

## 2018 Kansas Statutes

**44-1702. Definitions.** As used in K.S.A. 2018 Supp. 44-1701 through 44-1711, and amendments thereto:

- (a) "Client" means any person who enters into a professional employer agreement with a professional employer organization.
- (b) "Co-employer" means either a professional employer organization or a client.
- (c) "Co-employment relationship" means a relationship which is intended to be an ongoing relationship rather than a temporary or project specific relationship, and wherein the rights, duties and obligations of an employer which arise out of an employment relationship have been allocated between the employer and a professional employer organization as co-employers pursuant to a professional employer agreement entered into in accordance with the provisions of K.S.A. 2018 Supp. 44-1701 through 44-1711, and amendments thereto. Under a co-employment relationship:
  - (1) The professional employer organization is entitled to enforce only those employer rights, and is subject to only those employer obligations, that are specifically allocated to the professional employer organization by the professional employer agreement or by the provisions of K.S.A. 2018 Supp. 44-1701 through 44-1711, and amendments thereto;
  - (2) the client is entitled to enforce those employer rights, and is obligated to provide and perform those employer obligations, that are allocated to such client by the professional employer agreement or by the provisions of K.S.A. 2018 Supp. 44-1701 through 44-1711, and amendments thereto; and
  - (3) the client also is entitled to enforce any employer right, and is obligated to perform any obligation of an employer, that is not specifically allocated to the professional employer organization by the professional employer agreement or by the provisions of K.S.A. 2018 Supp. 44-1701 through 44-1711, and amendments thereto.
- (d) "Commissioner" means the commissioner of insurance.
- (e) (1) "Covered employee" means an individual having a co-employment relationship with a professional employer organization and a client, who has received written notice of the co-employment relationship with the professional employer organization and the client, and such co-employment relationship was entered into pursuant to a professional employer agreement entered into in accordance with the provisions of K.S.A. 2018 Supp. 44-1701 through 44-1711, and amendments thereto.
  - (2) The term "covered employee" shall include individuals who are officers, directors, shareholders, partners or managers of the client, or members of a limited liability company that is a client, if:
    - (A) The professional employer organization and the client have expressly agreed in the professional employer agreement that such individuals are covered employees;
    - (B) such individuals satisfy the provisions of paragraph (1); and
    - (C) such individuals act as operational managers or perform day-to-day operational services for the client.
- (f) "Department" means the department of insurance.
- (g) "Person" means any individual, partnership, corporation, limited liability company, association or any other form of legally recognized entity.
- (h) "Professional employer agreement" means a written contract entered into between a client and a professional employer organization that provides:
  - (1) For the co-employment of covered employees;
  - (2) for the allocation of employer rights and obligations between the client and the professional employer organization with respect to covered employees; and
  - (3) for the professional employer organization and the client to assume the responsibilities required by the provisions of K.S.A. 2018 Supp. 44-1701 through 44-1711, and amendments thereto.
- (i) (1) "Professional employer organization" means any person engaged in the business of providing professional employer services. A person engaged in the business of providing professional employer services shall be considered a "professional employer organization" regardless of such person's use of the term staff leasing company, administrative employer, employee leasing company or any name other than professional employer organization in describing such person's business.
  - (2) For purposes of K.S.A. 2018 Supp. 44-1701 through 44-1711, and amendments thereto, the following shall not be considered a "professional employer organization," or as providing "professional employment services":
    - (A) Arrangements wherein a person, whose principal business activity is not entering into professional employer agreements, and which does not hold itself out as a professional employer organization, shares employees with a commonly owned company within the meaning of section 414(b) and (c) of the internal revenue code;
    - (B) independent contractor arrangements by which a person assumes responsibility for the product produced or service performed by such person or such person's agents and retains and exercises primary direction and control over the work performed by the individuals whose services are supplied under such arrangements; and
    - (C) providing temporary help services.
- (j) "Professional employer group" means two or more professional employer organizations that are majority owned or commonly controlled by the same entity, parent or controlling person.
- (k) "Professional employer services" means the service of entering into co-employment relationships.
- (l) "Registrant" means a professional employer organization registered under the provisions of K.S.A. 2018 Supp. 44-1701 through 44-1711, and amendments thereto.
- (m) "Temporary help services" means services consisting of a person:
  - (1) Recruiting and hiring such person's own employees;
  - (2) locating other organizations that need the services of such employees;
  - (3) assigning such employees:
    - (A) To perform work at or services for such other organizations to support or supplement such other organizations' workforces;
    - (B) to provide assistance in special work situations, including employee absences, skill shortages or seasonal workloads; or
    - (C) to perform special assignments or projects; and
    - (4) customarily attempting to reassign such employees to other organizations when such employees finish an assignment.
- (n) "Working capital" means current assets less current liabilities, as such terms are used by generally accepted accounting principles.

**History:** L. 2012, ch. 142, § 2; Jan. 1, 2014.