

### **4123-17-15.3 Security requirements.**

- (A) Except as permitted in paragraphs (B) and (C) of this rule, a PEO shall provide security in the form of a bond or irrevocable letter of credit assignable to the bureau not to exceed an amount equal to the workers' compensation premiums and assessments incurred for the two most recent payroll reporting periods pursuant to paragraph (A) of rule 4123-17-14 of the Administrative Code, prior to any discounts or dividends.
- (1) The amount of security required for each PEO policy shall be evaluated at least annually. The bureau may, in its discretion, reevaluate the amount of security required for a PEO policy within ninety days of receiving notice required under paragraph (B) of rule 4123-17-15.1 of the Administrative Code that the PEO has entered into a new PEO agreement or changed an existing PEO agreement.
  - (2) The security shall be provided to the bureau annually on or prior to December thirty-first.
  - (3) The administrator shall determine the amount of security for a PEO policy that has not paid premiums and assessments in the two most recent payroll periods.
  - (4) A PEO may appeal the amount of the security required pursuant to this section in accordance with section 4123.291 of the Revised Code.
- (B) As an alternative to providing security in the form of a bond or irrevocable letter of credit, the administrator shall permit a PEO to make advance payments of premiums and assessments.
- (1) A PEO electing to make advance payments of premiums and assessments shall make such payments by utilizing the bureau's online payment system. The PEO electing to make advance payments of premiums and assessments shall report payroll and pay the premiums for the month by the fifth day of that month.
  - (2) A PEO electing to make advance payments of premiums and assessments who fails to report payroll and pay premiums timely pursuant to paragraph (B)(1) of this rule shall provide to the bureau security in the form of a bond or irrevocable letter of credit and may not be permitted to utilize the advance payment option for a minimum of the remainder of the policy year. Subsequent failure to report payroll and pay premiums timely utilizing the advance payment option may result in forfeiture of this option and require a posting of bond or irrevocable letter of credit.
- (C) As an alternative to requiring security in the form of a bond or irrevocable letter of credit, the administrator shall accept the certification of a PEO by an assurance organization approved by the administrator to make such certification.
- (1) An assurance organization desiring to be approved by the administrator to certify PEOs under this rule shall:
    - (a) Submit a written request for approval to the administrator in conjunction with an initial registration fee as set forth in the appendix to rule 4123-17-15.2 of the Administrative Code. Such written request must include:
      - (i) Evidence that the assurance organization has documented qualifications, standards, and procedures used to certify PEOs;
      - (ii) A description of the assurance organization's compliance monitoring services; and
      - (iii) Evidence that the assurance organization is licensed by one or more states to certify the

qualifications of a PEO or PEO reporting entities.

- (b) Apply for renewal of approval on an annual basis, and submit an annual renewal fee as set forth in the appendix to rule 4123-17-15.2 of the Administrative Code
- (2) Upon the administrator's approval of an assurance organization, the assurance organization and the bureau shall enter into a memorandum of understanding.
- (a) The memorandum of understanding shall set forth, at a minimum:
    - (i) The policies and procedures with which the assurance organization will comply in certifying a PEO to the bureau; and
    - (ii) The circumstances under which the assurance organization shall provide notice of change in the financial circumstances of a PEO it has certified under this rule.
  - (b) Failure to comply with such memorandum of understanding may result in immediate revocation of the administrator's approval of the assurance organization.
- (3) The administrator's approval of an assurance organization is not transferable to successor corporate entities.
- (4) Upon the bureau's request, an assurance organization must provide to the bureau all information requested regarding a PEO it has certified that has failed to pay its workers compensation premium and assessments, audit findings, or other moneys due and owing the bureau within thirty days of the due date. Failure to provide such information within thirty days of the request will result in the administrator's revocation of approval for the assurance organization to make certification under this rule.
- (5) If the administrator revokes the approval of an assurance organization to make certification under this rule, any PEO certified by that assurance organization shall have sixty days to provide evidence of certification by another assurance organization, submit security under paragraph (A) of this rule, or make advance payments as set forth in paragraph (B) of this rule.

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