

RULE

Department of Insurance Office of the Commissioner

Approved Assurance Organizations (LAC 37:XIII.Chapter 145)

Under the authority of the *Louisiana Insurance Code*, R.S. 22:1 et seq., and in accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., the Department of Insurance has adopted Regulation 102. The purpose of the regulation is to exercise the authority and fulfill the duties and responsibilities of the commissioner with respect to the continued regulation of professional employer organizations. Regulation 102 delineates the qualifications of approved assurance organizations, the duties and responsibilities of approved assurance organizations, the methods by which approved assurance organizations may file electronic submissions on behalf of a professional employer organization with the department, and provides for related matters.

Title 37 INSURANCE

Part XIII. Regulations

Chapter 145. Regulation Number 102—Approved Assurance Organizations

§14501. Purpose and Intent

A. The purpose and intent of Regulation 102 is to exercise the authority and fulfill the duties and responsibilities of the commissioner with respect to the continued regulation of professional employer organizations (“PEOs”). Regulation 102 delineates the qualifications of approved assurance organizations, the duties and responsibilities of approved assurance organizations, the methods by which approved assurance organizations may file electronic submissions on behalf of a professional employer organization with the department, and provides for related matters.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1750, R.S. 22:1751, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 40:2592 (December 2014).

§14503. Authority

A. Regulation 102 is promulgated pursuant to the authority of the commissioner under R.S.22:11, R.S. 22:1750, R.S. 22:1751, and pursuant to the authority and powers granted by law to the commissioner and the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1750, R.S. 22:1751, R.S. 22:1984, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 40:2592 (December 2014).

§14505. Applicability and Scope

A. Regulation 102 applies to any assurance organization that transacts business on behalf of a professional employer organization authorized to operate in the state of Louisiana. A professional employer organization shall not be required to utilize the services of an approved assurance organization.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1750, R.S. 22:1751, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 40:2592 (December 2014).

§14507. Qualifications for Approval of an Assurance Organization

A. Any assurance organization that intends to be approved by the commissioner for authorization to transact business on behalf of a professional employer organization in the state of Louisiana shall apply for and obtain the approval of the commissioner.

B. To be considered for approval, the assurance organization shall submit a written request for approval to the commissioner which shall include:

1. evidence that the assurance organization is independent and has an established program for the accreditation and financial assurance of a professional employer organization;

2. evidence that the assurance organization has documented qualifications, standards, procedures and financial assurance acceptable to the commissioner to certify the qualifications of a professional employer organization;

3. the agreement of the assurance organization to provide the information, compliance monitoring services, and level of financial assurance acceptable to the commissioner and to share with the department in a timely manner the information and supporting documentation provided to the assurance organization by a professional employer organization that equals or exceeds the requirements for registration or renewal of registration under R.S. 22:1741 through R.S. 22:1751; and

4. the agreement of the assurance organization that it will use a comprehensive online application, quarterly compliance reporting, and an ongoing compliance monitoring process for PEO accreditation that ensures that:

a. the PEO is owned and operated by controlling persons with a history of honesty, law abidance, and responsible financial dealings both personally and in business;

b. the PEO and all related entities under common control are financially solvent and have positive working capital sufficient to sustain operations; and

c. the PEO and all related PEO entities meet the assurance organization’s ethical, financial, and operational standards, including compliance with applicable state and federal laws.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1750, R.S. 22:1751, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 40:2592 (December 2014).

§14509. Requirements for an Approved Assurance Organization to Represent a Professional Employer Organization

A. For each professional employer organization that chooses to be represented by an approved assurance organization, the approved assurance organization shall submit to the department an application, executed by the professional employer organization, requesting that the assurance organization be permitted to transact business on

behalf of the professional employer organization. Such application shall:

1. authorize the approved assurance organization to share with the department the application and compliance reporting information required under R.S. 22:1741 through R.S. 22:1751 that has been provided to the assurance organization by the professional employer organization;

2. authorize the department to accept information provided by the professional employer organization to the assurance organization to facilitate the registration or renewal of registration of the professional employer organization;

3. provide the certification of the professional employer organization, attesting that the information provided by the assurance organization to the department is true and complete and that the professional employer organization is in full and complete compliance with all requirements of R.S. 22:1741 through R.S. 22:1751; and

4. provide the certification of the assurance organization that the professional employer organization is in compliance with the standards and procedures of the assurance organization, which equals or exceeds the requirements of R.S. 22:1741 through R.S. 22:1751, and that the professional employer organization is qualified for registration or renewal of registration under R.S. 22:1741 through R.S. 22:1751.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1750, R.S. 22:1751, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 40:2592 (December 2014).

§14511. Duties and Responsibilities of an Approved Assurance Organization

A. An assurance organization that has been approved by the commissioner shall obtain authorization from the accredited professional employer organization and shall release to the department confidential information in support of each accredited professional employer organization's initial registration and/or renewal registration, including but not limited to the following information:

1. basic information of the applicant professional employer organization to include:

a. the name(s) of all professional employer organization entities under common control;

b. the address of the domicile, headquarters and principal place of business of the professional employer organization;

c. the physical location of all of the professional employer organization's office(s) or place(s) of business in Louisiana and elsewhere;

d. current contact information for the professional employer organization's clients that are doing business in Louisiana;

e. cross guarantees of all relevant entities; and

f. copy of surety bonds providing coverage to the professional employer organization;

2. basic information regarding the name, address, telephone number and facsimile number of the controlling person(s) of the applicant professional employer organization;

3. pursuant to R.S. 22:1984, financial information of the applicant professional employer organization, including, but not limited to:

a. current fiscal/calendar year end audited financial statements;

b. a spreadsheet demonstrating the prior fiscal/calendar year end audited financial information and year-to-date calendar quarter updates, if available, including current assets and liabilities, net worth, net worth ratio, working capital, and net income for each stated period; and

c. quarterly certifications by an independent certified professional accountant of the timely payment of state and federal payroll taxes, insurance premiums, and contributions to employee retirement plans for the most recent calendar quarter and prior five calendar quarters;

4. basic insurance information on the applicant professional employer organization's worker's compensation coverage;

5. basic insurance information on the applicant professional employer organization's health insurance coverage; and

6. certification that the applicant professional employer organization is in compliance with the assurance organization's accreditation standards and procedures.

B. An assurance organization that has been approved by the commissioner shall also obtain authorization from the accredited professional employer organization and shall release to the department confidential information on behalf of the applicant with respect to any compliance reporting requirement of the department pursuant to R.S. 22:1984, including without limitation, any reporting initiated at the request of the department. This section shall apply to any and all communications of any nature by the assurance organization, its agents, employees, or other designated representatives, that contain the confidential information transmitted to the department in support of the initial or renewal registration of the applicant professional employer organization as well as any other response provided to satisfy any inquiry made by the department.

C. An assurance organization approved by the commissioner shall provide written notice to the department within 10 business days of a determination by the assurance organization that the professional employer organization:

1. fails to meet the qualifications for registration under R.S. 22:1741 through R.S. 22:1751; or

2. fails to meet the qualifications for accreditation or certification by the assurance organization.

D. An assurance organization approved by the commissioner shall submit all required information through secure internet server, or as otherwise directed by the department.

E. An assurance organization approved by the commissioner shall comply with all time periods, application instructions, and other requests or directives made by the department.

F. An approved assurance organization shall provide the department such information that may be necessary and proper for the execution of the powers and duties of the department pursuant to this Regulation 102 and the *Louisiana Insurance Code*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1750, R.S. 22:1751, R.S. 22:1984, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 40:2593 (December 2014).

§14513. Duration of Approval of an Assurance

Organization

A. Provided the approved assurance organization remains in compliance with Regulation 102, the approval issued by the commissioner to an assurance organization shall remain in effect until the assurance organization withdraws from the state or until approval is suspended or revoked.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1750, R.S. 22:1751, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 40:2594 (December 2014).

§14515. Duties of Commissioner

A. Upon the approval of an assurance organization, the commissioner shall:

1. issue a letter to the assurance organization notifying it that it meets the requirements of Regulation 102; and
2. include the assurance organization on the list of approved assurance organizations that is maintained by the department.

B. In the event that an approved assurance organization no longer meets the requirements of Regulation 102, the commissioner may suspend or revoke such approval and conduct a detailed review of all information provided by the assurance organization on behalf of each professional employer organization that was registered based upon that assurance organization's certification. The commissioner will notify each such professional employer organization in writing of any deficiencies that have been found, and each such professional employer organization shall be given 60 days to correct any deficiencies as may be required to maintain its registration.

C. Authorization by the department of an assurance organization to act on behalf of the professional employer organization, in complying with the registration requirements of R.S. 22:1748 and R.S. 22:1751, or for any other reason, shall not limit or change the department's authority to register or terminate registration of a professional employer organization, or to investigate, enforce or take any regulatory action pursuant to any applicable, relevant, and appropriate provision of Regulation 102 or the *Louisiana Insurance Code*.

D. In the event of the failure of any professional employer organization which is registered pursuant to the certification of an approved assurance organization to comply with any provision of R.S. 22:1741 through R.S. 22:1751 or Regulation 102, the department shall provide the assurance organization 30 days written notice prior to taking action against any bond provided by the assurance organization to allow the assurance organization to otherwise cure the default or pay the claim before a claim is filed against any bond.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1750, R.S. 22:1751, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 40:2594 (December 2014).

§14517. Severability

A. If any provision of Regulation 102 or its application to any person or entity or any circumstance of its application is held invalid, such invalidity shall not affect other provisions or applications of Regulation 102 which can be given effect without the invalid provision or application, and to that end, the provisions of Regulation 102 are severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1750, R.S. 22:1751, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 40:2594 (December 2014).

§14519. Effective Date

A. This regulation shall become effective on January 1, 2015 after final publication in the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1750, R.S. 22:1751, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 40:2594 (December 2014).

James J. Donelon
Commissioner

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RULE

Department of Natural Resources Office of Coastal Management

Coastal Mitigation (LAC 43:I.724)

Under the authority of R.S. 49:214.21-49:214.42 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:450 et seq., the Department of Natural Resources, Office of Coastal Management has amended LAC 43:I.724 relative to the rules and procedures for mitigation.

This Rule amendment is to provide information on how the coastal mitigation account contribution amounts are derived.

Title 43

NATURAL RESOURCES

Part I. Office of the Secretary

Chapter 7. Coastal Management

Subchapter C. Coastal Use Permits and Mitigation

§724. Rules and Procedures for Mitigation

A - I.1. ...

2. Such monetary contributions shall be used to offset anticipated unavoidable net losses of ecological values and shall be selected as the compensatory mitigation option when it is determined that more suitable options are not available to produce the required habitat benefits and replace those habitat units consistent with any plan adopted pursuant to R.S. 49:214.5.3.

3. The secretary shall determine the amount of the monetary contribution. Compensation for compensatory mitigation of unavoidable loss to aquatic resources for the DNR's coastal mitigation account shall be determined based