 706  
the benefits shall be credited to the suspense account and a 707  
corresponding charge made to the mutualized account established in 708  
division (B) of section 4141.25 of the Revised Code, provided 709  
that, except as otherwise provided in this section, if benefits 710  
are chargeable to an employer or group of employers who is 711  
required or elects to make payments to the fund in lieu of 712  
contributions under section 4141.241 of the Revised Code, the 713  
benefits shall be charged to the employer's account in the manner 714  
provided in division (D)(1) of this section and division (B) of 715  
section 4141.241 of the Revised Code, and no part of the benefits 716  
may be charged to the suspense account provided in this division. 717

To the extent that benefits that have been paid to a claimant 718  
and charged to the employer's account are found not to be due the 719  
claimant and are recovered by the director as provided in section 720  
4141.35 of the Revised Code, they shall be credited to the 721  
employer's account. 722

(4) The director shall notify each employer at least once 723  
each month of the benefits charged to the employer's account since 724  
the last preceding notice; except that for the purposes of 725



sections 4141.241 and 4141.242 of the Revised Code which provides 726  
the billing of employers on a payment in lieu of a contribution 727  
basis, the director may prescribe a quarterly or less frequent 728  
notice of benefits charged to the employer's account. Such notice 729  
will show a summary of the amount of benefits paid which were 730  
charged to the employer's account. This notice shall not be deemed 731  
a determination of the claimant's eligibility for benefits. Any 732  
employer so notified, however, may file within fifteen days after 733  
the mailing date of the notice, an exception to charges appearing 734  
on the notice on the grounds that such charges are not in 735  
accordance with this section. The director shall promptly examine 736  
the exception to such charges and shall notify the employer of the 737  
director's decision thereon, which decision shall become final 738  
unless appealed to the unemployment compensation review commission 739  
in the manner provided in section 4141.26 of the Revised Code. For 740  
the purposes of this division, an exception is considered timely 741  
filed when it has been received as provided in division (D)(1) of 742  
section 4141.281 of the Revised Code. 743

(E) The director shall terminate and close the account of any 744  
contributory employer who has been subject to this chapter if the 745  
enterprise for which the account was established is no longer in 746  
operation and it has had no payroll and its account has not been 747  
chargeable with benefits for a period of five consecutive years. 748  
The amount of any positive balance, computed as provided in 749  
division (A)(3) of section 4141.25 of the Revised Code, in an 750  
account closed and terminated as provided in this section shall be 751  
credited to the mutualized account as provided in division 752  
(B)(2)(b) of section 4141.25 of the Revised Code. The amount of 753  
any negative balance, computed as provided in division (A)(3) of 754  
section 4141.25 of the Revised Code, in an account closed and 755  
terminated as provided in this section shall be charged to the 756  
mutualized account as provided in division (B)(1)(b) of section 757  
4141.25 of the Revised Code. The amount of any positive balance or 758

negative balance, credited or charged to the mutualized account 759  
after the termination and closing of an employer's account, shall 760  
not thereafter be considered in determining the contribution rate 761  
of such employer. The closing of an employer's account as provided 762  
in this division shall not relieve such employer from liability 763  
for any unpaid contributions or payment in lieu of contributions 764  
which are due for periods prior to such closing. 765

If the director finds that a contributory employer's business 766  
is closed solely because of the entrance of one or more of the 767  
owners, officers, or partners, or the majority stockholder, into 768  
the armed forces of the United States, or any of its allies, or of 769  
the United Nations after July 1, 1950, such employer's account 770  
shall not be terminated and if the business is resumed within two 771  
years after the discharge or release of such persons from active 772  
duty in the armed forces, the employer's experience shall be 773  
deemed to have been continuous throughout such period. The reserve 774  
ratio of any such employer shall be the total contributions paid 775  
by such employer minus all benefits, including benefits paid to 776  
any individual during the period such employer was in the armed 777  
forces, based upon wages paid by the employer prior to the 778  
employer's entrance into the armed forces divided by the average 779  
of the employer's annual payrolls for the three most recent years 780  
during the whole of which the employer has been in business. 781

(F) If an employer transfers all of its trade or business to 782  
another employer or person, the acquiring employer or person shall 783  
be the successor in interest to the transferring employer and 784  
shall assume the resources and liabilities of such transferring 785  
employer's account, and continue the payment of all contributions, 786  
or payments in lieu of contributions, due under this chapter. 787

If an employer or person acquires substantially all, or a 788  
clearly segregable and identifiable portion of an employer's trade 789  
or business, then upon the director's approval of a properly 790

completed application for successorship, the employer or person 791  
acquiring the trade or business, or portion thereof, shall be the 792  
successor in interest. The director by rule may prescribe 793  
procedures for effecting transfers of experience as provided for 794  
in this section. 795

(G) Notwithstanding sections 4141.09, 4141.23, 4141.24, 796  
4141.241, 4141.242, 4141.25, 4141.26, and 4141.27 of the Revised 797  
Code, both of the following apply regarding assignment of rates 798  
and transfers of experience: 799

(1) If an employer transfers its trade or business, or a 800  
portion thereof, to another employer and, at the time of the 801  
transfer, both employers are under substantially common ownership, 802  
management, or control, then the unemployment experience 803  
attributable to the transferred trade or business, or portion 804  
thereof, shall be transferred to the employer to whom the business 805  
is so transferred. The director shall recalculate the rates of 806  
both employers and those rates shall be effective immediately upon 807  
the date of the transfer of the trade or business. 808

(2) Whenever a person is not an employer under this chapter 809  
at the time the person acquires the trade or business of an 810  
employer, the unemployment experience of the acquired trade or 811  
business shall not be transferred to the person if the director 812  
finds that the person acquired the trade or business solely or 813  
primarily for the purpose of obtaining a lower rate of 814  
contributions. Instead, that person shall be assigned the 815  
applicable new employer rate under division (A)(1) of section 816  
4141.25 of the Revised Code. 817

(H) The director shall establish procedures to identify the 818  
transfer or acquisition of a trade or business for purposes of 819  
this section and shall adopt rules prescribing procedures for 820  
effecting transfers of experience as described in this section. 821

(I) No rate of contribution less than two and seven-tenths 822  
per cent shall be permitted a contributory employer succeeding to 823  
the experience of another contributory employer pursuant to this 824  
section for any period subsequent to such succession, except in 825  
accordance with rules prescribed by the director, which rules 826  
shall be consistent with federal requirements for additional 827  
credit allowance in section 3303 of the "Internal Revenue Code of 828  
1954" and consistent with this chapter, except that such rules may 829  
establish a computation date for any such period different from 830  
the computation date generally prescribed by this chapter, and may 831  
define "calendar year" as meaning a twelve-consecutive-month 832  
period ending on the same day of the year as that on which such 833  
computation date occurs. 834

(J) The director may prescribe rules for the establishment, 835  
maintenance, and dissolution of common contribution rates for two 836  
or more contributory employers, and in accordance with such rules 837  
and upon application by two or more employers shall establish such 838  
common rate to be computed by merging the several contribution 839  
rate factors of such employers for the purpose of establishing a 840  
common contribution rate applicable to all such employers. 841

(K) The director shall adopt rules applicable to professional 842  
employer organizations and professional employer organization 843  
reporting entities to address the method in which a professional 844  
employer organization or professional employer organization 845  
reporting entity reports quarterly wages and contributions to the 846  
director for shared employees. 847

(1) The rules shall recognize a professional employer 848  
organization or professional employer organization reporting 849  
entity as the employer of record of the shared employees of the 850  
professional employer organization or professional employer 851  
organization reporting entity for reporting purposes; however, the 852  
rules shall require that each shared employee of a single client 853

employer be reported under a separate and unique subaccount of the 854  
professional employer organization or professional employer 855  
organization reporting entity to reflect the experience of the 856  
shared employees of that client employer. 857

(2) The director shall use a subaccount solely to determine 858  
experience rates for that individual subaccount on an annual basis 859  
and shall recognize a professional employer organization or 860  
professional employer organization reporting entity as the 861  
employer of record associated with each subaccount. The director 862  
shall combine the rate experience that existed on a client 863  
employer's account prior to entering into a professional employer 864  
organization agreement with the experience accumulated as a 865  
subaccount of the professional employer organization or 866  
professional employer organization reporting entity. The combined 867  
experience shall remain with the client account upon termination 868  
of the professional employer organization agreement. 869

(3) A professional employer organization or professional 870  
employer organization reporting entity shall provide a power of 871  
attorney or other evidence, which evidence may be included as part 872  
of a professional employer organization agreement, completed by 873  
each client employer of the professional employer organization or 874  
professional employer organization reporting entity, authorizing 875  
the professional employer organization or professional employer 876  
organization reporting entity to act on behalf of the client 877  
employer in accordance with the requirements of this chapter. 878

(4) Any rule adopted pursuant to division (K) of this section 879  
also shall include administrative requirements that permit a 880  
professional employer organization or a professional employer 881  
organization reporting entity to transmit any reporting and 882  
payment data required under division (K)(1) of this section 883  
collectively as a single filing with the director. 884

(5) As used in division (K) of this section, "client 885

employer," "professional employer organization," "professional employer organization agreement," "professional employer organization reporting entity," and "shared employee" have the same meanings as in section 4125.01 of the Revised Code. 886  
887  
888  
889

**Sec. 5747.07.** (A) As used in this section: 890

(1) "Partial weekly withholding period" means a period during 891  
which an employer directly, indirectly, or constructively pays 892  
compensation to, or credits compensation to the benefit of, an 893  
employee, and that consists of a consecutive Saturday, Sunday, 894  
Monday, and Tuesday or a consecutive Wednesday, Thursday, and 895  
Friday. There are two partial weekly withholding periods each 896  
week, except that a partial weekly withholding period cannot 897  
extend from one calendar year into the next calendar year; if the 898  
first day of January falls on a day other than Saturday or 899  
Wednesday, the partial weekly withholding period ends on the 900  
thirty-first day of December and there are three partial weekly 901  
withholding periods during that week. 902

(2) "Undeposited taxes" means the taxes an employer is 903  
required to deduct and withhold from an employee's compensation 904  
pursuant to section 5747.06 of the Revised Code that have not been 905  
remitted to the tax commissioner pursuant to this section or to 906  
the treasurer of state pursuant to section 5747.072 of the Revised 907  
Code. 908

(3) A "week" begins on Saturday and concludes at the end of 909  
the following Friday. 910

(4) "Client employer," "professional employer organization," "professional employer organization agreement," and "professional employer organization reporting entity" have the same meanings as in section 4125.01 of the Revised Code. 911  
912  
913  
914

(B) Except as provided in divisions (C) and (D) of this 915

section and in division (A) of section 5747.072 of the Revised Code, every employer required to deduct and withhold any amount under section 5747.06 of the Revised Code shall file a return and shall pay the amount required by law as follows:

(1) An employer who accumulates or is required to accumulate undeposited taxes of one hundred thousand dollars or more during a partial weekly withholding period shall make the payment of the undeposited taxes by the close of the first banking day after the day on which the accumulation reaches one hundred thousand dollars. If required under division (I) of this section, the payment shall be made by electronic funds transfer under section 5747.072 of the Revised Code.

(2)(a) Except as required by division (B)(1) of this section, an employer described in division (B)(2)(b) of this section shall make the payment of undeposited taxes within three banking days after the close of a partial weekly withholding period during which the employer was required to deduct and withhold any amount under this chapter. If required under division (I) of this section, the payment shall be made by electronic funds transfer under section 5747.072 of the Revised Code.

(b) For amounts required to be deducted and withheld during 1994, an employer described in division (B)(2)(b) of this section is one whose actual or required payments under this section exceeded one hundred eighty thousand dollars during the twelve-month period ending June 30, 1993. For amounts required to be deducted and withheld during 1995 and each year thereafter, an employer described in division (B)(2)(b) of this section is one whose actual or required payments under this section were at least eighty-four thousand dollars during the twelve-month period ending on the thirtieth day of June of the preceding calendar year.

(3) Except as required by divisions (B)(1) and (2) of this section, if an employer's actual or required payments were more

than two thousand dollars during the twelve-month period ending on 948  
the thirtieth day of June of the preceding calendar year, the 949  
employer shall make the payment of undeposited taxes for each 950  
month during which they were required to be withheld no later than 951  
fifteen days following the last day of that month. The employer 952  
shall file the return prescribed by the tax commissioner with the 953  
payment. 954

(4) Except as required by divisions (B)(1), (2), and (3) of 955  
this section, an employer shall make the payment of undeposited 956  
taxes for each calendar quarter during which they were required to 957  
be withheld no later than the last day of the month following the 958  
last day of March, June, September, and December each year. The 959  
employer shall file the return prescribed by the tax commissioner 960  
with the payment. 961

(C) The return and payment schedules prescribed by divisions 962  
(B)(1) and (2) of this section do not apply to the return and 963  
payment of undeposited school district income taxes arising from 964  
taxes levied pursuant to Chapter 5748. of the Revised Code. 965  
Undeposited school district income taxes shall be returned and 966  
paid pursuant to divisions (B)(3) and (4) of this section, as 967  
applicable. 968

(D)(1) The requirements of division (B) of this section are 969  
met if the amount paid is not less than ninety-five per cent of 970  
the actual tax withheld or required to be withheld for the prior 971  
quarterly, monthly, or partial weekly withholding period, and the 972  
underpayment is not due to willful neglect. Any underpayment of 973  
withheld tax shall be paid within thirty days of the date on which 974  
the withheld tax was due without regard to division (D)(1) of this 975  
section. An employer described in division (B)(1) or (2) of this 976  
section shall make the payment by electronic funds transfer under 977  
section 5747.072 of the Revised Code. 978

(2) If the tax commissioner believes that quarterly or 979



monthly payments would result in a delay that might jeopardize the 980  
remittance of withholding payments, the commissioner may order 981  
that the payments be made weekly, or more frequently if necessary, 982  
and the payments shall be made no later than three banking days 983  
following the close of the period for which the jeopardy order is 984  
made. An order requiring weekly or more frequent payments shall be 985  
delivered to the employer personally or by certified mail and 986  
remains in effect until the commissioner notifies the employer to 987  
the contrary. 988

(3) If compelling circumstances exist concerning the 989  
remittance of undeposited taxes, the commissioner may order the 990  
employer to make payments under any of the payment schedules under 991  
division (B) of this section. The order shall be delivered to the 992  
employer personally or by certified mail and shall remain in 993  
effect until the commissioner notifies the employer to the 994  
contrary. For purposes of division (D)(3) of this section, 995  
"compelling circumstances" exist if either or both of the 996  
following are true: 997

(a) Based upon annualization of payments made or required to 998  
be made during the preceding calendar year and during the current 999  
calendar year, the employer would be required for the next 1000  
calendar year to make payments under division (B)(2) of this 1001  
section. 1002

(b) Based upon annualization of payments made or required to 1003  
be made during the current calendar year, the employer would be 1004  
required for the next calendar year to make payments under 1005  
division (B)(2) of this section. 1006

(E)(1) An employer described in division (B)(1) or (2) of 1007  
this section shall file, not later than the last day of the month 1008  
following the end of each calendar quarter, a return covering, but 1009  
not limited to, both the actual amount deducted and withheld and 1010  
the amount required to be deducted and withheld for the tax 1011

imposed under section 5747.02 of the Revised Code during each 1012  
partial weekly withholding period or portion of a partial weekly 1013  
withholding period during that quarter. The employer shall file 1014  
the quarterly return even if the aggregate amount required to be 1015  
deducted and withheld for the quarter is zero dollars. At the time 1016  
of filing the return, the employer shall pay any amounts of 1017  
undeposited taxes for the quarter, whether actually deducted and 1018  
withheld or required to be deducted and withheld, that have not 1019  
been previously paid. If required under division (I) of this 1020  
section, the payment shall be made by electronic funds transfer. 1021  
The tax commissioner shall prescribe the form and other 1022  
requirements of the quarterly return. 1023

(2) In addition to other returns required to be filed and 1024  
payments required to be made under this section, every employer 1025  
required to deduct and withhold taxes shall file, not later than 1026  
the thirty-first day of January of each year, an annual return 1027  
covering, but not limited to, both the aggregate amount deducted 1028  
and withheld and the aggregate amount required to be deducted and 1029  
withheld during the entire preceding year for the tax imposed 1030  
under section 5747.02 of the Revised Code and for each tax imposed 1031  
under Chapter 5748. of the Revised Code. At the time of filing 1032  
that return, the employer shall pay over any amounts of 1033  
undeposited taxes for the preceding year, whether actually 1034  
deducted and withheld or required to be deducted and withheld, 1035  
that have not been previously paid. The employer shall make the 1036  
annual report, to each employee and to the tax commissioner, of 1037  
the compensation paid and each tax withheld, as the commissioner 1038  
by rule may prescribe. 1039

Each employer required to deduct and withhold any tax is 1040  
liable for the payment of that amount required to be deducted and 1041  
withheld, whether or not the tax has in fact been withheld, unless 1042  
the failure to withhold was based upon the employer's good faith 1043

in reliance upon the statement of the employee as to liability, 1044  
and the amount shall be deemed to be a special fund in trust for 1045  
the general revenue fund. 1046

(F) Each employer shall file with the employer's annual 1047  
return the following items of information on employees for whom 1048  
withholding is required under section 5747.06 of the Revised Code: 1049

(1) The full name of each employee, the employee's address, 1050  
the employee's school district of residence, and in the case of a 1051  
nonresident employee, the employee's principal county of 1052  
employment; 1053

(2) The social security number of each employee; 1054

(3) The total amount of compensation paid before any 1055  
deductions to each employee for the period for which the annual 1056  
return is made; 1057

(4) The amount of the tax imposed by section 5747.02 of the 1058  
Revised Code and the amount of each tax imposed under Chapter 1059  
5748. of the Revised Code withheld from the compensation of the 1060  
employee for the period for which the annual return is made. The 1061  
commissioner may extend upon good cause the period for filing any 1062  
notice or return required to be filed under this section and may 1063  
adopt rules relating to extensions of time. If the extension 1064  
results in an extension of time for the payment of the amounts 1065  
withheld with respect to which the return is filed, the employer 1066  
shall pay, at the time the amount withheld is paid, an amount of 1067  
interest computed at the rate per annum prescribed by section 1068  
5703.47 of the Revised Code on that amount withheld, from the day 1069  
that amount was originally required to be paid to the day of 1070  
actual payment or to the day an assessment is issued under section 1071  
5747.13 of the Revised Code, whichever occurs first. 1072

(5) In addition to all other interest charges and penalties 1073  
imposed, all amounts of taxes withheld or required to be withheld 1074

and remaining unpaid after the day the amounts are required to be 1075  
paid shall bear interest from the date prescribed for payment at 1076  
the rate per annum prescribed by section 5703.47 of the Revised 1077  
Code on the amount unpaid, in addition to the amount withheld, 1078  
until paid or until the day an assessment is issued under section 1079  
5747.13 of the Revised Code, whichever occurs first. 1080

(G) An employee of a corporation, limited liability company, 1081  
or business trust having control or supervision of or charged with 1082  
the responsibility of filing the report and making payment, or an 1083  
officer, member, manager, or trustee of a corporation, limited 1084  
liability company, or business trust who is responsible for the 1085  
execution of the corporation's, limited liability company's, or 1086  
business trust's fiscal responsibilities, shall be personally 1087  
liable for failure to file the report or pay the tax due as 1088  
required by this section. The dissolution, termination, or 1089  
bankruptcy of a corporation, limited liability company, or 1090  
business trust does not discharge a responsible officer's, 1091  
member's, manager's, employee's, or trustee's liability for a 1092  
failure of the corporation, limited liability company, or business 1093  
trust to file returns or pay tax due. 1094

(H) If an employer required to deduct and withhold income tax 1095  
from compensation and to pay that tax to the state under sections 1096  
5747.06 and 5747.07 of the Revised Code sells the employer's 1097  
business or stock of merchandise or quits the employer's business, 1098  
the taxes required to be deducted and withheld and paid to the 1099  
state pursuant to those sections prior to that time, together with 1100  
any interest and penalties imposed on those taxes, become due and 1101  
payable immediately, and that person shall make a final return 1102  
within fifteen days after the date of selling or quitting 1103  
business. The employer's successor shall withhold a sufficient 1104  
amount of the purchase money to cover the amount of the taxes, 1105  
interest, and penalties due and unpaid, until the former owner 1106

produces a receipt from the tax commissioner showing that the 1107  
taxes, interest, and penalties have been paid or a certificate 1108  
indicating that no such taxes are due. If the purchaser of the 1109  
business or stock of merchandise fails to withhold purchase money, 1110  
the purchaser shall be personally liable for the payment of the 1111  
taxes, interest, and penalties accrued and unpaid during the 1112  
operation of the business by the former owner. If the amount of 1113  
taxes, interest, and penalties outstanding at the time of the 1114  
purchase exceeds the total purchase money, the tax commissioner in 1115  
the commissioner's discretion may adjust the liability of the 1116  
seller or the responsibility of the purchaser to pay that 1117  
liability to maximize the collection of withholding tax revenue. 1118

(I)(1) An employer described in division (I)(2) of this 1119  
section shall make all payments required by this section for the 1120  
year by electronic funds transfer under section 5747.072 of the 1121  
Revised Code. 1122

(2)(a) For 1994, an employer described in division (I)(2) of 1123  
this section is one whose actual or required payments under this 1124  
section exceeded five hundred thousand dollars during the 1125  
twelve-month period ending June 30, 1993. 1126

(b) For 1995, an employer described in division (I)(2) of 1127  
this section is one whose actual or required payments under this 1128  
section exceeded five hundred thousand dollars during the 1129  
twelve-month period ending June 30, 1994. 1130

(c) For 1996, an employer described in division (I)(2) of 1131  
this section is one whose actual or required payments under this 1132  
section exceeded three hundred thousand dollars during the 1133  
twelve-month period ending June 30, 1995. 1134

(d) For 1997 through 2000, an employer described in division 1135  
(I)(2) of this section is one whose actual or required payments 1136  
under this section exceeded one hundred eighty thousand dollars 1137

during the twelve-month period ending on the thirtieth day of June 1138  
of the preceding calendar year. 1139

(e) For 2001 and thereafter, an employer described in 1140  
division (I)(2) of this section is one whose actual or required 1141  
payments under this section exceeded eighty-four thousand dollars 1142  
during the twelve-month period ending on the thirtieth day of June 1143  
of the preceding calendar year. 1144

(J)(1) Every professional employer organization and every 1145  
professional employer organization reporting entity shall file a 1146  
report with the tax commissioner within thirty days after 1147  
commencing business in this state or within thirty days after the 1148  
effective date of this amendment, whichever is later, that 1149  
includes all of the following information: 1150

(a) The name, address, number the employer receives from the 1151  
secretary of state to do business in this state, if applicable, 1152  
and federal employer identification number of each client employer 1153  
of the professional employer organization or professional employer 1154  
organization reporting entity; 1155

(b) The date that each client employer became a client of the 1156  
professional employer organization or professional employer 1157  
organization reporting entity; 1158

(c) The names and mailing addresses of the chief executive 1159  
officer and the chief financial officer of each client employer 1160  
for taxation of the client employer. 1161

(2) Beginning with the calendar quarter ending after a 1162  
professional employer organization or professional employer 1163  
organization reporting entity files the report required under 1164  
division (J)(1) of this section, and every calendar quarter 1165  
thereafter, the professional employer organization or the 1166  
professional employer organization reporting entity shall file an 1167  
updated report with the tax commissioner. The professional 1168

employer organization or professional employer organization 1169  
reporting entity shall file the updated report not later than the 1170  
last day of the month following the end of the calendar quarter 1171  
and shall include all of the following information in the report: 1172

(a) If an entity became a client employer of the professional 1173  
employer organization or professional employer organization 1174  
reporting entity at any time during the calendar quarter, all of 1175  
the information required under division (J)(1) of this section for 1176  
each new client employer; 1177

(b) If an entity terminated the professional employer 1178  
organization agreement between the professional employer 1179  
organization or professional employer organization reporting 1180  
entity and the entity at any time during the calendar quarter, the 1181  
information described in division (J)(1)(a) of this section for 1182  
that entity, the date during the calendar quarter that the entity 1183  
ceased being a client of the professional employer organization or 1184  
professional employer organization reporting entity, if 1185  
applicable, or the date the entity ceased business operations in 1186  
this state, if applicable; 1187

(c) If the name or mailing address of the chief executive 1188  
officer or the chief financial officer of a client employer has 1189  
changed since the professional employer organization or 1190  
professional employer organization reporting entity previously 1191  
submitted a report under division (J)(1) or (2) of this section, 1192  
the updated name or mailing address, or both, of the chief 1193  
executive officer or the chief financial officer, as applicable; 1194

(d) If none of the events described in divisions (J)(2)(a) to 1195  
(c) of this section occurred during the calendar quarter, a 1196  
statement of that fact. 1197

**Section 2.** That existing sections 4123.291, 4125.01, 4125.02, 1198  
4125.03, 4125.05, 4125.07, 4125.08, 4141.24, and 5747.07 of the 1199

Revised Code are hereby repealed. 1200

**Section 3.** Section 4125.05 of the Revised Code as amended by 1201  
this act and section 4125.051 of the Revised Code as enacted by 1202  
this act take effect April 1, 2013. 1203