

EMPLOYEE LEASING COMPANIES

(2015)

NRS 616B.670-697

NRS 616B.670 Definitions. As used in NRS 616B.670 to 616B.697, inclusive, unless the context otherwise requires:

1. "Applicant" means a person seeking a certificate of registration pursuant to NRS 616B.670 to 616B.697, inclusive, to operate an employee leasing company.
 2. "Client Company" means a company which leases employees, for a fee, from an employee leasing company pursuant to a written or oral agreement.
 3. "Employee leasing company" means a company which, pursuant to a written or oral agreement intended by the parties to create an ongoing relationship, places any of the regular, full-time employees of a client company on its payroll and, for a fee, leases them to the client company.
 4. "Ongoing relationship" means a relationship wherein the rights, duties and obligations of an employer which arise out of an employment relationship are allocated between the employee leasing company and the client company on an ongoing, long-term basis. The term does not include a temporary or project-specific agreement between an employee leasing company and a client company.
- (Added to NRS by 1993, 2419; A 1995, 2135; 1999, 1724; 2009, 1126; 2015, 2678)

NRS 616B.673 Certificate of registration required; expiration; penalty.

1. A person shall not operate an employee leasing company in this State unless the person has complied with the provisions of NRS 616B.670 to 616B.697, inclusive. The Administrator shall issue a certificate of registration to each applicant who complies with the provisions of NRS 616B.670 to 616B.697, inclusive.
 2. Any person who violates the provisions of subsection 1 is guilty of a misdemeanor.
 3. Each certificate of registration issued by the Administrator pursuant to NRS 616B.670 to 616B.697, inclusive, expires 1 year after it is issued unless renewed before that date.
- (Added to NRS by 1993, 2419; A 1999, 1724; 2009, 1126)

NRS 616B.676 Written application for issuance or renewal of certificate of registration must be on approved form.

An applicant for the issuance or renewal of a certificate of registration must submit to the Administrator a written application upon a form provided by the Administrator.

(Added to NRS by 1993, 2419; A 1999, 1725)

NRS 616B.679 Contents of application; fee; Administrator to be notified of certain changes in information about applicant; power of Administrator to revoke certificate of registration; financial statements.

1. Each application must include:
 - (a) The applicant's name and title of his or her position with the employee leasing company.
 - (b) The applicant's age, place of birth and social security number.
 - (c) The applicant's address.
 - (d) The business address of the employee leasing company.
 - (e) The business address of the registered agent of the employee leasing company, if the applicant is not the registered agent.
 - (f) If the applicant is a:
 - (1) Partnership, the name of the partnership and the name, address, age, social security number and title of each partner.
 - (2) Corporation, the name of the corporation and the name, address, age, social security number and title of each officer of the corporation.
 - (g) Proof of:
 - (1) Compliance with the provisions of chapter 76 of NRS.
 - (2) The payment of any premiums for industrial insurance required by chapters 616A to 617, inclusive, of NRS.
 - (3) The payment of contributions or payments in lieu of contributions required by chapter 612 of NRS.
 - (4) Insurance coverage for any benefit plan from an insurer authorized pursuant to title 57 of NRS that is offered by the employee leasing company to its employees.

(h) A financial statement of the applicant setting forth the financial condition of the employee leasing company. Except as otherwise provided in subsection 5, the financial statement must include, without limitation:

(1) For an application for issuance of a certificate of registration, the most recent audited financial statement that includes the applicant, which must have been completed not more than 13 months before the date of application; or

(2) For an application for renewal of a certificate of registration, an audited financial statement that includes the applicant and which must have been completed not more than 180 days after the end of the applicant's fiscal year.

(i) A registration or renewal fee of \$500.

(j) Any other information the Administrator requires.

2. Each application must be notarized and signed under penalty of perjury:

(a) If the applicant is a sole proprietorship, by the sole proprietor.

(b) If the applicant is a partnership, by each partner.

(c) If the applicant is a corporation, by each officer of the corporation.

3. An applicant shall submit to the Administrator any change in the information required by this section within 30 days after the change occurs. The Administrator may revoke the certificate of registration of an employee leasing company which fails to comply with the provisions of NRS 616B.670 to 616B.697, inclusive.

4. If an insurer cancels an employee leasing company's policy, the insurer shall immediately notify the Administrator in writing. The notice must comply with the provisions of NRS 687B.310 to 687B.355, inclusive, and must be served personally on or sent by first-class mail or electronic transmission to the Administrator.

5. A financial statement submitted with an application pursuant to this section must be prepared in accordance with generally accepted accounting principles, must be audited by an independent certified public accountant licensed to practice in the jurisdiction in which the accountant is located and must be without qualification as to the status of the employee leasing company as a going concern. Except as otherwise provided in subsection 6, an employee leasing company that has not had sufficient operating history to have an audited financial statement based upon at least 12 months of operating history must present financial statements reviewed by a certified public accountant covering its entire operating history. The financial statements must be prepared not more than 13 months before the submission of an application and must:

(a) Demonstrate, in the statement, positive working capital, as defined by generally accepted accounting principles, for the period covered by the financial statements; or

(b) Be accompanied by a bond, irrevocable letter of credit or securities with a minimum market value equaling the maximum deficiency in working capital for the period covered by the financial statements plus \$100,000. The bond, irrevocable letter of credit or securities must be held by a depository institution designated by the Administrator to secure payment by the applicant of all taxes, wages, benefits or other entitlements payable by the applicant.

6. An applicant required to submit a financial statement pursuant to this section may submit a consolidated or combined audited financial statement that includes, but is not exclusive to, the applicant.

(Added to NRS by 1993, 2419; A 1999, 1725; 2003, 20th Special Session, 217; 2007, 2723; 2009, 1127, 2052; 2011, 1395; 2015, 2678)

NRS CROSS REFERENCES.

State business registration, NRS ch. 76

Unemployment compensation, NRS ch. 612

REVISER'S NOTE.

Ch. 381, Stats. 2009, which amended this section, contains the following provision not included in NRS:

"Notwithstanding the provisions of this act, no penalty, late fee or interest charge may be imposed against any person for any failure to comply with the provisions of this act which occurs before January 1, 2010."

NRS 616B.682 Employee leasing company to maintain office or similar site in State; maintenance, inspection and copying of records.

Repealed. (See chapter 458, Statutes of Nevada 2015, at page 2680.)

NRS 616B.685 Separate payroll records required upon operation of employee leasing company and temporary employment service; prohibition on maintaining policy of workers' compensation insurance for both employee leasing company and temporary employment service.

If a person operates an employee leasing company and a temporary employment service in this State, the person:

1. Shall maintain separate payroll records for the company and the service. The records must be maintained in this State.
2. Shall not maintain a policy of workers' compensation insurance which covers both employees of the employee leasing company and employees of the temporary employment service.
(Added to NRS by 1995, 2124; A 2009, 1129)

NRS 616B.688 Written agreement regarding employment relationship with leased employees.

The employment relationship with workers provided by an employee leasing company to a client company must be established by written agreement between the employee leasing company and the client company. The employee leasing company shall give written notice of the employment relationship to each leased employee assigned to perform services for the client company.

(Added to NRS by 1993, 2420)—(Substituted in revision for NRS 616.2544)

NRS 616B.691 Responsibilities of client company and employee leasing company; limitations; joint and several liability of client company.

1. A client company of an employee leasing company as defined in NRS 616B.670 shall be deemed to be the employer of the employees it leases for the purposes of chapter 612 of NRS.
2. An employee leasing company shall be deemed to be an employer of its leased employees for the purposes of offering, sponsoring and maintaining any benefit plans. The provisions of this subsection do not affect the employer-employee relationship that exists between a leased employee and a client company.
3. An employee leasing company shall not offer, sponsor or maintain for its leased employees any self-funded insurance program. An employee leasing company shall not act as a self-insured employer or be a member of an association of self-insured public or private employers pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS or title 57 of NRS.
4. If an employee leasing company fails to:
 - (a) Pay any contributions, premiums, forfeits or interest due; or
 - (b) Submit any reports or other information required, pursuant to this chapter or chapter 616A, 616C, 616D or 617 of NRS, the client company is jointly and severally liable for the contributions, premiums, forfeits or interest attributable to the wages of the employees leased to it by the employee leasing company.

(Added to NRS by 1993, 2420; A 1995, 2014, 2135; 1997, 579; 2003, 20th Special Session, 218; 2007, 3340; 2009, 1129; 2011, 3421; 2015, 2680)

NRS CROSS REFERENCES.

Nevada Insurance Code, NRS Title 57
Unemployment compensation, NRS ch. 612

NRS 616B.692 Provision of coverage for workers' compensation by employee leasing company; required reports and disclosures; regulations.

1. An employee leasing company may satisfy its obligation to provide coverage for workers' compensation for the employees that the employee leasing company leases to each client company by:
 - (a) Confirming that the client company has obtained a policy of workers' compensation insurance directly from an insurer, and maintains that policy, which covers all of the employees of the client company, including, without limitation, the employees leased from the employee leasing company, subject to the same requirements and conditions as if the client company were the sole employer of the leased employees for the purpose of providing coverage for workers' compensation;
 - (b) Confirming that the client company is a member of an association of self-insured employers which is certified by the Commissioner and which has assumed responsibility, and maintains responsibility, for covering all of the employees of the client company, including, without limitation, the employees leased from the employee leasing company, subject to the same requirements and conditions as if the client company were the sole employer of the leased employees for the purpose of providing coverage for workers' compensation;
 - (c) Confirming that the client company is certified by the Commissioner as a self-insured employer which self-insures all of the employees of the client company, including, without limitation, the employees leased from the employee leasing company, subject to the same requirements and conditions as if the client company were the sole employer of the leased employees for the purpose of providing coverage for workers' compensation;
 - (d) Obtaining a policy of workers' compensation insurance directly from an insurer on a multiple coordinated policy basis, and maintaining that policy, which covers all of the employees leased to the

client company or all of the employees leased to the client company and other client companies affiliated with the client company such that:

(1) The policy covers the liability of both the employee leasing company and the client company or companies for payments required by chapters 616A to 616D, inclusive, or chapter 617 of NRS;

(2) A separate policy is issued to or on behalf of each client company or group of affiliated client companies under the multiple coordinated policy; and

(3) The employee leasing company controls payments and communications related to the policy; or

(e) Obtaining a policy of workers' compensation insurance on a master policy basis directly from an insurer, and maintaining that policy, which:

(1) Covers some or all of the employees of the employee leasing company who are leased to one or more client companies; and

(2) May cover all of the employees of the employee leasing company who work directly for the employee leasing company and are not leased to any client company.

2. With respect to a policy of workers' compensation insurance described in paragraph (a) of subsection 1:

(a) The policy may name the employee leasing company as an additional insured; and

(b) If the employee leasing company is licensed as a producer of insurance pursuant to NRS 683A.261 and is authorized by the insurer, the employee leasing company may negotiate coverage, collect premiums on behalf of the insurer and otherwise act as an intermediary with respect to the policy.

3. If an employee leasing company or a client company maintains a policy of workers' compensation insurance which provides coverage for leased employees, each insurer insuring leased employees shall report to the Advisory Organization, as defined in NRS 686B.1752:

(a) Payroll and claims data for each client company in a manner that identifies both the client company and the employee leasing company; and

(b) The status of coverage with respect to each client company in accordance with any applicable requirements regarding proof of coverage.

4. If the services that an employee leasing company offers to a client company do not include obtaining and maintaining a policy of workers' compensation insurance for the employees which the employee leasing company will lease to the client company, the employee leasing company shall:

(a) Before entering into an agreement with the client company to provide services as an employee leasing company, provide written notice to the client company that the client company will remain responsible for providing coverage for workers' compensation for all of the employees of the client company, including, without limitation, the employees leased from the employee leasing company; and

(b) In the written agreement with the client company to provide services as an employee leasing company, clearly set forth the responsibility of the client company to provide coverage for workers' compensation for all of the employees of the client company, including, without limitation, the employees leased from the employee leasing company.

5. If an employee leasing company offers to provide coverage for workers' compensation for the employees that the employee leasing company leases to a client company in accordance with paragraph (d) or (e) of subsection 1:

(a) The coverage for workers' compensation must not take effect until the client company executes the written agreement required by NRS 616B.688 between the employee leasing company and the client company; and

(b) The written agreement required by NRS 616B.688 between the employee leasing company and the client company must:

(1) Explain that coverage for workers' compensation does not take effect until the effective date designated by the insurer in the policy of workers' compensation insurance;

(2) Provide that, while the policy of workers' compensation insurance is in force, the employee leasing company will pay all premiums required by the policy, including, without limitation, any adjustments or assessments, and will be entitled to any refunds of premiums;

(3) Set forth the procedures by which the client company or the employee leasing company may terminate the agreement and any fees or costs payable upon termination;

(4) Provide that, except as otherwise provided by law, all services provided by the employee leasing company to the client company will cease immediately on the effective date of any termination of the agreement;

(5) Provide that the insurer from whom the policy of workers' compensation insurance is obtained by the employee leasing company has the right to inspect the premises and records of the client company;

(6) Provide that the loss experience of the client company will continue to be reported in the name of the client company to the Commissioner and will be available to subsequent insurers upon request;

(7) Provide that the policy of workers' compensation insurance covers only those employees acknowledged in writing by the employee leasing company to be employees of the employee leasing company who are being leased to the client company;

(8) Explain that the client company is responsible at all times for providing coverage for workers' compensation for any employees of the client company who are not leased from the employee leasing company; and (9) Provide that the client company must provide satisfactory evidence of the coverage required by subparagraph (8) to the insurer from whom the policy of workers' compensation insurance is obtained by the employee leasing company.

6. Nothing in this section prohibits the employees of an employee leasing company who are leased to one or more client companies from being considered as a group for the purposes of any eligibility for dividends, discounts on premiums, rating arrangements or options or obtaining policies with large deductibles.

7. The exclusive remedy provided by NRS 616A.020 applies to the employee leasing company, the client company and to all employees of the client company, including, without limitation, the employees leased from the employee leasing company, whether the employee leasing company or the client company provides the coverage for workers' compensation.

8. The Administrator and the Commissioner may adopt regulations to carry out the provisions of this section.

(Added to NRS by 2009, 1123)

NRS 616B.693 Assurance organizations: Authority of Administrator; regulations; independence and approval required.

1. The Administrator may adopt regulations authorizing and setting forth qualifications for an assurance organization selected by an employee leasing company to act on behalf of the employee leasing company in complying with the requirements of NRS 616B.670 to 616B.697, inclusive, and any regulations adopted pursuant thereto, including, without limitation, any requirements regarding obtaining or renewing a certificate of registration. Such an assurance organization must be independent of the employee leasing company and approved by the Administrator.

2. Nothing in this section or any regulations adopted pursuant thereto:

(a) Limits or otherwise affects the authority of the Administrator to issue or revoke a certificate of registration of an employee leasing company subject to the appeals process;

(b) Limits or otherwise affects the authority of the Administrator to investigate compliance with or enforce any provision of NRS 616B.670 to 616B.697, inclusive, and any regulations adopted pursuant thereto; or

(c) Requires an employee leasing company to authorize an assurance organization to act on its behalf.

3. As used in this section, "assurance organization" means a person who meets the qualifications set forth by the Administrator pursuant to regulations adopted pursuant to subsection 1.

(Added to NRS by 2009, 1123)

NRS 616B.694 Regulations.

The Administrator may adopt regulations to carry out the provisions of NRS 616B.670 to 616B.697, inclusive.

(Added to NRS by 1993, 2421; A 1995, 649; 1999, 1726; 2009, 1130)

NRS 616B.697 Action for damages for statutory violation.

An action for damages caused by the failure of an employee leasing company to comply with the provisions of NRS 616B.670 to 616B.697, inclusive, may be brought against any person who is required to sign the application for a certificate of registration for the employee leasing company.

(Added to NRS by 1993, 2421; A 1999, 1726; 2009, 1130)