

**As Reported by the Senate Insurance, Commerce and Labor  
Committee**

**129th General Assembly  
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2011-2012**

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

**Senator Hughes**

**Cosponsors: Senators Schaffer, Seitz, Patton**

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**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 15  
administrator of workers' compensation to hear any matter 16  
specified in divisions (B)(1) to (7) of this section shall hear 17  
the matter within sixty days of the date on which an employer 18

files the request, protest, or petition. An employer desiring to 19  
file a request, protest, or petition regarding any matter 20  
specified in divisions (B)(1) to (7) of this section shall file 21  
the request, protest, or petition to the adjudicating committee on 22  
or before twenty-four months after the administrator sends notice 23  
of the determination about which the employer is filing the 24  
request, protest, or petition. 25

(B) An employer who is adversely affected by a decision of an 26  
adjudicating committee appointed by the administrator may appeal 27  
the decision of the committee to the administrator or the 28  
administrator's designee. The employer shall file the appeal in 29  
writing within thirty days after the employer receives the 30  
decision of the adjudicating committee. The administrator or the 31  
designee shall hear the appeal and hold a hearing, provided that 32  
the decision of the adjudicating committee relates to one of the 33  
following: 34

(1) An employer request for a waiver of a default in the 35  
payment of premiums pursuant to section 4123.37 of the Revised 36  
Code; 37

(2) An employer request for the settlement of liability as a 38  
noncomplying employer under section 4123.75 of the Revised Code; 39

(3) An employer petition objecting to the assessment of a 40  
premium pursuant to section 4123.37 of the Revised Code and the 41  
rules adopted pursuant to that section; 42

(4) An employer request for the abatement of penalties 43  
assessed pursuant to section 4123.32 of the Revised Code and the 44  
rules adopted pursuant to that section; 45

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

(6) Any decision relating to any other risk premium matter 49

under Chapters 4121., 4123., and 4131. of the Revised Code; 50

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

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

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

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

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

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

~~(C)~~(D) "Professional employer organization" means a sole 72  
proprietor, partnership, association, limited liability company, 73  
or corporation that enters into an agreement with one or more 74  
client employers for the purpose of coemploying all or part of the 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 divisions (B) and (G) of section 102  
4125.03 of 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' 138  
compensation premiums and manage all workers' compensation claims, 139  
filings, and related procedures associated with a shared employee 140

in compliance with Chapters 4121. and 4123. of the Revised Code, 141  
except that when shared employees include family farm officers, 142  
ordained ministers, or corporate officers of the client employer, 143  
payroll reports shall include the entire amount of payroll 144  
associated with those persons; 145

(4) Provide written notice to each shared employee it assigns 146  
to perform services to a client employer of the relationship 147  
between and the responsibilities of the professional employer 148  
organization and the client employer; 149

(5) Maintain complete records separately listing the manual 150  
classifications of each client employer and the payroll reported 151  
to each manual classification for each client employer for each 152  
payroll reporting period during the time period covered in the 153  
professional employer organization agreement; 154

(6) Maintain a record of workers' compensation claims for 155  
each client employer; 156

(7) Make periodic reports, as determined by the administrator 157  
of workers' compensation, of client employers and total workforce 158  
to the administrator; 159

(8) Report individual client employer payroll, claims, and 160  
classification data under a separate and unique subaccount to the 161  
administrator; 162

(9) Within fourteen days after receiving notice from the 163  
bureau of workers' compensation that a refund or rebate will be 164  
applied to workers' compensation premiums, provide a copy of that 165  
notice to any client employer to whom that notice is relevant. 166

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

<u>(1) All workers' compensation claims, premiums, and payroll associated with that client employer;</u>	171
	172
<u>(2) Compensation and benefits paid and reserves established for each claim listed under division (B)(1) of this section;</u>	173
	174
<u>(3) Any other information available to the professional employer organization from the bureau of workers' compensation regarding that client employer.</u>	175
	176
	177
<u>(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.</u>	178
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	180
	181
<u>(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.</u>	182
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<u>(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:</u>	188
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<u>(1) Conduct the client employer's business, including training and supervising shared employees;</u>	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</u>	200

<u>employer may have;</u>	201
<u>(4) Comply with any applicable licensure, regulatory, or</u>	202
<u>statutory requirement of the client employer.</u>	203
<del>(C) Notwithstanding division (B) of this section, a client</del>	204
<del>employer may retain sufficient direction and control over a shared</del>	205
<del>employee as is necessary to conduct the client employer's business</del>	206
<del>and to discharge any fiduciary responsibility that it may have, or</del>	207
<del>to comply with any applicable licensure, regulatory, or statutory</del>	208
<del>requirement of the client employer</del>	209
<u>(E) Unless otherwise agreed to in the professional employer</u>	210
<u>organization agreement, liability for acts, errors, and omissions</u>	211
<u>shall be determined as follows:</u>	212
<u>(1) A professional employer organization shall not be liable</u>	213
<u>for the acts, errors, and omissions of a client employer or a</u>	214
<u>shared employee when those acts, errors, and omissions occur under</u>	215
<u>the direction and control of the client employer.</u>	216
<u>(2) A client employer shall not be liable for the acts,</u>	217
<u>errors, and omissions of a professional employer organization or a</u>	218
<u>shared employee when those acts, errors, and omissions occur under</u>	219
<u>the direction and control of the professional employer</u>	220
<u>organization.</u>	221
<u>(F) Nothing in divisions (D) and (E) of this section shall be</u>	222
<u>construed to limit any liability or obligation specifically agreed</u>	223
<u>to in the professional employer organization agreement.</u>	224
<b><u>Sec. 4125.041. A shared employee under a professional</u></b>	225
<b><u>employer organization agreement shall not, solely as a result of</u></b>	226
<b><u>being a shared employee, be considered an employee of the</u></b>	227
<b><u>professional employer organization for purposes of general</u></b>	228
<b><u>liability insurance, fidelity bonds, surety bonds, employer</u></b>	229
<b><u>liability not otherwise covered by Chapters 4121. and 4123. of the</u></b>	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 that is available to the client employer 272  
for the shared employees. 273

**Sec. 4125.05.** (A) Not later than thirty days after November 274  
5, 2004, or not later than thirty days after the formation of a 275  
professional employer organization, whichever date occurs later, a 276  
professional employer organization operating in this state shall 277  
register with the administrator of ~~the bureau of~~ workers' 278  
compensation on forms provided by the administrator. Following 279  
initial registration, each professional employer organization 280  
shall register with the administrator annually on or before the 281  
thirty-first day of December. Commonly owned or controlled 282  
applicants may register as a professional employer organization 283  
reporting entity or register individually. Registration as a part 284  
of a professional employer organization reporting entity shall not 285  
disqualify an individual professional employer organization from 286  
participating in a group-rated plan under division (A)(4) of 287  
section 4123.29 of the Revised Code. 288

(B) Initial registration and each annual registration renewal 289  
shall include all of the following: 290

(1) A list of each of the professional employer 291  
organization's client employers current as of the date of 292

registration for purposes of initial registration or current as of 293  
the date of annual registration renewal, or within fourteen days 294  
of adding or releasing a client, that includes the client 295  
employer's name, address, federal tax identification number, and 296  
bureau of workers' compensation risk number; 297

(2) A fee as determined by the administrator; 298

(3) The name or names under which the professional employer 299  
organization conducts business; 300

(4) The address of the professional employer organization's 301  
principal place of business and the address of each office it 302  
maintains in this state; 303

(5) The professional employer organization's taxpayer or 304  
employer identification number; 305

(6) A list of each state in which the professional employer 306  
organization has operated in the preceding five years, and the 307  
name, corresponding with each state, under which the professional 308  
employer organization operated in each state, including any 309  
alternative names, names of predecessors, and if known, successor 310  
business entities; 311

(7) The most recent financial statement prepared and audited 312  
pursuant to division (B) of section 4125.051 of the Revised Code; 313

(8) If there is any deficit in the working capital required 314  
under division (A) of section 4125.051 of the Revised Code, a 315  
bond, irrevocable letter of credit, or securities with a minimum 316  
market value in an amount sufficient to cover the deficit in 317  
accordance with the requirements of that section; 318

(9) An attestation of the accuracy of the data submissions 319  
from the chief executive officer of the professional employer 320  
organization. 321

(C) Upon terms and for periods that the administrator 322

considers appropriate, the administrator may issue a limited 323  
registration to a professional employer organization or 324  
professional employer organization reporting entity that provides 325  
all of the following items: 326

(1) A properly executed request for limited registration on a 327  
form provided by the administrator; 328

(2) All information and materials required for registration 329  
in divisions (B)(1) to (6) of this section; 330

(3) Information and documentation necessary to show that the 331  
professional employer organization or professional employer 332  
organization reporting entity satisfies all of the following 333  
criteria: 334

(a) It is domiciled outside of this state. 335

(b) It is licensed or registered as a professional employer 336  
organization in another state. 337

(c) It does not maintain an office in this state. 338

(d) It does not participate in direct solicitations for 339  
client employers located or domiciled in this state. 340

(e) It has fifty or fewer shared employees employed or 341  
domiciled in this state on any given day. 342

(D)(1) The administrator, with the advice and consent of the 343  
bureau of workers' compensation board of directors, shall adopt 344  
rules in accordance with Chapter 119. of the Revised Code to 345  
require, in addition to the requirement under division (B)(8) of 346  
this section and except as otherwise specified in division 347  
~~(C)~~(D)(2) of this section, a professional employer organization to 348  
provide security in the form of a bond or letter of credit 349  
assignable to the Ohio bureau of workers' compensation not to 350  
exceed an amount equal to the premiums and assessments incurred 351  
for the two most recent payroll periods, prior to any discounts or 352

dividends, to meet the financial obligations of the professional 353  
employer organization pursuant to this chapter and Chapters 4121. 354  
and 4123. of the Revised Code. 355

(2) As an alternative to providing security in the form of a 356  
bond or letter of credit under division (D)(1) of this section, 357  
the administrator shall permit a professional employer 358  
organization to make periodic payments of prospective premiums and 359  
assessments to the bureau ~~or to submit proof of being certified by~~ 360  
~~either a nationally recognized organization that certifies~~ 361  
~~professional employer organizations or by a government entity~~ 362  
~~approved by the administrator.~~ 363

(3) A professional employer organization may appeal the 364  
amount of the security required pursuant to rules adopted under 365  
division ~~(C)~~(D)(1) of this section in accordance with section 366  
4123.291 of the Revised Code. 367

~~(D)~~(E) Notwithstanding division ~~(C)~~(D) of this section, a 368  
professional employer organization that qualifies for 369  
self-insurance or retrospective rating under section 4123.29 or 370  
4123.35 of the Revised Code shall abide by the financial 371  
disclosure and security requirements pursuant to those sections 372  
and the rules adopted under those sections in place of the 373  
requirements specified in division ~~(C)~~(D) of this section or 374  
specified in rules adopted pursuant to that division. 375

~~(E)~~(F) Except to the extent necessary for the administrator 376  
to administer the statutory duties of the administrator and for 377  
employees of the state to perform their official duties, all 378  
records, reports, client lists, and other information obtained 379  
from a professional employer organization and professional 380  
employer organization reporting entity under divisions (A), (B), 381  
and ~~(B)~~(C) of this section are confidential and shall be 382  
considered trade secrets and shall not be published or open to 383  
public inspection. 384

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

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

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

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

(K) The administrator shall maintain a list of professional employer organizations and professional employer organization reporting entities registered under this section that is readily

available to the public by electronic or other means. 417

Sec. 4125.051. (A) A professional employer organization, or a 418  
professional employer organization reporting entity of which the 419  
professional employer organization is a member, shall maintain 420  
positive working capital at initial or annual registration, as 421  
reflected in the financial statements submitted to the bureau. If 422  
a deficit in working capital is reflected in the financial 423  
statements submitted to the bureau, the professional employer 424  
organization or the professional employer organization reporting 425  
entity shall do both of the following for that registration 426  
period: 427

(1) Obtain a bond, irrevocable letter of credit, or 428  
securities with a minimum market value in an amount sufficient to 429  
cover the deficit in working capital; 430

(2) Submit to the administrator of workers' compensation a 431  
quarterly financial statement for each calendar quarter during 432  
which there is a deficit in working capital, accompanied by an 433  
attestation of the chief executive officer of the professional 434  
employer organization that all wages, taxes, workers' compensation 435  
premiums, and employee benefits have been paid by the professional 436  
employer organization or members of the professional employer 437  
organization reporting entity. 438

The bond, letter of credit, or securities required under 439  
division (A)(1) of this section shall be held by a depository 440  
designated by the administrator and shall secure payment by the 441  
professional employer organization of all taxes, wages, benefits, 442  
or other entitlements due or otherwise pertaining to shared 443  
employees, if the professional employer organization does not make 444  
those payments when due. 445

(B) A professional employer organization, or a professional 446  
employer organization reporting entity of which the professional 447

employer organization is a member, shall prepare financial 448  
statements in accordance with generally accepted accounting 449  
principles and submit them for registration and registration 450  
renewal under section 4125.05 of the Revised Code. 451

The financial statements shall be audited by an independent 452  
certified public accountant authorized to practice in the 453  
jurisdiction in which that accountant is located. 454

(1) The resulting report of the auditor shall not include 455  
either of the following: 456

(a) A qualification or disclaimer of opinion as to adherence 457  
to generally accepted accounting principles; 458

(b) A statement expressing substantial doubt about the 459  
ability of the professional employer organization or professional 460  
employer organization reporting entity to continue as a going 461  
concern. 462

(2) However, if a professional employer organization does not 463  
have at least twelve months of operating history on which to base 464  
financial statements, the financial statements shall be reviewed 465  
by a certified public accountant. 466

(3) Notwithstanding division (B)(1)(a) of this section, if a 467  
professional employer organization or professional employer 468  
organization reporting entity is a subsidiary or is related to a 469  
variable interest entity, the professional employer organization 470  
or professional employer organization entity may submit financial 471  
statements of the professional employer organization or 472  
professional employer organization reporting entity. 473

(C) The bureau shall deny initial or annual registration to 474  
an applicant or professional employer organization reporting 475  
entity that does not meet the requirements of this section. 476

(D) Professional employer organizations in a professional 477



employer organization reporting entity may satisfy the 478  
requirements of this section on a combined or consolidated basis 479  
provided that each member of the professional employer 480  
organization reporting entity guarantees each other members' 481  
satisfaction of the requirements under division (A) of this 482  
section. 483

For purposes of satisfying the registration and registration 484  
renewal requirements described in division (B)(7) of section 485  
4125.05 of the Revised Code, a professional employer organization 486  
reporting entity may submit a combined or consolidated financial 487  
statement that satisfies the requirements of this section. If the 488  
combined or consolidated financial statement includes entities 489  
that are not professional employer organizations or that are not 490  
in the professional employer organization reporting entity, the 491  
controlling entity of the professional employer organization 492  
reporting entity that is submitting the consolidated or combined 493  
financial statement shall guarantee that the professional employer 494  
organizations of the professional employer organization reporting 495  
entity have satisfied the requirements under division (A) of this 496  
section and shall include supplemental combining schedules to 497  
guarantee that the requirements under division (A) of this section 498  
are satisfied by the professional employer organization or 499  
professional employer organization reporting entity. 500

**Sec. 4125.07.** Not later than fourteen calendar days after the 501  
date on which a professional employer organization agreement is 502  
terminated, the professional employer organization is adjudged 503  
bankrupt, the professional employer organization ceases operations 504  
within the state of Ohio, or the registration of the professional 505  
employer organization is revoked, the professional employer 506  
organization shall submit to the administrator ~~of the bureau~~ of 507  
workers' compensation and each client employer associated with 508  
that professional employer organization a completed workers' 509

compensation lease termination notice form provided by the 510  
administrator. The completed form shall include all client payroll 511  
and claim information listed in a format specified by the 512  
administrator and notice of all workers' compensation claims that 513  
have been reported to the professional employer organization in 514  
accordance with its internal reporting policies. 515

A professional employer organization shall report any 516  
transfer of employees between related professional employer 517  
organization entities or professional employer organization 518  
reporting entities to the administrator within fourteen calendar 519  
days after the date of the transfer on a form prescribed by the 520  
administrator. The professional employer organization or 521  
professional employer organization reporting entity shall include 522  
in the form all client payroll and claim information regarding the 523  
transferred employees listed in a format specified by the 524  
administrator and a notice of all workers' compensation claims 525  
that have been reported to the professional employer organization 526  
or professional employer organization reporting entity in 527  
accordance with the internal reporting policies of the 528  
professional employer organization or professional employer 529  
organization reporting entity. 530

**Sec. 4125.08.** Nothing in this chapter exempts a professional 531  
employer organization, client employer, or shared employee from 532  
any applicable federal, state, or local licensing, registration, 533  
or certification statutes or regulations. An individual required 534  
to obtain and maintain a license, registration, or certification 535  
under law and who is a shared employee of a professional employer 536  
organization and a client employer is an employee of the client 537  
employer for purposes of obtaining and maintaining the appropriate 538  
license, registration, or certification as required by law. A 539  
professional employer organization does not engage in any 540

occupation, trade, or profession that requires a license, 541  
certification, or registration solely by entering into a 542  
professional employer agreement with a client employer or 543  
coemploying a shared employee. 544

A client employer shall have the sole right of direction and 545  
control of the professional or licensed activities of shared 546  
employees and of the client employer's business. The shared 547  
employees and client employers shall remain subject to regulation 548  
by the board, commission, or agency responsible for licensing, 549  
registration, or certification of the shared employees or client 550  
employers. 551

Sec. 4125.10. Nothing contained in this chapter or in any 552  
professional employer organization agreement shall do any of the 553  
following: 554

(A) Diminish, abolish, or remove the rights and obligations 555  
of client employers and shared employees existing prior to the 556  
effective date of the professional employer organization 557  
agreement; 558

(B) Affect, modify, or amend any contractual relationship or 559  
restrictive covenant between a shared employee and any client 560  
employer in effect at the time a professional employer 561  
organization agreement becomes effective; 562

(C) Prohibit or amend any contractual relationship or 563  
restrictive covenant between a client employer and a shared 564  
employee that is entered into after the professional employer 565  
organization agreement becomes effective; 566

(D) Create any new or additional enforcement right of a 567  
shared employee against a professional employer organization that 568  
is not specifically provided by the professional employer 569  
organization agreement or this chapter. 570

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.

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.

**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.

(2) If, as of the computation date, a contributory employer's account shows a negative balance computed as provided in division (A)(3) of section 4141.25 of the Revised Code, less any contributions due and unpaid on such date, which negative balance is in excess of the limitations imposed by divisions (A)(2)(a), (b), and (c) of this section and if the employer's account is otherwise eligible for the transfer, then before the employer's contribution rate is computed for the next succeeding contribution period, an amount equal to the amount of the excess eligible for transfer shall be permanently transferred from the account of such

employer and charged to the mutualized account provided in 602  
division (B) of section 4141.25 of the Revised Code. 603

(a) If as of any computation date, a contributory employer's 604  
account shows a negative balance in excess of ten per cent of the 605  
employer's average annual payroll, then before the employer's 606  
contribution rate is computed for the next succeeding contribution 607  
period, an amount equal to the amount of the excess shall be 608  
transferred from the account as provided in this division. No 609  
contributory employer's account may have any excess transferred 610  
pursuant to division (A)(2)(a) of this section, unless the 611  
employer's account has shown a positive balance for at least two 612  
consecutive computation dates prior to the computation date with 613  
respect to which the transfer is proposed. Each time a transfer is 614  
made pursuant to division (A)(2)(a) of this section, the 615  
employer's account is ineligible for any additional transfers 616  
under that division, until the account shows a positive balance 617  
for at least two consecutive computation dates subsequent to the 618  
computation date of which the most recent transfer occurs pursuant 619  
to division (A)(2)(a), (b), or (c) of this section. 620

(b) If at the next computation date after the computation 621  
date at which a transfer from the account occurs pursuant to 622  
division (A)(2)(a) of this section, a contributory employer's 623  
account shows a negative balance in excess of fifteen per cent of 624  
the employer's average annual payroll, then before the employer's 625  
contribution rate is computed for the next succeeding contribution 626  
period an amount equal to the amount of the excess shall be 627  
permanently transferred from the account as provided in this 628  
division. 629

(c) If at the next computation date subsequent to the 630  
computation date at which a transfer from a contributory 631  
employer's account occurs pursuant to division (A)(2)(b) of this 632  
section, the employer's account shows a negative balance in excess 633

of twenty per cent of the employer's average annual payroll, then 634  
before the employer's contribution rate is computed for the next 635  
succeeding contribution period, an amount equal to the amount of 636  
the excess shall be permanently transferred from the account as 637  
provided in this division. 638

(d) If no transfer occurs pursuant to division (A)(2)(b) or 639  
(c) of this section, the employer's account is ineligible for any 640  
additional transfers under division (A)(2) of this section until 641  
the account requalifies for a transfer pursuant to division 642  
(A)(2)(a) of this section. 643

(B) Any employer may make voluntary payments in addition to 644  
the contributions required under this chapter, in accordance with 645  
rules established by the director. Such payments shall be included 646  
in the employer's account as of the computation date, provided 647  
they are received by the director by the thirty-first day of 648  
December following such computation date. Such voluntary payment, 649  
when accepted from an employer, will not be refunded in whole or 650  
in part. In determining whether an employer's account has a 651  
positive balance on two consecutive computation dates and is 652  
eligible for transfers under division (A)(2) of this section, the 653  
director shall exclude any voluntary payments made subsequent to 654  
the last transfer made under division (A)(2) of this section. 655

(C) All contributions to the fund shall be pooled and 656  
available to pay benefits to any individual entitled to benefits 657  
irrespective of the source of such contributions. 658

(D)(1) For the purposes of this section and sections 4141.241 659  
and 4141.242 of the Revised Code, an employer's account shall be 660  
charged only for benefits based on remuneration paid by such 661  
employer. Benefits paid to an eligible individual shall be charged 662  
against the account of each employer within the claimant's base 663  
period in the proportion to which wages attributable to each 664  
employer of the claimant bears to the claimant's total base period 665

wages. Charges to the account of a base period employer with whom 666  
the claimant is employed part-time at the time the claimant's 667  
application for a determination of benefits rights is filed shall 668  
be charged to the mutualized account when all of the following 669  
conditions are met: 670

(a) The claimant also worked part-time for the employer 671  
during the base period of the claim. 672

(b) The claimant is unemployed due to loss of other 673  
employment. 674

(c) The employer is not a reimbursing employer under section 675  
4141.241 or 4141.242 of the Revised Code. 676

(2) Notwithstanding division (D)(1) of this section, charges 677  
to the account of any employer, including any reimbursing 678  
employer, shall be charged to the mutualized account if it finally 679  
is determined by a court on appeal that the employer's account is 680  
not chargeable for the benefits. 681

(3) Any benefits paid to a claimant under section 4141.28 of 682  
the Revised Code prior to a final determination of the claimant's 683  
right to the benefits shall be charged to the employer's account 684  
as provided in division (D)(1) of this section, provided that if 685  
there is no final determination of the claim by the subsequent 686  
thirtieth day of June, the employer's account shall be credited 687  
with the total amount of benefits that has been paid prior to that 688  
date, based on the determination that has not become final. The 689  
total amount credited to the employer's account shall be charged 690  
to a suspense account, which shall be maintained as a separate 691  
bookkeeping account and administered as a part of this section, 692  
and shall not be used in determining the account balance of the 693  
employer for the purpose of computing the employer's contribution 694  
rate under section 4141.25 of the Revised Code. 695

If it is finally determined that the claimant is entitled to 696

all or a part of the benefits in dispute, the suspense account 697  
shall be credited and the appropriate employer's account charged 698  
with the benefits. If it is finally determined that the claimant 699  
is not entitled to all or any portion of the benefits in dispute, 700  
the benefits shall be credited to the suspense account and a 701  
corresponding charge made to the mutualized account established in 702  
division (B) of section 4141.25 of the Revised Code, provided 703  
that, except as otherwise provided in this section, if benefits 704  
are chargeable to an employer or group of employers who is 705  
required or elects to make payments to the fund in lieu of 706  
contributions under section 4141.241 of the Revised Code, the 707  
benefits shall be charged to the employer's account in the manner 708  
provided in division (D)(1) of this section and division (B) of 709  
section 4141.241 of the Revised Code, and no part of the benefits 710  
may be charged to the suspense account provided in this division. 711

To the extent that benefits that have been paid to a claimant 712  
and charged to the employer's account are found not to be due the 713  
claimant and are recovered by the director as provided in section 714  
4141.35 of the Revised Code, they shall be credited to the 715  
employer's account. 716

(4) The director shall notify each employer at least once 717  
each month of the benefits charged to the employer's account since 718  
the last preceding notice; except that for the purposes of 719  
sections 4141.241 and 4141.242 of the Revised Code which provides 720  
the billing of employers on a payment in lieu of a contribution 721  
basis, the director may prescribe a quarterly or less frequent 722  
notice of benefits charged to the employer's account. Such notice 723  
will show a summary of the amount of benefits paid which were 724  
charged to the employer's account. This notice shall not be deemed 725  
a determination of the claimant's eligibility for benefits. Any 726  
employer so notified, however, may file within fifteen days after 727  
the mailing date of the notice, an exception to charges appearing 728



on the notice on the grounds that such charges are not in 729  
accordance with this section. The director shall promptly examine 730  
the exception to such charges and shall notify the employer of the 731  
director's decision thereon, which decision shall become final 732  
unless appealed to the unemployment compensation review commission 733  
in the manner provided in section 4141.26 of the Revised Code. For 734  
the purposes of this division, an exception is considered timely 735  
filed when it has been received as provided in division (D)(1) of 736  
section 4141.281 of the Revised Code. 737

(E) The director shall terminate and close the account of any 738  
contributory employer who has been subject to this chapter if the 739  
enterprise for which the account was established is no longer in 740  
operation and it has had no payroll and its account has not been 741  
chargeable with benefits for a period of five consecutive years. 742  
The amount of any positive balance, computed as provided in 743  
division (A)(3) of section 4141.25 of the Revised Code, in an 744  
account closed and terminated as provided in this section shall be 745  
credited to the mutualized account as provided in division 746  
(B)(2)(b) of section 4141.25 of the Revised Code. The amount of 747  
any negative balance, computed as provided in division (A)(3) of 748  
section 4141.25 of the Revised Code, in an account closed and 749  
terminated as provided in this section shall be charged to the 750  
mutualized account as provided in division (B)(1)(b) of section 751  
4141.25 of the Revised Code. The amount of any positive balance or 752  
negative balance, credited or charged to the mutualized account 753  
after the termination and closing of an employer's account, shall 754  
not thereafter be considered in determining the contribution rate 755  
of such employer. The closing of an employer's account as provided 756  
in this division shall not relieve such employer from liability 757  
for any unpaid contributions or payment in lieu of contributions 758  
which are due for periods prior to such closing. 759

If the director finds that a contributory employer's business 760

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

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

If an employer or person acquires substantially all, or a clearly segregable and identifiable portion of an employer's trade or business, then upon the director's approval of a properly completed application for successorship, the employer or person acquiring the trade or business, or portion thereof, shall be the successor in interest. The director by rule may prescribe procedures for effecting transfers of experience as provided for in this section.

(G) Notwithstanding sections 4141.09, 4141.23, 4141.24, 4141.241, 4141.242, 4141.25, 4141.26, and 4141.27 of the Revised Code, both of the following apply regarding assignment of rates

and transfers of experience: 793

(1) If an employer transfers its trade or business, or a 794  
portion thereof, to another employer and, at the time of the 795  
transfer, both employers are under substantially common ownership, 796  
management, or control, then the unemployment experience 797  
attributable to the transferred trade or business, or portion 798  
thereof, shall be transferred to the employer to whom the business 799  
is so transferred. The director shall recalculate the rates of 800  
both employers and those rates shall be effective immediately upon 801  
the date of the transfer of the trade or business. 802

(2) Whenever a person is not an employer under this chapter 803  
at the time the person acquires the trade or business of an 804  
employer, the unemployment experience of the acquired trade or 805  
business shall not be transferred to the person if the director 806  
finds that the person acquired the trade or business solely or 807  
primarily for the purpose of obtaining a lower rate of 808  
contributions. Instead, that person shall be assigned the 809  
applicable new employer rate under division (A)(1) of section 810  
4141.25 of the Revised Code. 811

(H) The director shall establish procedures to identify the 812  
transfer or acquisition of a trade or business for purposes of 813  
this section and shall adopt rules prescribing procedures for 814  
effecting transfers of experience as described in this section. 815

(I) No rate of contribution less than two and seven-tenths 816  
per cent shall be permitted a contributory employer succeeding to 817  
the experience of another contributory employer pursuant to this 818  
section for any period subsequent to such succession, except in 819  
accordance with rules prescribed by the director, which rules 820  
shall be consistent with federal requirements for additional 821  
credit allowance in section 3303 of the "Internal Revenue Code of 822  
1954" and consistent with this chapter, except that such rules may 823  
establish a computation date for any such period different from 824

the computation date generally prescribed by this chapter, and may 825  
define "calendar year" as meaning a twelve-consecutive-month 826  
period ending on the same day of the year as that on which such 827  
computation date occurs. 828

(J) The director may prescribe rules for the establishment, 829  
maintenance, and dissolution of common contribution rates for two 830  
or more contributory employers, and in accordance with such rules 831  
and upon application by two or more employers shall establish such 832  
common rate to be computed by merging the several contribution 833  
rate factors of such employers for the purpose of establishing a 834  
common contribution rate applicable to all such employers. 835

(K) The director shall adopt rules applicable to professional 836  
employer organizations and professional employer organization 837  
reporting entities to address the method in which a professional 838  
employer organization or professional employer organization 839  
reporting entity reports quarterly wages and contributions to the 840  
director for shared employees. 841

(1) The rules shall recognize a professional employer 842  
organization or professional employer organization reporting 843  
entity as the employer of record of the shared employees of the 844  
professional employer organization or professional employer 845  
organization reporting entity for reporting purposes; however, the 846  
rules shall require that each shared employee of a single client 847  
employer be reported under a separate and unique subaccount of the 848  
professional employer organization or professional employer 849  
organization reporting entity to reflect the experience of the 850  
shared employees of that client employer. 851

(2) The director shall use a subaccount solely to determine 852  
experience rates for that individual subaccount on an annual basis 853  
and shall recognize a professional employer organization or 854  
professional employer organization reporting entity as the 855  
employer of record associated with each subaccount. The director 856

shall combine the rate experience that existed on a client 857  
employer's account prior to entering into a professional employer 858  
organization agreement with the experience accumulated as a 859  
subaccount of the professional employer organization or 860  
professional employer organization reporting entity. The combined 861  
experience shall remain with the client account upon termination 862  
of the professional employer organization agreement. 863

(3) A professional employer organization or professional 864  
employer organization reporting entity shall provide a power of 865  
attorney or other evidence, which evidence may be included as part 866  
of a professional employer organization agreement, completed by 867  
each client employer of the professional employer organization or 868  
professional employer organization reporting entity, authorizing 869  
the professional employer organization or professional employer 870  
organization reporting entity to act on behalf of the client 871  
employer in accordance with the requirements of this chapter. 872

(4) Any rule adopted pursuant to division (K) of this section 873  
also shall include administrative requirements that permit a 874  
professional employer organization or a professional employer 875  
organization reporting entity to transmit any reporting and 876  
payment data required under division (K)(1) of this section 877  
collectively as a single filing with the director. 878

(5) As used in division (K) of this section, "client 879  
employer," "professional employer organization," "professional 880  
employer organization agreement," "professional employer 881  
organization reporting entity," and "shared employee" have the 882  
same meanings as in section 4125.01 of the Revised Code. 883

**Sec. 5747.07.** (A) As used in this section: 884

(1) "Partial weekly withholding period" means a period during 885  
which an employer directly, indirectly, or constructively pays 886  
compensation to, or credits compensation to the benefit of, an 887

employee, and that consists of a consecutive Saturday, Sunday, 888  
Monday, and Tuesday or a consecutive Wednesday, Thursday, and 889  
Friday. There are two partial weekly withholding periods each 890  
week, except that a partial weekly withholding period cannot 891  
extend from one calendar year into the next calendar year; if the 892  
first day of January falls on a day other than Saturday or 893  
Wednesday, the partial weekly withholding period ends on the 894  
thirty-first day of December and there are three partial weekly 895  
withholding periods during that week. 896

(2) "Undeposited taxes" means the taxes an employer is 897  
required to deduct and withhold from an employee's compensation 898  
pursuant to section 5747.06 of the Revised Code that have not been 899  
remitted to the tax commissioner pursuant to this section or to 900  
the treasurer of state pursuant to section 5747.072 of the Revised 901  
Code. 902

(3) A "week" begins on Saturday and concludes at the end of 903  
the following Friday. 904

(4) "Client employer," "professional employer organization," 905  
"professional employer organization agreement," and "professional 906  
employer organization reporting entity" have the same meanings as 907  
in section 4125.01 of the Revised Code. 908

(B) Except as provided in divisions (C) and (D) of this 909  
section and in division (A) of section 5747.072 of the Revised 910  
Code, every employer required to deduct and withhold any amount 911  
under section 5747.06 of the Revised Code shall file a return and 912  
shall pay the amount required by law as follows: 913

(1) An employer who accumulates or is required to accumulate 914  
undeposited taxes of one hundred thousand dollars or more during a 915  
partial weekly withholding period shall make the payment of the 916  
undeposited taxes by the close of the first banking day after the 917  
day on which the accumulation reaches one hundred thousand 918

dollars. If required under division (I) of this section, the 919  
payment shall be made by electronic funds transfer under section 920  
5747.072 of the Revised Code. 921

(2)(a) Except as required by division (B)(1) of this section, 922  
an employer described in division (B)(2)(b) of this section shall 923  
make the payment of undeposited taxes within three banking days 924  
after the close of a partial weekly withholding period during 925  
which the employer was required to deduct and withhold any amount 926  
under this chapter. If required under division (I) of this 927  
section, the payment shall be made by electronic funds transfer 928  
under section 5747.072 of the Revised Code. 929

(b) For amounts required to be deducted and withheld during 930  
1994, an employer described in division (B)(2)(b) of this section 931  
is one whose actual or required payments under this section 932  
exceeded one hundred eighty thousand dollars during the 933  
twelve-month period ending June 30, 1993. For amounts required to 934  
be deducted and withheld during 1995 and each year thereafter, an 935  
employer described in division (B)(2)(b) of this section is one 936  
whose actual or required payments under this section were at least 937  
eighty-four thousand dollars during the twelve-month period ending 938  
on the thirtieth day of June of the preceding calendar year. 939

(3) Except as required by divisions (B)(1) and (2) of this 940  
section, if an employer's actual or required payments were more 941  
than two thousand dollars during the twelve-month period ending on 942  
the thirtieth day of June of the preceding calendar year, the 943  
employer shall make the payment of undeposited taxes for each 944  
month during which they were required to be withheld no later than 945  
fifteen days following the last day of that month. The employer 946  
shall file the return prescribed by the tax commissioner with the 947  
payment. 948

(4) Except as required by divisions (B)(1), (2), and (3) of 949  
this section, an employer shall make the payment of undeposited 950

taxes for each calendar quarter during which they were required to 951  
be withheld no later than the last day of the month following the 952  
last day of March, June, September, and December each year. The 953  
employer shall file the return prescribed by the tax commissioner 954  
with the payment. 955

(C) The return and payment schedules prescribed by divisions 956  
(B)(1) and (2) of this section do not apply to the return and 957  
payment of undeposited school district income taxes arising from 958  
taxes levied pursuant to Chapter 5748. of the Revised Code. 959  
Undeposited school district income taxes shall be returned and 960  
paid pursuant to divisions (B)(3) and (4) of this section, as 961  
applicable. 962

(D)(1) The requirements of division (B) of this section are 963  
met if the amount paid is not less than ninety-five per cent of 964  
the actual tax withheld or required to be withheld for the prior 965  
quarterly, monthly, or partial weekly withholding period, and the 966  
underpayment is not due to willful neglect. Any underpayment of 967  
withheld tax shall be paid within thirty days of the date on which 968  
the withheld tax was due without regard to division (D)(1) of this 969  
section. An employer described in division (B)(1) or (2) of this 970  
section shall make the payment by electronic funds transfer under 971  
section 5747.072 of the Revised Code. 972

(2) If the tax commissioner believes that quarterly or 973  
monthly payments would result in a delay that might jeopardize the 974  
remittance of withholding payments, the commissioner may order 975  
that the payments be made weekly, or more frequently if necessary, 976  
and the payments shall be made no later than three banking days 977  
following the close of the period for which the jeopardy order is 978  
made. An order requiring weekly or more frequent payments shall be 979  
delivered to the employer personally or by certified mail and 980  
remains in effect until the commissioner notifies the employer to 981  
the contrary. 982



(3) If compelling circumstances exist concerning the 983  
remittance of undeposited taxes, the commissioner may order the 984  
employer to make payments under any of the payment schedules under 985  
division (B) of this section. The order shall be delivered to the 986  
employer personally or by certified mail and shall remain in 987  
effect until the commissioner notifies the employer to the 988  
contrary. For purposes of division (D)(3) of this section, 989  
"compelling circumstances" exist if either or both of the 990  
following are true: 991

(a) Based upon annualization of payments made or required to 992  
be made during the preceding calendar year and during the current 993  
calendar year, the employer would be required for the next 994  
calendar year to make payments under division (B)(2) of this 995  
section. 996

(b) Based upon annualization of payments made or required to 997  
be made during the current calendar year, the employer would be 998  
required for the next calendar year to make payments under 999  
division (B)(2) of this section. 1000

(E)(1) An employer described in division (B)(1) or (2) of 1001  
this section shall file, not later than the last day of the month 1002  
following the end of each calendar quarter, a return covering, but 1003  
not limited to, both the actual amount deducted and withheld and 1004  
the amount required to be deducted and withheld for the tax 1005  
imposed under section 5747.02 of the Revised Code during each 1006  
partial weekly withholding period or portion of a partial weekly 1007  
withholding period during that quarter. The employer shall file 1008  
the quarterly return even if the aggregate amount required to be 1009  
deducted and withheld for the quarter is zero dollars. At the time 1010  
of filing the return, the employer shall pay any amounts of 1011  
undeposited taxes for the quarter, whether actually deducted and 1012  
withheld or required to be deducted and withheld, that have not 1013  
been previously paid. If required under division (I) of this 1014

section, the payment shall be made by electronic funds transfer. 1015  
The tax commissioner shall prescribe the form and other 1016  
requirements of the quarterly return. 1017

(2) In addition to other returns required to be filed and 1018  
payments required to be made under this section, every employer 1019  
required to deduct and withhold taxes shall file, not later than 1020  
the thirty-first day of January of each year, an annual return 1021  
covering, but not limited to, both the aggregate amount deducted 1022  
and withheld and the aggregate amount required to be deducted and 1023  
withheld during the entire preceding year for the tax imposed 1024  
under section 5747.02 of the Revised Code and for each tax imposed 1025  
under Chapter 5748. of the Revised Code. At the time of filing 1026  
that return, the employer shall pay over any amounts of 1027  
undeposited taxes for the preceding year, whether actually 1028  
deducted and withheld or required to be deducted and withheld, 1029  
that have not been previously paid. The employer shall make the 1030  
annual report, to each employee and to the tax commissioner, of 1031  
the compensation paid and each tax withheld, as the commissioner 1032  
by rule may prescribe. 1033

Each employer required to deduct and withhold any tax is 1034  
liable for the payment of that amount required to be deducted and 1035  
withheld, whether or not the tax has in fact been withheld, unless 1036  
the failure to withhold was based upon the employer's good faith 1037  
in reliance upon the statement of the employee as to liability, 1038  
and the amount shall be deemed to be a special fund in trust for 1039  
the general revenue fund. 1040

(F) Each employer shall file with the employer's annual 1041  
return the following items of information on employees for whom 1042  
withholding is required under section 5747.06 of the Revised Code: 1043

(1) The full name of each employee, the employee's address, 1044  
the employee's school district of residence, and in the case of a 1045  
nonresident employee, the employee's principal county of 1046

employment;	1047
(2) The social security number of each employee;	1048
(3) The total amount of compensation paid before any deductions to each employee for the period for which the annual return is made;	1049 1050 1051
(4) The amount of the tax imposed by section 5747.02 of the Revised Code and the amount of each tax imposed under Chapter 5748. of the Revised Code withheld from the compensation of the employee for the period for which the annual return is made. The commissioner may extend upon good cause the period for filing any notice or return required to be filed under this section and may adopt rules relating to extensions of time. If the extension results in an extension of time for the payment of the amounts withheld with respect to which the return is filed, the employer shall pay, at the time the amount withheld is paid, an amount of interest computed at the rate per annum prescribed by section 5703.47 of the Revised Code on that amount withheld, from the day that amount was originally required to be paid to the day of actual payment or to the day an assessment is issued under section 5747.13 of the Revised Code, whichever occurs first.	1052 1053 1054 1055 1056 1057 1058 1059 1060 1061 1062 1063 1064 1065 1066
(5) In addition to all other interest charges and penalties imposed, all amounts of taxes withheld or required to be withheld and remaining unpaid after the day the amounts are required to be paid shall bear interest from the date prescribed for payment at the rate per annum prescribed by section 5703.47 of the Revised Code on the amount unpaid, in addition to the amount withheld, until paid or until the day an assessment is issued under section 5747.13 of the Revised Code, whichever occurs first.	1067 1068 1069 1070 1071 1072 1073 1074
(G) An employee of a corporation, limited liability company, or business trust having control or supervision of or charged with the responsibility of filing the report and making payment, or an	1075 1076 1077

officer, member, manager, or trustee of a corporation, limited liability company, or business trust who is responsible for the execution of the corporation's, limited liability company's, or business trust's fiscal responsibilities, shall be personally liable for failure to file the report or pay the tax due as required by this section. The dissolution, termination, or bankruptcy of a corporation, limited liability company, or business trust does not discharge a responsible officer's, member's, manager's, employee's, or trustee's liability for a failure of the corporation, limited liability company, or business trust to file returns or pay tax due.

(H) If an employer required to deduct and withhold income tax from compensation and to pay that tax to the state under sections 5747.06 and 5747.07 of the Revised Code sells the employer's business or stock of merchandise or quits the employer's business, the taxes required to be deducted and withheld and paid to the state pursuant to those sections prior to that time, together with any interest and penalties imposed on those taxes, become due and payable immediately, and that person shall make a final return within fifteen days after the date of selling or quitting business. The employer's successor shall withhold a sufficient amount of the purchase money to cover the amount of the taxes, interest, and penalties due and unpaid, until the former owner produces a receipt from the tax commissioner showing that the taxes, interest, and penalties have been paid or a certificate indicating that no such taxes are due. If the purchaser of the business or stock of merchandise fails to withhold purchase money, the purchaser shall be personally liable for the payment of the taxes, interest, and penalties accrued and unpaid during the operation of the business by the former owner. If the amount of taxes, interest, and penalties outstanding at the time of the purchase exceeds the total purchase money, the tax commissioner in the commissioner's discretion may adjust the liability of the

seller or the responsibility of the purchaser to pay that 1111  
liability to maximize the collection of withholding tax revenue. 1112

(I)(1) An employer described in division (I)(2) of this 1113  
section shall make all payments required by this section for the 1114  
year by electronic funds transfer under section 5747.072 of the 1115  
Revised Code. 1116

(2)(a) For 1994, an employer described in division (I)(2) of 1117  
this section is one whose actual or required payments under this 1118  
section exceeded five hundred thousand dollars during the 1119  
twelve-month period ending June 30, 1993. 1120

(b) For 1995, an employer described in division (I)(2) of 1121  
this section is one whose actual or required payments under this 1122  
section exceeded five hundred thousand dollars during the 1123  
twelve-month period ending June 30, 1994. 1124

(c) For 1996, an employer described in division (I)(2) of 1125  
this section is one whose actual or required payments under this 1126  
section exceeded three hundred thousand dollars during the 1127  
twelve-month period ending June 30, 1995. 1128

(d) For 1997 through 2000, an employer described in division 1129  
(I)(2) of this section is one whose actual or required payments 1130  
under this section exceeded one hundred eighty thousand dollars 1131  
during the twelve-month period ending on the thirtieth day of June 1132  
of the preceding calendar year. 1133

(e) For 2001 and thereafter, an employer described in 1134  
division (I)(2) of this section is one whose actual or required 1135  
payments under this section exceeded eighty-four thousand dollars 1136  
during the twelve-month period ending on the thirtieth day of June 1137  
of the preceding calendar year. 1138

(J)(1) Every professional employer organization and every 1139  
professional employer organization reporting entity shall file a 1140  
report with the tax commissioner within thirty days after 1141

commencing business in this state or within thirty days after the 1142  
effective date of this amendment, whichever is later, that 1143  
includes all of the following information: 1144

(a) The name, address, number the employer receives from the 1145  
secretary of state to do business in this state, if applicable, 1146  
and federal employer identification number of each client employer 1147  
of the professional employer organization or professional employer 1148  
organization reporting entity; 1149

(b) The date that each client employer became a client of the 1150  
professional employer organization or professional employer 1151  
organization reporting entity; 1152

(c) The names and mailing addresses of the chief executive 1153  
officer and the chief financial officer of each client employer 1154  
for taxation of the client employer. 1155

(2) Beginning with the calendar quarter ending after a 1156  
professional employer organization or professional employer 1157  
organization reporting entity files the report required under 1158  
division (J)(1) of this section, and every calendar quarter 1159  
thereafter, the professional employer organization or the 1160  
professional employer organization reporting entity shall file an 1161  
updated report with the tax commissioner. The professional 1162  
employer organization or professional employer organization 1163  
reporting entity shall file the updated report not later than the 1164  
last day of the month following the end of the calendar quarter 1165  
and shall include all of the following information in the report: 1166

(a) If an entity became a client employer of the professional 1167  
employer organization or professional employer organization 1168  
reporting entity at any time during the calendar quarter, all of 1169  
the information required under division (J)(1) of this section for 1170  
each new client employer; 1171

(b) If an entity terminated the professional employer 1172

organization agreement between the professional employer 1173  
organization or professional employer organization reporting 1174  
entity and the entity at any time during the calendar quarter, the 1175  
information described in division (J)(1)(a) of this section for 1176  
that entity, the date during the calendar quarter that the entity 1177  
ceased being a client of the professional employer organization or 1178  
professional employer organization reporting entity, if 1179  
applicable, or the date the entity ceased business operations in 1180  
this state, if applicable; 1181

(c) If the name or mailing address of the chief executive 1182  
officer or the chief financial officer of a client employer has 1183  
changed since the professional employer organization or 1184  
professional employer organization reporting entity previously 1185  
submitted a report under division (J)(1) or (2) of this section, 1186  
the updated name or mailing address, or both, of the chief 1187  
executive officer or the chief financial officer, as applicable; 1188

(d) If none of the events described in divisions (J)(2)(a) to 1189  
(c) of this section occurred during the calendar quarter, a 1190  
statement of that fact. 1191

**Section 2.** That existing sections 4123.291, 4125.01, 4125.02, 1192  
4125.03, 4125.05, 4125.07, 4125.08, 4141.24, and 5747.07 of the 1193  
Revised Code are hereby repealed. 1194

**Section 3.** Section 4125.05 of the Revised Code as amended by 1195  
this act and section 4125.051 of the Revised Code as enacted by 1196  
this act take effect January 1, 2012. 1197