

STATEMENT OF EMERGENCY

787 KAR 1:370E.

This emergency administrative regulation amendment is being promulgated pursuant to KRS 13A.190(1)(a) to meet an imminent threat to public health, safety or welfare. This emergency administrative regulation is necessary to ensure lawful assignment of unemployment insurance (UI) contribution rates for the 2026 rate year, which will be finalized on December 15, 2025.

Emergency action is the only timely method to ensure accurate, uniform, and legally compliant rate-setting prior to the December 15, 2025, deadline. This emergency regulation is authorized by KRS 336.248 and KRS 341.115 and is necessary to preserve public welfare through stable and lawful administration of UI contribution rates.

This emergency administrative regulation will be replaced by an ordinary administrative regulation. The companion ordinary administrative regulation is identical to this emergency regulation. An emergency administrative regulation governing the same subject matter has not been filed within the previous nine months.

ANDY BESHEAR, Governor

JAMIE LINK, Secretary

Education and Labor Cabinet
Department of Workforce Development
Office of Unemployment Insurance
(Emergency Amendment)

787 KAR 1:370E. Professional Employer Organization Contribution and Reporting Requirements.

RELATES TO: KRS 336.232

STATUTORY AUTHORITY: KRS 336.248, 341.115

CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: KRS 341.115(1) authorizes the secretary to promulgate administrative regulations for the proper administration of KRS Chapter 341. KRS 336.248 requires professional employer organizations to make certain reports and contributions to the unemployment insurance fund. This administrative regulation provides the procedures to file client unemployment insurance wage and premium reports, the procedures to complete the "Professional Employer Organization Application for Unemployment Insurance Employer Reserve Account" form, the procedures to add or delete clients, the treatment of experience history transfers, and the application of successorship provisions under KRS Chapter 341, and the procedures to change the professional employer organization's contribution election.

Section 1. Definitions

- (1) "Benefit experience history" means the benefit charges and other experience rating data maintained for a client employer under KRS Chapter 341 that are used to determine the employer's contribution rate.
- (2) "Client" is defined by KRS 336.232(1).
- (3) "Election" means the selection made by a PEO pursuant to KRS 336.248(1) regarding the reporting and payment of unemployment insurance contributions.
- (4) "Professional employer agreement" means an agreement as defined in KRS 336.236.
- (5) "Professional employer organization" or "PEO" is defined by KRS 336.232(8).

Section 2. Professional Employer Organization reporting requirements and election of contribution

- (1) A professional employer organization ("PEO") shall submit its initial election to report and pay unemployment insurance contributions pursuant to KRS 336.248(1) on the application provided in subsection (4). The Office shall apply the PEO's election to all clients covered under the PEO agreement as of the effective date of the election.
- (2) The PEO shall keep separate records for each client and submit separate state unemployment insurance wage and premium reports to the Office of Unemployment Insurance (OUI) using the Unemployment Insurance Self-Service Web Portal located at <https://kewes.ky.gov>. The PEO shall submit all required unemployment contribution payments associated with those reports in a timely manner. Wage and premium reports shall be filed using the client's state employer account number and using the:
 - (a) Assigned tax rate of the PEO, per KRS 336.248 (1)(a); or
 - (b) Assigned tax rate of the client, per KRS 336.248(1)(b).
- (3) If a PEO elects the client account method under KRS 336.248(1)(b):
 - (a) The PEO shall file unemployment insurance reports and pay contributions on a client-by-client basis; and
 - (b) The client's benefit experience history, as defined in Section 1(3) of this regulation, shall be transferred by the Office to the account assigned to that client as co-employer, as required by KRS 336.248(1)(b)(3)(b).
- (4)

(a) A PEO having one (1) or more covered employees with a client in this state shall file an electronic application titled, UI-1P, "Professional Employer Organization Application for Unemployment Insurance Employer Reserve Account", incorporated in 787 KAR 1:010, using the Unemployment Insurance Self-Service Web Portal located at <https://kewes.ky.gov>.

(b) To apply for an account number, the application shall include:

1. The federal identification number of the professional employer organization, along with the name, address, and phone number of the professional employer organization;
2. The name, physical address, and phone number of each client in a format as prescribed by the Office of Unemployment Insurance;
3. The name of the client's owner, partners, corporate officers, limited liability company members, and managers, if board managed, or general partners;
4. The federal identification number of the client;
5. A brief description of the client's major business activity; and
6. Any other information required by the Office of Unemployment Insurance.

(c) The PEO shall notify the Office of Unemployment Insurance (OUI) in writing of any additions or deletions of clients during the quarter in which a change occurs. Written notifications shall be submitted to the OUI via the methods listed at <https://kewes.ky.gov>.

(d) In cases where the PEO has not been subject to the provisions set forth in KRS 336.248, the PEO shall not be assigned the new employer rate for a client that has benefit experience history as defined in Section 1 of this regulation. The contribution rate for each client shall be based on that client's experience in accordance with KRS Chapter 341.

Section 3. Effect of successorship.

(1) The transfer of benefit experience history required under KRS 336.248(1)(b)(3)(b) shall occur without regard to common ownership, management or control. The client, upon terminating its relationship with the PEO, shall retain its own reserve account and shall not acquire any portion of the reserve account of the PEO unless otherwise required under KRS Chapter 341.

(2) The provisions of KRS 341.540 regarding successor employers shall not apply to a PEO or a client employer based solely on the existence of a professional employer agreement.

Section 4. Change of contribution election. KRS 336.248(5) permits a PEO to change its contribution election under KRS 336.248 (1)(a) or KRS 336.248(1)(b) only once. The change of contribution election shall be submitted in writing via the methods listed at <https://kewes.ky.gov>. Any changes to the initial election are effective in the calendar year following the date the Office approves the change in accordance with KRS 336.248(5).

JAMIE LINK, Secretary

APPROVED BY AGENCY: December 15, 2025

FILED WITH LRC: December 15, 2025 at 11:57 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on January 21, 2026, at 9:00am, at Mayo-Underwood Hearing Room 133CE, 500 Mero Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you

do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through January 31, 2026. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Haley Presley, Deputy Executive Director, Office of Unemployment Insurance, 500 Mero Street, Third Floor, Frankfort, Kentucky 40601, 502-782-3132, haleys.presley@ky.gov