

# SB 2424

Measure Title: RELATING TO PROFESSIONAL EMPLOYER ORGANIZATIONS.

Report Title: Professional Employment Organizations; Professional Employer Organizations

Description: Adds powers and duties to the director of labor and industrial relations regarding the registration and regulation of professional employer organizations. Authorizes various penalties for noncompliance with chapter 373L, HRS. Establishes the professional employer special fund to manage the registration of professional employer organizations. Amends certain definitions in chapter 373L, HRS, to make them consistent with definitions in chapter 373K, HRS.

Companion:

Package: None

Current Referral: CPN/JDL, WAM

Introducer(s): BAKER, Chun Oakland, Dela Cruz, Espero, Fukunaga, Gabbard, Ige, Ihara, Kahele, Solomon

<b>Sort by Date</b>		<b>Status Text</b>
1/20/2012	S	Introduced.
1/23/2012	S	Passed First Reading.
1/23/2012	S	Referred to CPN/JDL, WAM.
1/30/2012	S	The committee(s) on CPN/JDL has scheduled a public hearing on 02-07-12 9:20AM in conference room 229.



NEIL ABERCROMBIE  
GOVERNOR

BRIAN SCHATZ  
LT. GOVERNOR

STATE OF HAWAII  
OFFICE OF THE DIRECTOR  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

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KEALI'I S. LOPEZ  
DIRECTOR

**PRESENTATION OF THE  
PROFESSIONAL AND VOCATIONAL LICENSING DIVISION**

TO THE SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

AND

TO THE SENATE COMMITTEE ON JUDICIARY AND LABOR

TWENTY-SIXTH LEGISLATURE  
Regular Session of 2012

Tuesday, February 7, 2012  
9:20 a.m.

**TESTIMONY ON SENATE BILL NO. 2424, RELATING TO PROFESSIONAL  
EMPLOYER ORGANIZATIONS.**

TO THE HONORABLE ROSALYN H. BAKER, CHAIR,  
TO THE HONORABLE CLAYTON HEE, CHAIR,  
AND MEMBERS OF THE COMMITTEES:

My name is Kenyatta Nichols, Executive Officer for the Professional and Vocational Licensing Division ("PVLD"), Department of Commerce and Consumer Affairs ("Department"). The Department appreciates the opportunity to testify in support of Senate Bill No. 2424, Relating to Professional Employer Organizations ("PEOs"). The Department supports this bill, with the suggested amendments from the Department of Labor and Industrial Relations ("DLIR").

The purpose of Senate Bill No. 2424 is to add powers and duties to the director of labor and industrial relations regarding the registration and regulation of professional employer organizations; authorize various penalties for noncompliance with chapter 373L, HRS; establish a special fund; and to amend definitions in chapter 373L, HRS, to make them consistent with definitions in chapter 373K, HRS.

The DLIR and the Department have been working closely together to implement the current law and on the development of the bill's suggested amendments. The Department and PVLD support DLIR's proposed amendments.

Thank you for the opportunity to testify on Senate Bill No. 2424.

WRITTEN ONLY

TESTIMONY BY KALBERT K. YOUNG  
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE  
STATE OF HAWAII  
TO THE SENATE COMMITTEES ON COMMERCE AND CONSUMER  
PROTECTION AND JUDICIARY AND LABOR  
ON  
SENATE BILL NO. 2424

February 7, 2012

RELATING TO PROFESSIONAL EMPLOYER ORGANIZATIONS

Senate Bill No. 2424 establishes a Professional Employer Organization Special Fund into which shall be deposited the funds from applications, registrations, and penalties from professional employer organizations which will be used by the Department of Labor and Industrial Relations to administer and enforce the provisions of Chapter 373L, HRS.

While the Department of Budget and Finance does not take any position on the policy of the professional employer organization program, as a matter of general policy, the department does not support the creation of special funds which do not meet the requirements of Section 37-52.3, Hawaii Revised Statutes. Special or revolving funds should: 1) reflect a clear nexus between the benefits sought and charges made upon the users or beneficiaries of the program; 2) provide an appropriate means of financing for the program or activity; and 3) demonstrate the capacity to be financially self-sustaining. In regards to Senate Bill No. 2424, it is difficult to determine whether the special fund will be self-sustaining. In addition, the bill does not make an appropriation to allow the Department of Labor and Industrial Relations to expend the funds to support the professional employer organization program.



National Association  
of Professional Employer Organizations

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February 6, 2012

The Honorable Rosalyn H. Baker, Chair  
The Honorable Brian T. Taniguchi, Vice Chair  
Committee on Commerce and Consumer Protection  
State Capitol  
415 Beretania Street  
Honolulu, HI 96813

Dear Senators Baker and Taniguchi,

On behalf of the National Association of Professional Employer Organizations (NAPEO),<sup>1</sup> I am writing to provide comments on SB 2424, a measure that would amend Chapter 373L, Hawaii Revised Statutes, which requires professional employer organizations (PEOs) to register with the State of Hawaii. NAPEO has concerns with provisions addressing key definitions and the bonding requirement, and this letter addresses those concerns in detail. At the outset, let me acknowledge that NAPEO generally supports the penalty provisions in the proposed legislation. NAPEO has a long-standing history of ensuring that PEO statutory frameworks include the proper tools and remedies to ensure compliance with regulatory requirements.

By way of background, Professional Employer Organizations are businesses that partner with existing small businesses to enable them to cost-effectively outsource the management of human resources, employee benefits, payroll, and workers' compensation so that PEO clients can focus on their core competencies to maintain and grow their bottom lines. By forming an employment relationship with these small businesses and their employees, PEOs are able to offer enhanced access to employee benefits.

To date, 38 states across the country regulate the PEO industry through licensing and/or registration programs to provide a level of transparency to consumers and the state agencies that regulate aspects of the PEO employment relationship. Chapter 373L, Hawaii Revised Statutes, provides for a similar regulatory framework for the industry, and once implemented will

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1. The National Association of Professional Employer Organizations (NAPEO) is the national trade association of the professional employer organization (PEO) industry, representing a membership that generates more than 90% of the industry's total PEO gross revenues.

significantly benefit small businesses and workers in PEO arrangements, as well as those state agencies that have responsibility for administering employer-based statutes and regulations.

Unfortunately, SB 2424 includes several provisions that NAPEO cannot support and could have a devastating impact on the PEO industry in the state. Most notably, the bonding provisions included within Section 5 of SB 2424 would increase the bonding requirement from \$250,000 for most PEOs to an amount equal to 5 percent of the prior year's total wages, benefits, workers' compensation premiums, and unemployment compensation contributions. The availability and affordability of this level of bonding could very likely result in PEOs not being able to secure the required amount. In that scenario, the result would be the loss by many workers of access to valuable employee benefits as well as the loss to small businesses of the important human resource and compliance expertise of a PEO.

In discussions with the legislature in 2010 about SB 1062, which created the regulatory framework for PEOs, NAPEO pointed out that a \$250,000 bond requirement would be the highest requirement for PEOs of any state in the country. That fact remains true today. Attached is a chart identifying the bonding requirements for PEOs in various states.

It was also noted during those discussions that in addition to the amount of a bond, the bonds in and of themselves represent a tremendous level of protection and assurance of a PEO's financial capacity because of the extreme diligence of those entities issuing the bonds. The importance of this reality should not be overlooked. Regulators in other states have found that regulatory requirements coupled with a reasonable bond level provides for sound oversight of the PEO industry.

NAPEO urges that the bonding level be kept at the levels required under Section 373L, Hawaii Revised Statutes.

NAPEO is concerned with the changes proposed in Section 3 of SB 2424. Specifically, the definitions of "Client Company" and "Professional Employer Organization" would be amended and in doing so would become inconsistent with how the PEO business model is structured. PEOs do not "assign" employees to client companies but rather co-employ existing workforces.

NAPEO urges that the definition found in Section 373L, Hawaii Revised Statutes not be amended.

It is my understanding that the Employers Services Assurance Corporation (ESAC) will be providing comment requesting the inclusion of a provision that would enable the director to approve an assurance organization to provide certification and financial assurance for qualified PEOs and PEO Groups who elect to use an assurance organization as an alternative means of satisfying Hawaii's PEO requirements. That proposed authority is found in NAPEO's Model PEO Act and has been approved or is pending approval in more than 20 states.

NAPEO strongly supports the inclusion of the assurance organization provision in SB 2424.

NAPEO firmly believes that the statutory requirements enacted by the legislature in 2010 provide an appropriate framework for PEOs operating in the state. However, NAPEO stands ready to engage in discussions with you on the efficacy of those existing requirements. The current statute will help protect consumers, achieve greater efficiencies at the state regulatory level, and lead to a more robust, competitive, and compliant PEO industry in the state of Hawaii. We urge you to carefully consider this legislation. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Tim Tucker", with a long horizontal flourish extending to the right.

Tim Tucker  
Vice President, Government Affairs



State	Bonding Requirements	Financial Reporting Requirements
Alabama	<p>The director shall determine, by rule, the financial requirements for a registrant or renewal of registration. The rule may require the submission of securities or guarantees securing the payment of all unemployment taxes and workers' compensation claims payments due to or with respect to covered employees and may require that the security or assets to secure such payments be maintained by a financial institution located in the State of Alabama. The director may accept net worth based upon audited financial statements in whole or in part for the financial requirements. The financial requirements shall not exceed \$100,000. Section 5(b) of Act.</p>	<p>Audited or reviewed financial statements are required.</p>
Arkansas	<p>A PEO must maintain either (a) minimum net worth of \$100,000 based on audited financial statements submitted annually to the state, or (b) post a surety bond (or equivalent) in the amount of at least \$50,000 in accordance with the requirements of the statute and commission rule, and conditioned upon the PEO management staying in compliance with state requirements. (Statute 23-92-408).</p> <p>Action can be taken on the Bond either by the state or by any private party aggrieved by the PEO. (Statute 23-02-408(c)).</p> <p>Unemployment Security Bond. In order to relieve the Client of joint liability for SUI taxes, the PEO must post a second bond in accordance with ESD policy (Statute 11-10-717(e)(2)(A)). PEO Policy, Arkansas Employment Security Department: <a href="http://www.accessarkansas.org/esd/ForEmployer/A_EmployeeLeasing.htm">http://www.accessarkansas.org/esd/ForEmployer/A_EmployeeLeasing.htm</a></p>	<p><b>To register as a PEO:</b> A financial statement setting forth the financial condition of the PEO, as of a date not earlier than one hundred eighty (180) days before the date the financial state is submitted to the commissioner. The financial statement shall be prepared in accordance with generally accepted accounting principles, and unless the PEO provides financial assurance as set forth in Ark. Code Ann. §23-92-408(a)(2), the financial state shall be audited by an independent certified public accountant licensed to practice in Arkansas or the state domicile of the PEO.</p> <p><b>Ongoing Requirements:</b> Quarterly. CPA certification that all state payroll taxes have been timely paid is due 45 days after the end of each quarter (Statute 23-92-408(b), Insurance Reg. 58.15.B).</p> <p>Annual - audited financial reports by an outside CPA and a list of names and addresses of each Client are required with each license renewal. (Statute 23-92-408(a)).</p>



State	Bonding Requirements	Financial Reporting Requirements
Arizona	Registered PEO must maintain either a minimum net worth of at least \$100,000 or a bond, an irrevocable letter of credit or securities that have a minimum market value of \$100,000. (does not apply to PEOs that file a limited registration under section 23-567) (AZ Rev Stats 23-569)	<p>For registration, a PEO must provide a financial statement that sets forth the financial conditions of the professional employer organization, that is prepared with generally accepted accounting principles and that is compiled, reviewed or audited by an independent certified public accountant. The financial statement shall be dated no earlier than 180 days before the date on which the financial statement is filed with the secretary of state. A professional employer organization may submit compiled, reviewed or audited financial statements. A PEO must also provide a statement by a certified professional accountant that the applicant is current with obligations that relate to payroll, payroll-related taxes, and workers' compensation insurance premiums for covered employees and employee benefits for the previous four calendar quarters.</p> <p>A PEO must provide notice of all new clients and terminated clients to its workers' compensation insurance carrier and the workers compensation commission. AZ Rev Stats 23-901.8</p>
California	For workers' compensation self-insurance, a bond of 125% of the private insurer's estimated future liability but not less than \$200,000 must be posted.	

State	Bonding Requirements	Financial Reporting Requirements
Florida	<p>For PEO licensing, no across-the-board bonding requirements. Net Worth (Total Tangible Assets minus Total Liabilities). Every application must show a tangible accounting net worth of \$50,000 or more or, if not, it must provide guaranties, letters of credit, or other security acceptable to BELC to offset any deficiency. Guaranties are not acceptable unless the guarantor can show sufficient financial strength to satisfy BELC. (Statute 468.525(3), Regulation 61G7-6.006). Working Capital (Current Assets minus Current Liabilities). The PEO must also maintain positive working capital including adequate reserves for all taxes and insurance, including plans of self-insurance or partial self-insurance for claims incurred but not paid and for claims incurred but not reported. (Statute 468.525(3)).</p>	<p><b>468.525 (e)</b> Each employee leasing company or employee leasing company group shall submit annual financial statements audited by an independent certified public accountant, with the application and within 120 days after the end of each fiscal year, in a manner and time prescribed by the board, provided however, that any employee leasing company or employee leasing company group with gross Florida payroll of less than \$2.5 million during any fiscal year may submit financial statements reviewed by an independent certified public accountant for that year.</p> <p>3. Annual Report. Submit to BELC an Annual Report postmarked no later than April 30 (120 days after the end of the year) for companies using a December 31 fiscal year end. For Florida payrolls of more than \$2,500,000, the financial report must be audited, otherwise they must be reviewed, and must show the minimum required working capital (see Regulations 61G7-5.0031, 0032, &amp; 0033). Also, part of the annual reporting requirement is a "Workers' Compensation Liability Statement" (see Statute 468.525(3)(e) and Regulations 10.0011 &amp; 0012).</p>
Georgia	<p>For Unemployment Insurance, the PEO must post a \$10,000 bond, or, if taxable annual payroll exceeds \$370,370, then 2.70% of taxable annual payroll. The bonding company must be licensed in Georgia and the bond must be renewed annually, with the principal amount adjusted for the size of taxable payroll. In the alternative, the statute provides for posting a cash deposit with the Commissioner, which will draw interest. (Statute 34-7-6(d), 34-8-172, Reg. 300-2-7-07(2)). Also, the principal amount of the bond can be reduced to \$5,000 if (a) the PEO has accumulated 2 quarters of SUI experience rating in Georgia, (b) it has positive reserve, and (c) it submits a monthly prepayment of SUI contributions (Reg. 300-2-7-07(3)).</p>	

State	Bonding Requirements	Financial Reporting Requirements
Idaho	If the Client or PEO is a government contractor and the contract is for \$1000 or more, then the PEO must execute a surety bond to cover the SUI liability. (Statute 72-1349(6)).	
Indiana	For licensing, the PEO must have \$50,000 net worth or provide a bond, letter of credit, or equivalent securities in that amount.	For registration, a PEO provide a financial statement which: sets forth the financial condition of the PEO applicant as of a date not earlier than 180 days before the date the financial statement is submitted to the department, is prepared in accordance with generally accepted accounting principles and is reviewed by an independent certified accountant licensed to practice in the jurisdiction in which the accountant is located.
Kansas	Not required for employers using the "contributing method." See Section V of the Employer Handbook at: <a href="http://www.hr.state.ks.us/ui/html/handbook.pdf">http://www.hr.state.ks.us/ui/html/handbook.pdf</a> For non-profit organizations and similarly situated entities, a bond is required. Also, some deposit requirements could be levied against employers who have been late in making payments to the state.	
Louisiana	Not mandatory, however, the Client and PEO are jointly & severally liable for SUI contributions and must file wage reports separately for each Client unless it posts a surety bond for \$100,000 "to ensure prompt payment of contributions, interest, and penalties for which the PEO is or may become liable. After three years the bond shall be adjusted in accordance with rules promulgated by the Department of Labor." (Statute 23:1763(3) and (4)). The bond document will be provided by the Department of Labor.	
Maine	None. But see Licensing Overview, paragraph on Payroll Processors. A substantial bond is required for payroll processors unless exempt.	

State	Bonding Requirements	Financial Reporting Requirements
Minnesota	<p>If the PEO "provides 50% or more of your [the Client's] workers, you are liable for payment of all unemployment tax, penalties, interest, and collection costs that become due from wages paid on the contract unless the employee leasing firm provides a bond to guarantee the payments." From the Employment Security Handbook, page 4 (cf. Statute 268.065(2)):  <a href="http://www.uimn.org/tax/forms/handbook.pdf">http://www.uimn.org/tax/forms/handbook.pdf</a> Statute 268.065(2): "A person whose work force consists of 50 percent or more of workers provided by employee leasing firms, is jointly and severally liable for the unpaid amounts that are due under this chapter or section 116L.20 on the wages paid on the contract with the employee leasing firm. 'Employee leasing firm' means an employer that provides its employees to other persons without severing its employer-employee relationship with the worker for the services performed for the lessee."</p>	
Mississippi	Not for MESC, although there is a tax bond requirement.	

State	Bonding Requirements	Financial Reporting Requirements
Missouri	<p>The PEO must post a bond, which protects the Client from joint and several liability related to reporting and paying SUI. Bond size is "equivalent to the contributions or payments in lieu of contributions for which the lessor employing unit was liable in the last calendar year in which he or she accrued contributions or payments in lieu of contributions, or \$100,000, whichever amount is the greater, to ensure prompt payment of contributions or payments in lieu of contributions, interest, penalties, and surcharges for which the lessor employing unit may be, or becomes, liable pursuant to this law." Acceptable substitutes are marketable securities, a letter of credit, or a certificate of deposit. (Statute 288-032.2(3), Reg. 8-10-4.160(2) to (8) and 4.170). Note: although the statute uses language that requires the PEO to obtain a bond (see Statute 288-032.2(4)), the Division of Employment Security appears to hold the position that if a bond is not obtained, the consequence is joint &amp; several liability, and the requirement to file a separate tax return for each Client. The PEO is advised to obtain a bond, although if it has a very few employees in Missouri, it may be cost-effective to forego a bond, although the PEO should contact the state agency first.</p>	
Montana	<p>None for Restricted License. For full license, the PEO must maintain tangible accounting net worth of at least \$50,000, evidenced by a financial statement and a compilation report by an independent CPA. Various rules apply to acceptable documentation of net worth (Statute 39-8-202(6)). The PEO must also maintain positive working capital. Financial documentation may not be older than 6 months (Statute 39-8-202(7)). Bond. The net worth requirement can be met through a surety bond, letter of credit, or marketable securities, or guarantee acceptable to the department. (Statute 39-8-202(6)).</p>	<p>Resident or nonresident license applicants must show a tangible accounting net worth of at least \$50,000. In meeting the requirement, the PEO may provide a security deposit in the amount of \$50,000. Contact the Department for acceptable securities.</p> <p>Quarterly. Within 90 days of the end of each calendar quarter, the PEO must submit information certified by an independent CPA stating that all payroll-related taxes for the quarter have been paid. (Statute 39-8-207(2)(b))</p>
Nevada	None.	

State	Bonding Requirements	Financial Reporting Requirements
New Hampshire	<p>For PEO registration, in addition to showing net worth of \$100,000 or more, the PEO is required to post a bond (or equivalent) for a face amount of \$100,000 to ensure coverage of wages and benefits. See Statute 277-B:6,II <a href="http://www.gencourt.state.nh.us/rsa/html/XXIII/277-B/277-B-6.htm">http://www.gencourt.state.nh.us/rsa/html/XXIII/277-B/277-B-6.htm</a> The state Regulators are very reluctant to waive bond requirements, regardless of how few co-employees are present in the state.</p> <p>Not automatic, although may be required if the PEO fails to pay SUI or other taxes or fees. The amount of the bond or security will be set by the Commission based on obligations assumed. (Statute 277-B:17,II). But see Bonding Requirements section of the PEO License.</p>	<p>A financial statement prepared by an independent certified public accountant in accordance with generally accepted account principles within six (6) months prior to the date of application which statement will show a minimum net worth of \$100,000.</p> <p>Quarterly. SUI Report of total payroll by SIC Code and Client, and including a certification by CPA stating all state and federal taxes have been timely paid. SUI must be paid monthly.</p>
New Jersey	<p>PEO initial registration and annual report must include a reviewed financial statement prepared by a CPA showing (1) minimum net worth of \$100,000, or (2) bond or deposited security requirement of \$75,000. (Statute 34:8-71(b)).</p>	<p>Quarterly certifications that all taxes are paid, signed by a CPA, due within 60 days after the end of each quarter. (Statute 34:8-71(c)).</p>
New Mexico	<p>For PEO registration, an \$100,000 Surety Bond issued by an insurance company authorized to do business in New Mexico, or liquid securities may be deposited with the Department</p>	

State	Bonding Requirements	Financial Reporting Requirements
New York	<p>To Register, the PEO must show Net Worth of at least \$75,000 through an audited or reviewed financial statement. Failing that, the PEO must post a bond or provide other security of \$75,000 or more (Labor 31-921.1).</p> <p>None for SUI.</p>	<p>A reviewed or audited financial statement of the PEO's most recent fiscal year:</p> <ul style="list-style-type: none"> <li>❖ The statement must have been prepared within 180 days prior to the submission by an independent certified public accountant (CPA) using generally accepted accounting principles (GAAP) and must show a minimum net worth of \$75,000.</li> <li>❖ The statement must be accompanied by a cover letter, signed by the CPA, certifying (1) the statement fairly represents the financial position of the firm in accordance with GAAP and (2) there is reasonable assurance that the firm has timely paid all applicable federal and state payroll taxes on all New York employees (for example: office, worksite, etc.) for that fiscal year and explaining the basis for these certifications</li> <li>❖ A PEO Group may submit combined or consolidated audited or reviewed financial statements.</li> <li>❖ Where the Group or the Group's parent submit a combined or consolidated statement, supplemental consolidated or combined schedules covering each professional employer organization registered under the group must be included.</li> <li>❖ If a bond or security is to be submitted in place of financial statements, email, or call NY DOL for submission information.</li> </ul> <p>Within 60 days of the end of each quarter, the PEO must submit a statement, signed by an independent CPA, certifying that there is reasonable assurance that the firm has paid all applicable federal and state taxes on all New York employees for that quarter and explaining the basis for this certification.</p>
North Carolina	<p>Surety Bond required in favor of the state of North Carolina for \$100,000 for PEO registration. (Statute 58-89-50).</p>	
North Dakota	<p>Requires submission of a \$100,000 surety bond to the Secretary of State by a PEO seeking a license and that does not have a minimum working capital of \$100,000</p>	

State	Bonding Requirements	Financial Reporting Requirements
Ohio	For workers' compensation, the administrator of the Bureau of Workers' Compensation (BWC) determines the amount of the bond or letter of credit to be filed with the BWC.	
Oklahoma	<p>PEO minimum net worth must be \$50,000 as reflected in the financial statements provided at registration. In place of the net worth requirement, a \$50,000 bond can be posted or securities can be deposited with the state. (Statue 40-600.6). The application and form of the bond must comply with official specifications as set forth in the rule. It must be renewed annually by March 1. See Reg. 240:10-5-4,:</p> <p>In order to relieve the Client of joint &amp; several liability for paying the SUTA withholdings, the PEO must post a bond in the amount of last year's contributions or \$100,000, whichever is greater. Statute 40-1-209A(D):</p>	<p>Quarterly. Payroll Tax Payments. The PEO must submit within 90 days after the end of each quarter a statement by an independent CPA that all state payroll taxes for covered employees located in Oklahoma have been paid on a timely basis for the quarter. (Statute 40-600.6(B)).</p>
Rhode Island	<p>For PEO registration, a PEO that has held a Tax Certificate for 2 years or less must post a \$50,000 bond annually with a surety in order to insure that all withholding and other taxes due to the state are paid. Special Bond forms are provided by the Division of Tax, available upon request. In the alternative, a certificate from a qualified assurance organization acceptable to the state will be accepted. Call the Division of Taxation to obtain forms and background.</p>	



State	Bonding Requirements	Financial Reporting Requirements
South Carolina	If the PEO, upon licensing or renewal, cannot establish a net worth of \$50,000 or more, then it must post a \$50,000 bond, or guaranty by a credit-worthy entity acceptable to the state, or a letter of credit. (Statute 40-68-40(E)).	Provide independently audited accrual basis financial statements, as determined by generally accepted accounting principles, for the two (2) most recent annual accounting periods preceding the date of application, except that if the most recent accounting period ends within 180 days of the date of application, the current year's financial statement shall be submitted within 180 days of the end of the accounting period. The financial statements shall include statement of income and retained earnings, balance sheet, statement of changes in financial position (cash flows), and applicable footnotes. The financial statements are to reflect positive working capital and positive tangible net worth. The following items may be used to cover any deficit in net worth revealed by the most current financial statements in an amount sufficient to cover the deficiency: infusion of capital, an acceptable bank letter of credit, mortgages, a promissory note supported by collateral, or a guarantee where the guarantor can satisfy the Department of Consumer Affairs that the guarantor has sufficient assets to satisfy the obligation of the guarantee. In lieu of audited financial statements, a special report known as "Independent Auditor's Report on Agreed Upon Procedures" may be submitted to demonstrate worth.
South Dakota	For self-insurance for workers' compensation, bonding is required for self-insurers in the amount equal to the greater of (1) \$250,000, (2) twice the amount of compensation & medical claims paid by the employer during the preceding year, or (3) an amount designated by the employer as a reserve for workers compensation & medical claims.	
Tennessee	The PEO must demonstrate an accounting net worth of at least either (i) \$25,000 or (ii) \$20 per co-employee found anywhere (not just Tennessee) (\$50,000 maximum), whichever is greater. (See Statute 62-43-108(b)(3)).	Quarterly Report. The PEO must produce within 90 days of the end of the quarter a statement from a CPA or outside accountant stating that all payroll withholding taxes have been timely paid.

State	Bonding Requirements	Financial Reporting Requirements
Texas	No bond is required, but Net Worth requirements must be met at licensing or renewal: For 0 to 249 employees: \$50,000 Net Worth minimum. For 250 to 750 employees: \$75,000 Net Worth minimum. For 750 or more employees: \$100,000 Net Worth minimum. A bond, letter of credit, guarantee, or other form of security can be substituted if Net Worth is insufficient.	
Utah	For unemployment insurance, not automatic, but may be required. (Regulation R994-202-103(9) and R994-308-104)	Quarterly Reports. A PEO shall have an independent CPA licensed in the PEO's domicile prepare a statement indicating whether all federal, state, and local withholding taxes, unemployment taxes, FICA taxes, workers' compensation premiums, and employee benefit plan premiums have been paid. (Statute 58-59-306(4)).
Vermont	Yes, for the initial license, the PEO must post a bond or letter of credit for \$100,000. License renewals must be for 5% of the prior year's total Vermont wages, benefits, workers' compensation premiums or awards or unemployment compensation contributions, but not less than \$100,000 (Rule 3E). The PEO shall not require that the Client contribute to the payment of the securities or bond to fulfill this requirement (Rule 3E1).	
West Virginia	For workers' compensation in February 2005, the state enacted legislation to abolish the monopolistic state workers' compensation fund, and authorized the state to issue a bond to finance the workers' compensation liability and transfer the whole system to a mutual insurance company that will begin competing with private insurers in 2008. It is expected that this reform will reduce premiums.	

State	Bonding Requirements	Financial Reporting Requirements
Wyoming	<p>For unemployment insurance, possibly required for foreign business entities with \$10,000 or more monthly payroll earned in Wyoming and the owners of the business either do not live in Wyoming or have lived in the state less than one year at the time business operations started in Wyoming. See: <a href="http://wydoe.state.wy.us/doe.asp?ID=464">http://wydoe.state.wy.us/doe.asp?ID=464</a></p> <p>For workers' compensation, When more than three-fourths of the owners of the employer are not domiciled in Wyoming for 12 or more months, the Division may require a Surety Bond of between \$5,000 and \$50,000, or equivalent security. The Division may also require a Performance Bond of \$1,000 (Statute 27-14-301 et seq.).</p>	



# ALPHA SURETY & INSURANCE BROKERAGE

*Surety Solutions. Fast. Simple.*

Sent February 6, 2012 via Email to [CPNtestimony@capitol.hawaii.gov](mailto:CPNtestimony@capitol.hawaii.gov) and via US Mail

The Honorable Rosalyn H. Baker, Chair  
The Honorable Brian T. Taniguchi, Vice Chair  
Committee on Commerce and Consumer Protection  
Hawaii's Twenty-Sixth Legislature  
Regular Session of 2012  
State Capitol  
415 Beretania Street  
Honolulu, HI 96813

Re: Testimony of Alpha Surety & Insurance Brokerage concerning the Committee on Commerce and Consumer Protection's February 7, 2012 hearing on SB 2424 relating to Professional Employer Organizations

Dear Senators Baker and Taniguchi,

I have been asked by representatives of the PEO industry to provide some thoughts and analysis to the proposed Surety Bond requirement of your PEO Bill.

Alpha Surety is a surety only brokerage. We are nationally licensed including the state of Hawaii and have been in business about ten years. We have written thousands of surety bonds over those years. Specifically we specialize in industries that require surety bonds as part of their state registration or licensing process. For example, we have done hundreds of bonds for Professional Employer Organizations (PEOs), Money Transmitters, Mortgage Brokers, Credit Counselors and Debt Settlement companies.

Across all of these industries, state licensing surety bonds serve the following purposes:

1. Provides third party underwriting review of company principals, business and personal credit and business and personal financial statements.
2. Provides some level of monetary coverage to consumers harmed in case the company does violate the law.

It is virtually impossible to create an affordable bond requirement for any industry that would cover the maximum probable loss to consumers. But it is quite possible to create a bond requirement that acts as an unreasonable barrier to entry or to create a requirement that is so high, that only the top tier of an industry is able to participate.

Across all state licensing bonds, it is correct to state that 95% of all bond requirements are \$100,000 or less. Most existing PEO state licensing bond requirements are in the range of \$50,000 to \$100,000.

For comparison purposes, it might be useful to consider the state bonding requirements for money transmitters, such as those required of companies like PayPal, which certainly is larger than most PEOs. There are 44 states that require surety bonds for money transmitters. Only

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# ALPHA SURETY & INSURANCE BROKERAGE

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five of those exceed \$1 million in the maximum bond amount. Hawaii's bond requirement is \$500,000, and many of the states have lower requirements.

My recommendation is that the maximum bond required by your proposed law should not exceed \$1 million. In the two goals of a surety bond mentioned above, you do not get significant additional benefit by having a bond over \$1 million.

From an underwriting perspective, companies have to qualify based on financial statement ratios and other financial analysis with the surety carrier. For bonds exceeding \$1 million, it becomes increasingly difficult even for very sound PEOs to qualify when their bonds are \$5 mil, \$10 mil, \$20 mil or higher.

Finally, these very large bonds can become cost prohibitive even for the larger PEOs. A PEO license bond will cost 1%-2%. For a \$1 million bond, the cost is \$10,000 to \$20,000 before any of the normal business expenses. As you can see, once the amounts go to \$10 million or \$20 million for larger PEOs and the cost burden of the bond does become unreasonable, even to the point of some very good PEOs likely discontinuing service to Hawaii clients because it is simply too expensive.

The proposed bond amounts found under the pending provisions of Section 5 of SB 2424, exceed anything I am aware of for PEO licensing and registration. Certainly a more reasonable bonding requirement is contained in the pending federal legislation (H.R. 2466-Small Business Efficiency Act of 2011), under which the Internal Revenue Service would require PEOs to be certified in order to prevent their clients from having joint and several payroll tax liability. The bonding requirement in H.R. 2466 would be based on 5% of the entity's tax liability, starting with a minimum \$50,000 bond and a maximum \$1 million bond. Even this proposed bonding requirement, which is much less than proposed by Section 5 of SB 2424, is significantly higher than the existing state registration and licensing bond requirements that are in the range of \$50,000 to \$100,000.

We respectfully submit these industry facts and conclusions based upon our professional experience. We hope that this helps you to create the best possible PEO law for the State of Hawaii. If you would like to discuss this further, I would be happy to help.

Sincerely,

*Jason Jenkins*

Jason Jenkins  
President  
Alpha Surety & Insurance Company  
Dublin, CA  
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EMPLOYER SERVICES  
ASSURANCE CORPORATION

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Sent February 6, 2012 via Email to [CPNtestimony@capitol.hawaii.gov](mailto:CPNtestimony@capitol.hawaii.gov) and via US Mail to:

The Honorable Rosalyn H. Baker, Chair  
The Honorable Brian T. Taniguchi, Vice Chair  
Committee on Commerce and Consumer Protection  
Hawaii's Twenty-Sixth Legislature  
Regular Session of 2012  
State Capitol  
415 Beretania Street  
Honolulu, HI 96813

Re: Testimony of Employer Services Assurance Corporation concerning the Committee on Commerce and Consumer Protection's February 7, 2012 hearing on SB 2424 relating to Professional Employer Organizations

Dear Senators Baker and Taniguchi,

On behalf of the Employer Services Assurance Corporation ("E-S-A-C"), the only national accrediting entity and assurance organization for Professional Employer Organizations ("PEOs"), I applaud your efforts to join the majority of states in regulating the PEO industry by establishing Chapter 373L, Hawaii Revised Statutes ("HI's PEO law"). Effective regulation of PEOs will benefit small businesses and workers in PEO arrangements, as well as those PEOs that operate in a responsible manner. It is important that such regulation be done effectively, but not in an unnecessarily burdensome manner, that could make it impossible or unaffordable for good PEO operators to continue to provide important benefits and services to Hawaii business owners and employees.

ESAC respectfully requests you consider amending SB 2424 to: (i) reduce the unnecessarily burdensome bonding requirement; (ii) give the director of labor and industrial relations access to important additional compliance information; (iii) minimize the cost of administration; and (iv) provide more effective public protection. Please allow me to address each of these recommendations. The below proposed amendment would simply add authority to HI's PEO law, to enable the director to approve an assurance organization that would provide certification and financial assurance for qualified PEOs and PEO Groups who elect to use an assurance organization as an alternative means of satisfying Hawaii's PEO requirements.

In this specific regard, ESAC recommends Sections 3 and 4 of SB 2424 be amended as follows:

(1) Section 3 should further provide for a new definition to be appropriately inserted into the definitions of Section 373L-1, Hawaii Revised Statutes, to read: "Assurance Organization" means an independent and qualified entity approved by the director to certify the qualifications of a PEO or PEO Group for registration under this chapter.

(2) Section 4 should further provide for a new subsection to be appropriately inserted into the registration requirements of Section 373L-2, Hawaii Revised Statutes, to read: "The director shall to the extent practicable permit the acceptance of electronic filings in conformance with the Hawaii Uniform Electronic Transactions Act (Hawaii Rev. Stat. §489E-1 et seq.), including applications, documents, reports, and other filings required under this chapter. The director may provide for the acceptance of electronic filings and other assurance by an independent and

qualified assurance organization approved by the director that provides satisfactory assurance of compliance acceptable to the director similar to or in lieu of the requirements of Sections 2, 3 and other requirements of this chapter or rules promulgated pursuant to it. Such rules shall permit a PEO to authorize an assurance organization approved by the director to act on the PEO's behalf in complying with the registration requirements of this chapter, including electronic filings of information and payment of registration fees. Use of such an approved assurance organization shall be optional and not mandatory for a registrant. Nothing in this subsection shall limit or change the director's authority to register or terminate registration of a professional employer organization or to investigate or enforce any provision of this chapter."

The National Association of Professional Employer Organizations ("NAPEO") has helped states develop a structure for registration and licensing of PEOs. The proposed amendment to your SB 2424 set forth in the immediately foregoing subsection is taken directly from the Electronic Filing and Compliance Subsection (I) of the Registration Requirements Section 4 of NAPEO's Model PEO Recognition and Registration Act. Such language is presently in place in a host of states, with several others presently working on it via pending legislation and/or rules. Of the 38 states with PEO registration and/or licensing authority, ESAC is approved as an assurance organization in 13 states and approval is pending in 9 other states. I would be happy to provide contact information for state regulators that can confirm the value of ESAC's services to them.

Few states operating alone have the capacity to effectively regulate PEOs with multi-state, multi-entity operations. ESAC currently is the only independent source of such comprehensive PEO compliance information available to state regulators. ESAC's early warning system is designed to identify and avoid developing PEO problems before they occur, based on quarterly multi-state and multi-entity compliance monitoring procedures, which verify adherence to each of ESAC's comprehensive financial, ethical and operational standards. This system has proven to be 100% effective for 17 years, so it has stood the test of time. ESAC's time and cost saving support services to participating agencies, such as 24/7 Internet access to eMAC (ESAC's Electronic Multi-state Application and Compliance) system, are provided at no cost to regulators. And all this can be done without in any way diminishing the states' authority or ability to grant or terminate registration or investigate or enforce compliance. In 2011 we reached out to Hawaii's department of labor and industrial relations offering to assist with the department's implementation of HI's PEO law given our 17 years of experience and we intend to re-extend that offer.

With respect to SB 2424's PEO bonding requirements found in Section 5, please consider the following comments:

- (a) Our experience indicates that Hawaii would be better served by establishing effective, but reasonable, financial requirements and a reliable compliance monitoring process to detect developing problems before they occur, than to require an unnecessarily burdensome amount of bonding that has no value until after a financial default occurs.
- (b) No PEO can afford to provide HI with a bond large enough to cover the ultimate potential liability of a major default, so a punitive bond requirement is not an effective regulatory solution.
- (c) A reasonable bond requirement can be a tool, especially if the responsible agency does not have the expertise or authority needed to effectively verify PEO financial stability on an ongoing basis, because the bond does mean that a surety underwriter also has to sign off on the PEO's financials.
- (d) The underwriting *process* that must be completed in order to get a bond, rather than the bond amount itself, is what affords the greater protection; and if the state accepts some form of financial assurance other than bonding, it will lose the value of surety underwriting.

ESAC provides a \$1 million surety bond on each accredited PEO and a \$10 million bond to cover any claims in excess of the \$1 million specific bonds. All bonds are written by an A-rated surety company licensed in all states and are held in trust for the benefit of participating clients, employees, agencies and insurers at Regions Bank.

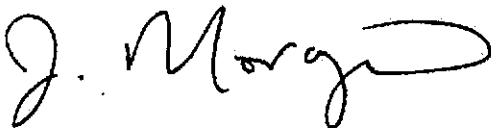
Along with ESAC's certification of a PEO's compliance, early warning system and other compliance information and assurances, most states that have approved ESAC as an assurance organization, have accepted ESAC's financial assurance, including its bonds in place for ESAC-accredited PEOs, in lieu of otherwise applicable state PEO bonding requirements. This has been done recognizing that the best regulatory protection is to require proven financial reporting and compliance monitoring, such as ESAC has used successfully since 1995, that will allow the agency to identify a developing problem before it happens so preemptive action can be taken to protect the public.

Key protections ESAC has used successfully for 17 years include, but are not limited to:

- (a) Identifying all controlling persons of all PEO entities under common control, and verifying they have both a personal and business history of honesty, law abidance and responsible financial dealings;
- (b) Requiring reliable financial information. This means cutting out the potential for "Enron-type" games among all related entities, not just looking at the PEO entity or entities applying for registration or licensure in the state. Financial statements should reveal positive working capital and should cover all PEO entities under common control (as defined by IRS) prepared on a consolidated or combined basis according to general accepted accounting principles (GAAP) and be audited by an independent CPA who is a member of the AICPA and who has an unmodified report from the most recent peer review by the AICPA Peer Review Board;
- (c) Requiring quarterly verification by an independent CPA of the timely and appropriate payment of all payroll taxes, insurance premiums and contributions to employee retirement plans, not just verifying payment of taxes in HI; and
- (d) Ensuring that PEO medical and workers' compensation insurance plans are operating in accordance with state and federal law.
- (e) Having an experienced board of directors in place, including several CPAs and lawyers, and most particularly, ESAC's independent directors (6 former state and federal regulators), who make all decisions concerning accreditation and compliance.

I hope you find this helpful as you strive to create the best possible PEO law and regulatory structure for Hawaii. If you would like to discuss this further, I and the entire team at ESAC, will be happy to help.

Sincerely,



Jay Morgan

ESAC's General Counsel and VP of Compliance and Regulatory Services





**Testimony to the Senate Committee on Commerce and Consumer Protection  
and Senate Committee on Judiciary and Labor**

**Tuesday, February 7, 2012**

**9:20 a.m.**

**Conference Room 229**

**RE: SENATE BILL 2424 RELATING TO PROFESSIONAL EMPLOYER  
ORGANIZATIONS**

Chair Baker, Chair Hee, Vice Chair Taniguchi, Vice Chair Shimabukuro and Members of the Committees:

**ProService Hawaii supports the intent of registration of Professional Employer Organizations (PEOs), but we respectfully ask that Senate Bill 2424 be deferred until the provisions currently under Chapters 373K and 373L are fully implemented and their effectiveness can be determined.**

ProService Hawaii provides employee administration services to over 1,000 small businesses in Hawaii, representing over 13,000 employees in Hawaii. As a professional employer organization (PEO), we ensure that our clients remain compliant with Federal and State employment and labor laws, while allowing them to focus on their core business, providing needed and valuable services to the people and the economy of the State. In addition, we ensure that our clients' employees receive timely payment of wages, workers' compensation, TDI and benefits coverage. We also provide HR training and services, dispute resolution, and safety services to our clients and our clients' employees.

ProService Hawaii is accredited with the Employers Services Assurance Corporation (ESAC), a compliance monitoring organization that provides financial assurance to our clients, employees, insurers, taxing authorities, regulators and the general public. Each member PEO is provided a \$1 million surety bond, with an additional \$10 million excess surety bond to cover all member PEOs. The assurances offered by ESAC's program for the PEO industry are similar to the assurances offered by the FDIC for the banking industry, the Security Investor Protection Corporation (SIPC) for the securities industry, and state regulatory guaranty associations for the

insurance industry. The rigorous oversight provided by ESAC ensures that member PEOs are compliant and are able to provide services to their clients and employees.

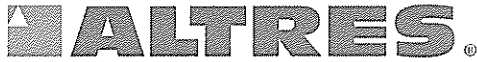
We support the efforts of this legislative body to regulate the PEO industry, as it is in this state's and our industry's best interests to have well-functioning firms serving the community. We support the intent of ensuring that only compliant and well-managed PEOs operate in Hawaii. However, we ask for balance between the need for regulatory oversight of the industry and PEOs' ability to conduct business in the State. We offer the following comments on Senate Bill 2424:

**Under chapters 373K and 373L, HRS, professional employer organizations are required to register with DLIR, and provide a bond of \$250,000. It must be noted that the current bond amount represents the highest bonding requirement of any state in the nation. In addition, the law enacted in 2010 grants the DLIR oversight for our industry. We believe the current statutory provisions are appropriate and sufficient to address the regulatory concerns of the State. Before enacting further legislation, we should fully implement this current law and determine its effectiveness.**

Under proposed legislation, the bond requirement would increase the bond amount for PEOs with fewer than 100 employees, to \$500,000, and would increase the requirement for larger PEOs to 5% of the sum of all wages, benefits, workers' compensation premiums, and unemployment contributions. In the case of a PEO with \$300 million in such amounts, this would require a bond of \$15 million. This represents a 5,000% increase in the bonding requirements for such PEOs. The costs associated with obtaining such a bond are high and would hinder such PEOs' ability to provide a cost-effective administrative solution for small businesses. More importantly, the increased costs of our services would likely be passed on to clients. Many of these clients are small businesses who are already struggling with high costs of doing business in Hawaii.

We respectfully ask this body to defer this measure, to allow the DLIR to fully implement the current statutory provisions, before enacting further legislation. If this committee is inclined to pass this measure, we ask that the proposal for Section 373L-3 be amended to limit the bond requirement to the current limit of \$250,000. We also ask that language be inserted into this section that states that accreditation by ESAC shall be deemed as satisfaction of the provisions under this section.

Thank you for the opportunity to submit testimony.



February 6, 2012

The Honorable Rosalyn H. Baker, Chair  
The Honorable Brian T. Taniguchi, Vice Chair  
Committee on Commerce and Consumer Protection  
State Capitol  
415 South Beretania Street  
Honolulu, Hawaii 96813

**Re: SB2424 Relating to Professional Employer Organizations  
February 7, 2012, 9:20 a.m., CR 229**

Dear Senators Baker and Taniguchi:

My name is Barron Guss, President and second-generation owner of ALTRES, Inc., a 43-year old Hawaii company and Hawaii's oldest Professional Employer Organization.

I am here today to provide testimony in of support SB 2424 with modification. I would like to thank you and your committee for your effort to implement PEO registration. I agree that in order to put the PEO registration law into effect, we need clarity and procedural guidelines.

Because of the complexity of the subject matter, I am submitting my comments in topic format so they may be easily followed and referred during the legislative process.

### **Definitions**

*Section 373K-2, Paragraph (a) states "where any client company uses the services of assigned employees and co-employs assigned employees with a professional employment organization..."*

It is important to note that PEOs do not assign any employees as a temporary help agency or staffing organization would. The PEO simply employs (co-employs) the staff of the worksite employer and the worksite employer is the party in this relationship who is responsible for the day to day activity in the workplace, including hiring and termination, direction and control and ultimately is the only one who can assign employees.

For the purposes of the SB2424, as well as 373L, I believe it would be appropriate to eliminate the use of "assigned employees" and replace it with "employees who are co-employed or the co-employees."

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Page Two

*Section 3, Section 373L-1, Paragraph 2, provides a definition of "client company" which reads, "Client Company" means any person that contracts with a professional employer organization and is assigned employees by the professional employment organization under that contract.*

This section should also be modified to eliminate the concept of "assigned by" and replaced with "contracts with a professional employer organization and co-employs its staff through the professional employer organization under the contract."

Further in the same paragraph, the definition of professional employer organization is stated as a "business entity that offers to co-employ employees that are assigned to the worksites of its client companies."

Since the term "co-employ" is actually more a form of art than statute or law, it is important to provide further definition and include some of the previously stricken definitions to include "professional employer organization," "PEO," "staff leasing," and "employee leasing company."

Under separate testimony from ESAC (Employer Services Assurance Corporation) and NAPEO (National Association of Professional Employer Organizations) you will see the desire to include the provision for an Assurance organization to provide compliance as well as reduced paperwork and work load for not only the PEOs but government as well. Incidentally, there are currently three PEOs in the State that meet the strict financial and operational requirements to be covered by ESAC.

### **Compliance**

*Section 4, Section 373L-2, Paragraph 10, states "Proof of compliance with the Hawaii prepaid health care act as regards all employees of the professional employer organization."*

In keeping with current trends in healthcare across the country, may I suggest the following modifications to this paragraph:

*"Proof of compliance with the Hawaii prepaid health care act as regards all employees of the professional employer organization. The PEO shall have a right to sponsor a self-funded plan to meet its obligations under the Hawaii Prepaid Healthcare Act."*

### **Bond Definitions**

*Section 5, Section 373L-3, Paragraph (1) states, "Professional employer organizations consisting of fewer than one hundred full-time or part-time employees shall post a minimum bond of \$500,000."*

This paragraph begs for clarification as it is unclear what the definition of "one hundred full-time or part-time employees" is. Is it to mean 100 employees who work within the servicing body of the PEO or 100 employees who are co-employed by the PEO?

### **Bond Level Requirements**

*Section 5, Section 373L-3, Paragraphs (1), (2) and (3)*

During the deliberation process of the PEO Registration Act, we started with a \$1 million bond requirement and ended up at the current \$250,000 level because of a concern that the \$1 million bond was creating a barrier to entry into the market. In contrast to other testimony you will hear today, I am in support of the \$500,000 entry point because I believe there are conditions in which a business operator would forego a bond and simply post cash rather than go through the administrative complexity of the bond process.

The idea of posting a bond is not so much about the amount of the bond as it is the process and due diligence of the surety who posts the bond on behalf of the business. The surety process is a very thorough and complex one in which the underwriters will review every financial aspect of the business as well as background information of the principals and the overall condition of the organization. As you can imagine, this is a very arduous undertaking not only for the surety underwriter, but the PEO registrant as well.

Nationally, the trend is for \$50,000 to \$100,000 bonds as well as net worth requirements. I believe this number is simply too low because it is very easy for the average business operator to arrange assets in a way to post this moderate amount and forego the scrutiny of the bond process. With the number at a more business-like amount of \$250,000 or even \$500,000, a PEO operator will look to the financially viable process of purchasing a bond from a surety with a moderate cash outlay as compared to tying up \$500,000 in cash. This path of bond posting provides an additional level of scrutiny.

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In addition, the current bond requirement for large PEO operators with more than 100 employees is prohibitive and impractical. For example, my company, using the formula in paragraph (3), would need to post a bond of over \$12 million, which would be unaffordable and difficult to obtain.

Just as a point of reference, electronic money transmitters such as Paypal are required to post bonds in some states. To put it in perspective, Paypal moves more money in one day than the combined PEO industry moves in a year, and is only required to have a \$1 million bond.

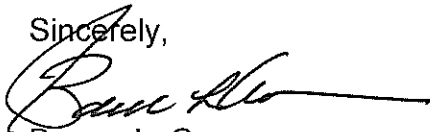
With the foregoing in mind, I offer the following modifications to the paragraphs cited above.

- A \$250,000 minimum bond for entry registrants.
- A \$250,000 minimum bond for registrants with less than 100 work site employees.
- A bond equal to 1% of the prior year's total wages, benefits, workers' compensation premiums, and unemployment compensation contributions with a maximum of a \$1 million for PEOs with more than 100 work site employees
- A bond issued by an Assurance organization or Surety shall be acceptable for the purposes of compliance with the bonding requirement.
- In lieu of the bond, the registrant PEO shall be able to post cash, letter of credit, or other securities acceptable to the Director.

In closing, I appreciate the efforts of the committee and hope to be of assistance in the coming days as we work through the specific points of this very important legislation and enact Hawaii's PEO registration law.

Thank you for your consideration.

Sincerely,



Barron L. Guss  
President and CEO

BLG:lo