**02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION**

**030 BUREAU OF CONSUMER CREDIT PROTECTION**

**Chapter 710: ESTABLISHMENT OF LICENSE AND RENEWAL FEES AND APPLICATION REQUIREMENTS FOR MAINE’S PAYROLL PROCESSOR LICENSING AND REQUIREMENT FOR LICENSING THROUGH THE NATIONWIDE MULTISTATE LICENSING SYSTEM (NMLS)**

**SUMMARY**

This rule repeals and replaces current Chapter 710 to clarify the requirements for the types of records that can be used by an applicant for licensure as a payroll processor to show its financial condition. The rule is intended to make clear that evidence of financial condition must be submitted and that audited financial statements, although preferred, are not the only documents that may be used as evidence of financial condition. The rule also extends the period of transition to NMLS for payroll processors and modifies certain requirements for licensure.

**I.** **Authority**

Title 10 M.R.S. §1495-D(1-A) authorizes the Administrator to establish routine technical rules for licensing of payroll processors, to transition payroll processor licensing to the Nationwide Multistate Licensing System (NMLS), to authorize the NMLS to collect fees and remit those fees to the Bureau, to authorize the NMLS to collect fees for its processing costs, to authorize the NMLS to process and maintain license records, and to authorize the use of NMLS uniform forms.

**II. Purpose**

The purpose of this Chapter is to clarify terms of the current rule transitioning Maine payroll processors to NMLS for licensing.

**III. Definitions**

For the purposes of this Chapter, the following terms have the stated meanings.

A. “Administrator” means the Superintendent of the Bureau of Consumer Credit Protection.

 B. “Bureau” means the Maine Bureau of Consumer Credit Protection.

 C. “Full-service payroll processor license” means a license to prepare and issue payroll checks; to prepare and file state or federal income withholding tax reports and unemployment insurance compensation reports; and to collect, hold, and turn over to the State Tax Assessor or to federal tax authorities income withholding taxes or unemployment insurance contributions.

 D. “Limited payroll processor license” means a license to prepare and issue payroll checks and to prepare and file state or federal income withholding tax reports and unemployment insurance compensation reports. It does not permit the licensee to collect, hold, or turn over to the State Tax Assessor or to federal tax authorities income withholding taxes or unemployment insurance contributions.

E. “Nationwide Multistate Licensing System,” herein referred to as “NMLS,” means the nationwide multistate licensing system and registry operated by the Conference of State Bank Supervisors.

 F. “Restricted payroll processor license” means a license permitting a payroll processor to prepare and file state or federal income withholding tax reports and unemployment insurance compensation reports, but it does not permit the licensee to collect,

 hold, or turn over to the State Tax Assessor or to federal tax authorities income withholding taxes

 or unemployment insurance contributions or to issue payroll checks.

1. **General Provisions**

A.Administrative authority granted to NMLS. To effectuate the transition of all

 payroll processor licensing to NMLS, NMLS is authorized to collect fees and remit those fees

 to the Bureau, collect fees for its processing costs, process and maintain license records, and

 require use of NMLS uniform electronic and paper forms.

 B. Transition to NMLS for payroll processors extended. Payroll processors that held a valid Maine license as of December 31, 2023 have until June 30, 2024 to complete transition to NMLS. Transition payroll processor applications received after June 30, 2024 will be considered new applications.

C. NMLS processing fees. Licensed payroll processors transitioning to NMLS must pay the NMLS processing fee directly to NMLS.

 D. State of Maine application fees. Fees for initial licenses and yearly renewals commencing January 1, 2024, are as follows:

1. For a limited and full-service payroll processor having fewer than 25 employers as clients: $300.00.
2. For a limited and full-service payroll processor having from 25 to 500 employers as clients: $600.00.
3. For a limited and full-service payroll processor having more than 500 employers as clients: $900.00.
4. For a restricted payroll processor: $200.00.

 E. New licenses and renewal licenses issued following completion of the transition to

 NMLS.

1. NMLS to determine license and renewal procedures. New licenses and renewal licenses issued after the effective date of this rule shall be processed pursuant to the procedures established by NMLS.
2. NMLS to determine time periods for license validity. New licenses and renewal licenses issued after the effective date of this rule shall be valid for the time periods established by NMLS.
3. Payment of fees. Application, renewal, and processing fees will be paid directly to NMLS.
4. Late renewal. Renewal applications received after December 31 of any year will be considered late. The status of such licenses will be changed to “terminated – failed to renew” or an equivalent status. Such licenses may be reinstated if a renewal application is received later than the last day of February following “termination,” together with all renewal fees and a late fee of $100.00. Renewal requests from companies that did not renew their license by March 1 following “termination” will not be processed, and the company must apply for a new license.
5. Terms of licenses. Following the transition period, all licenses will expire at midnight (Eastern Time) on December 31 of the year issued, except that new licenses issued November 1 or later each year shall be valid through

December 31 of the following year.

 F. Application Contents. Applicants for new and renewal licenses shall provide the following

 information and documentation as required by the Administrator or

 NMLS:

1. Legal name and address, telephone number, website, federal ID number, or Social Security number, as applicable.
2. All locations in Maine from which business will be transacted.
3. Any assumed or fictitious names under which business will be transacted.
4. Name, address, and account number(s) for each financial institution in which customer funds will be held.
5. The name, address, and account number(s) for each account which the applicant will use to conduct business.
6. A description of the activities conducted by the business and a history of operations.
7. The name, title, address, telephone number, and email address of the person to contact if the Bureau receives consumer complaints regarding the activities of the company.
8. The name, title, address, telephone number, and email address of the person to contact for the scheduling of routine compliance examinations.
9. For corporations, the date and state of incorporation; a certificate of good standing from the state of incorporation; a complete description of corporate structure, including parents and subsidiaries, and whether any are publicly traded on any stock exchange; a certified copy of authority to do business in Maine as a foreign corporation, LLC, LLP, or other foreign entity required to register with the State of Maine before doing business, including any assumed or fictitious names; the name and address of the designated agent upon whom service of process may be made in this State
10. For all entities, including partnerships and sole proprietorships, a copy of the most recent audited financial statement if available, or a signed copy of the most recently filed federal income tax return and unaudited financial statements for the immediately preceding two-year period.
11. All applicants must provide the names, business addresses, residential addresses, and employment positions held for the last 10 years of each owner, partner, executive officer, manager who will be in charge of the offices to be licensed, managers of an LLC or similar entity, and any holder of a controlling interest in the applicant.
12. Whether any owner, partner, executive officers, manager who will be in charge of the location to be licensed, or holder of a controlling interest in the applicant has been involved in material litigation and/or convicted of a crime for the ten (10) year period prior to the application date. If so, for each such instance, provide the title of the action, jurisdiction, date of disposition, and a detailed explanation of the individual’s involvement.
13. Information identifying the applicant’s directors, officers, and managers by name and title.
14. For limited and full-service licenses, a written authorization signed by an appropriate officer, partner, or owner authorizing the Bureau to examine each trust account in which the applicant will hold customer funds.
15. A consumer report for each owner, partner, executive officers, manager who will be in charge of the location to be licensed, and any holder of a controlling interest. This requirement is waived for persons associated with a licensee transitioning to NMLS through June 30, 2024. Such information must be provided for all new owners, partners, executive officers, managers who will be in charge of the location to be licensed and any holder of a controlling interest who become associated with a licensee after June 30, 2024.
16. A criminal history report for each owner, partner, executive officer, manager who will be in charge of the location to be licensed, and any holder of a controlling interest. This requirement is waived for persons associated with a licensee transitioning to NMLS through June 30, 2024. Such information must be provided for all new owners, partners, executive officers, managers who will be in charge of the location to be licensed and any holder of a controlling interest who become associated with a licensee after June 30, 2024.
17. Whether the applicant has ever been denied a license in another jurisdiction, had a license revoked, been the subject of an administrative proceeding relating to the business for which it seeks to be licensed, or been convicted of a crime related to the business of money transmission, forgery, theft, or false representation. If so, for each such instance, provide the title of the action, jurisdiction, date of disposition, and a detailed explanation of the applicant’s involvement.
18. Whether the applicant prepares and issues payroll checks.
19. Whether the applicant prepares and files state income tax withholding or unemployment insurance reports.
20. Whether the applicant collects, holds, and turns over to the State Tax Assessor income withholding taxes or unemployment insurance contributions.
21. Whether the applicant has the authority to access, control, direct, transfer, or disburse a client's funds other than arranging for the transfer of funds from an employer's account directly to taxing authorities for payment of the employer's taxes.
22. For full and limited license applicants, proof of fidelity coverage as required by 10 MRSA § 1495-D(2).
23. The total amount of all local, state, and federal tax payments and unemployment insurance premiums processed by the payroll processor on behalf of employers in this State in each quarter of the previous calendar year.

 24. Full and limited payroll processor applicants must provide:

a. Surety coverage in the form of an original surety bond or irrevocable letter of credit, in form satisfactory to the Administrator in the amount required pursuant to 10 M.R.S. § 1495-E(1); or

b. A surety bond in form satisfactory to the Administrator in the amount of $10,000.00 and the required payment to the Payroll Processor Recovery Fund as set out in 10 M.R.S. § 1495-E (2-A); and

c. All information needed to calculate the bond amount.

25. A list of Maine clients and all clients with Maine employees, including client names and addresses of clients.

26. If the licensee is a foreign corporation or foreign limited liability company, *i.e.*, domiciled outside of Maine, the contact information for the designated agent upon whom service of process may be made in this state.

G. Changes to existing licensing information. If any information reported by a licensee changes

during a period of licensure, the licensee must amend its information on file with NMLS within

30 days of the occurrence of the change or such shorter period as required by NMLS rules or procedures.

Notice of a change of control of the licensee must be provided to the Bureau by advance change

notice on NMLS, and the Bureau must approve any change of control before the same becomes

effective.

 H. Routine technical rule. This is a routine technical rule as authorized by 10 M.R.S. § 1495-D(1-A).

STATUTORY AUTHORITY: 10 M.R.S. § 1495-D(1-A)

EFFECTIVE DATE: