

336.232 Definitions for KRS 336.230 to 336.250.

As used in KRS 336.230 to 336.250, unless the context requires otherwise:

- (1) "Client" means any person who enters into a professional employer agreement with a professional employer organization;
- (2) "Co-employer" means either a professional employer organization or a client;
- (3) "Co-employment relationship" means a relationship which is intended to be an ongoing relationship rather than a temporary or project-specific relationship wherein the rights, duties, and obligations of an employer that arise out of an employment relationship have been allocated between co-employers pursuant to a professional employer agreement under KRS 336.230 to 336.250, under which:
 - (a) The professional employer organization is entitled to enforce only those employer rights and is subject to only those obligations specifically allocated to the professional employer organization by the professional employer agreement or KRS 336.230 to 336.250;
 - (b) The client is entitled to enforce those rights, and obligated to provide and perform those employer obligations, allocated to the client by the professional employer agreement and KRS 336.230 to 336.250; and
 - (c) The client is entitled to enforce any right and obligated to perform any obligation of an employer not specifically obligated to the professional employer organization by the professional employer agreement or KRS 336.230 to 336.250;
- (4) "Covered employee" means an individual having a co-employment relationship with a professional employer organization and a client who meets the following criteria:
 - (a) The individual has received written notice of co-employment with the professional employer organization; and
 - (b) The individual's co-employment relationship is pursuant to a professional employer agreement under KRS 336.230 to 336.250.

Individuals who are officers, directors, shareholders, partners, and managers of the client will be covered employees, except to the extent the professional employer organization and the client have expressly agreed in the professional employer agreement that those individuals would not be covered employees, provided the individuals meet the criteria of this subsection and act as operational managers or perform day-to-day operational services for the client. A covered employee shall not be considered a party to the professional employer agreement;
- (5) "Insurer" includes every person engaged as principal and as indemnitor, surety, or contractor in the business of entering into contracts of insurance as defined in KRS 304.1-040;
- (6) "Person" means any individual, partnership, corporation, limited liability company, association, or any other form of legally recognized entity;
- (7) "Professional employer agreement" means a written contract by and between a client and a professional employer organization that provides for the:
 - (a) Co-employment of covered employees;

- (b) Allocation of employer rights and obligations between the client and the professional employer organization with respect to the covered employees; and
 - (c) Assumption of responsibilities required under KRS 336.230 to 336.250 by the client and the professional employer organization;
- (8) (a) "Professional employer organization" means any person engaged in the business of providing professional employer services or conducting business as a staff leasing company, registered staff leasing company, employee leasing company, administrative employer, or other similar name.
- (b) The following shall not be considered to be a "professional employer organization":
- 1. Persons providing temporary help services;
 - 2. Independent contractor arrangements by which a person assumes responsibility for the product produced or service performed by the person or the person's agents and retains and exercises primary direction and control over the work performed by the individuals whose services are supplied under the arrangements; and
 - 3. Arrangements wherein a person, whose principal business activity is not entering into professional employer arrangements 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 of 1986, as amended;
- (9) "Professional employer organization group" means two (2) or more professional employer organizations that are majority owned or commonly controlled by the same entity, parent, or controlling person or persons;
- (10) "Professional employer services" means the service of entering into a co-employment relationship under KRS 336.230 to 336.250 in which all or a majority of the employees providing services to a client or to a division or work unit of a client are covered employees;
- (11) "Registrant" means a professional employer organization registered under KRS 336.230 to 336.250; and
- (12) "Temporary help service" means services consisting of a person:
- (a) Recruiting and hiring its own employees;
 - (b) Finding other organizations that need the services of those employees;
 - (c) Assigning those employees to perform work at or services for the other organizations to support or supplement the other organizations' workforce, or to provide assistance in special work situations, including but not limited to employee absences, skill shortages, seasonal workloads, or performing special assignments or projects; and
 - (d) Customarily attempting to reassign the employees to other organizations when they finish each assignment.

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