

2024 Annual Status Report on:

**Kentucky Workers' Compensation
Self-Insured Groups**

Presented to:

Governor Andrew Beshear

and members of the
General Assembly including

The Interim Joint Committee on Economic Development
and Workplace Investment

December 15, 2024

History

With the 2005 Regular Session, Senate Bill 86 became law and was codified as KRS 304.50. This legislation completed the regulatory transfer of workers' compensation self-insured groups from the Department of Workers' Claims (DWC) to the Department of Insurance (DOI) and included multiple enhancements. The oversight had been transferred earlier by Executive Order. Some of the crucial mechanisms put in place to strengthen our regulatory foundation included: setting minimum standards, increasing the frequency of reporting, and increasing the oversight and approval of operating practices and procedures. The DOI also required the funds to submit vital organizational documentation in an attempt to establish a baseline set of records.

To further assist in remedial actions, each Kentucky workers' compensation self-insured group is assigned to a qualified credentialed financial analyst. Each analyst performs ongoing reviews and maintains regular communication with the group. Each group participates in the DOI's routine financial examination cycle, which consists of a complete financial examination that is performed no less often than every four years.

After regulatory oversight of the workers' compensation self-insurance funds transferred from DWC to DOI, DOI proceeded to perform financial examinations of all the funds in order to ascertain the current financial condition of the funds. This task was completed in October 2005. The results were communicated in a confidential Workers' Compensation Status Report dated December 13, 2005. All the funds have been examined on a regular basis since that date, in accordance with KRS 304.50-075.

Current Financial Condition

There are currently five active workers' compensation self-insured groups operating in the Commonwealth, and one inactive in process of dissolution. Please refer to Exhibit I and Exhibit II for a listing of these groups and pertinent financial information for year-end 2022 and 2023.

Kentucky School Boards Insurance Trust - Workers' Compensation Fund (KSBIT)

When the DOI received regulatory authority over workers' compensation self-insured groups, KSBIT was operating under a remedial action plan due to reporting a negative fund balance. KSBIT's financial condition improved from 2005 to 2007, but results worsened in the following years despite revised corrective action plans and changes in management of the fund. In August 2012, KSBIT informed the DOI that it would cease writing business beyond June 30, 2013. Preliminary and revised Plans of Assessment were subsequently filed by KSBIT with the DOI. The DOI rejected the assessment plans and filed a petition for rehabilitation in Franklin Circuit Court. The Court granted the petition and appointed the Commissioner of Insurance as the Rehabilitator of KSBIT's Workers' Compensation Fund, pursuant to KRS 304.33.

A hearing on assessment plans submitted by the Rehabilitator and former KSBIT management was held in March 2014. The court issued an order approving an assessment plan whereby members dating back to 1990 were assessed \$34,633,573, which included \$2,825,798 in Kentucky Special Fund Assessments.

The assessment plan also provided for and included a transfer to Kentucky Employers' Mutual Insurance Authority (KEMI) of all unpaid claim liabilities of the KSBIT fund for \$35,000,000. This amount equaled the actuarial estimate of the unpaid claims as of June 30, 2013. The assessment was implemented effective October 31, 2014, and all claims were transferred to KEMI. The plan provided an option for members to pay the full amount of the assessment or make payments over six years. Most members opted for the six-year payment plan.

In March of 2019, KEMI recommended and paid a \$5 million disbursement to the members of KSBIT due to KEMI's ability to administer the claims of KSBIT.

As of August 2020, all assessed members have paid the assessment in full. Also, all amounts due to KEMI for the assumption of KSBIT workers' compensation claims have been paid in full. On November 20, 2020, additional distributions were made to the members.

To summarize, the total assessment was \$34,633,573 (including Kentucky Special Fund Assessments). The Rehabilitation has now returned \$15,611,787 to KSBIT workers compensation fund members. As a result, the net assessment paid by the KSBIT workers compensation fund members was \$ 19,021,785.

As of September 2021, KSBIT has completed its operations and closed all known transactions related to the Rehabilitation. A Plan of Liquidation was submitted to the Court. The plan provided for total payment of all obligations and a return of any remaining funds to the assessed members. On November 19, 2021, the Court issued an Order of Liquidation which set May 1, 2022 as the last day for the filing of any Proof of Claim.

As of October 31, 2022, the final distribution of all funds was made.

As of December 31, 2022, a final report to the court and final order of dissolution was filed to end the liquidation and close the final estate.

Update on Associated Industries of Kentucky (AIK) Comp

Associated Industries of Kentucky (AIK) Comp continues to operate in rehabilitation under the supervision of Judge Thomas Wingate, Franklin Circuit Court. Under a court-approved reorganization plan and the 2005 Plan of Assessment, AIK Comp assessed 3,862 former policyholder/members that had workers' compensation coverage during the period January 1, 1999 through February 28, 2005.

The amount of the assessment was \$100,344,650, which included \$9,568,914 in Kentucky Special Fund Assessments. Initially, 80% was to be paid in cash and 20% in the form of a contingent promissory note. Under subsequent amendments to the plan, members were offered an option of

a full and final release by paying the remaining 20%. In 2014, the Court ordered the payment of any of the remaining 20% unpaid.

As of September 30, 2021, \$92,477,173 of the assessment has been paid, leaving a balance due of \$7,868,448. There are no receivables remaining. Under the release provisions, 1,658 have been fully released, 662 have received a joint and several release, 451 have paid with no release, and 1,090 have been determined to be uncollectible or out of business (of the 3,862 total members assessed).

AIK Comp's operations consist primarily of the processing and payment of claims incurred under policies in force through February 28, 2005 (the date all policies were canceled) and the collection of any assessment and other amounts due.

As of September 30, 2021, there were a total of 247 open claims, 225 receive medical benefits and 37 monthly indemnity payments. There were no plans for any additional assessment of the members that are still subject to an additional assessment. Financially, AIK was in a deficit position of \$13,705,636 as of September 30, 2021, and it did not have funds to continue to pay claims beyond 2022.

AIK was placed into liquidation July 5, 2022. All notices and publications were mailed, and the deadline for filing a Proof of Claim was January 31, 2023. The liquidation order transferred all remaining claims to the KY Group Self-Insurance Guaranty Fund. The Fund appealed the liquidation order and the appeal was denied (original order affirmed). Denial and acceptance letters on the Proof of Claims received were sent as of November 2023.

On February 21, 2024, a petition was filed with the Court to make the final distributions to the Guaranty Fund (the only class 3 Proof of Claims received & accepted) for \$128,641.54 (and an additional \$124.51 for bank interest earned).

As of February 21, 2024, the final distribution of all funds was made.

As of April 15, 2024, a final report to the court and final order of dissolution was filed to end the liquidation and close the final estate.

Other Inactive Funds

Three inactive funds came under DOI oversight when regulatory authority was transferred from the DWC in 2005 – KY Coal Producers' Self-Insurance Fund (KCP), Workers' Guardian Self-Insurance Fund, and Cooperative Self-Insurance Fund. KCP was placed in rehabilitation under the Franklin Circuit Court, on January 31, 2018, and Cooperative Self-Insured Fund was dissolved in 2011. Workers' Guardian Self-Insurance Fund is the only one remaining and is still in run-off.

Workers' Guardian Self-Insurance Fund reported a deficit members' equity balance of \$749,700 at December 31, 2013. An assessment plan to cure the deficiency was approved by the trustees of the fund and was levied in January 2014. Members were assessed a total of \$981,000. Through May 22, 2019, \$541,793.23 has been collected leaving a remaining receivable balance of \$439,206.77. As of December 31, 2023, the fund reported capital reserved for claims development of \$96,983, with assets of \$931,881 (includes receivables for reinsurance of \$806,718) and

liabilities of \$834,898 (includes \$811,941 in incurred and reported claim reserves and \$22,900 in incurred but not reported claims).

Commercial Workers' Compensation Market

The National Council on Compensation Insurance, Inc. (NCCI) manages the nation's largest database of workers' compensation insurance information. NCCI analyzes industry trends, prepares workers' compensation insurance rate recommendations, determines the cost of proposed legislation, and provides a variety of services and tools to maintain a healthy workers' compensation system. NCCI focuses on the commercial market, which may or may not be indicative of the self-insured workers' compensation group market in Kentucky. However, since the commercial market provides the largest workers' compensation framework in Kentucky and affects the self-insured market, it is important to note pertinent trends recognized by NCCI.

Per the State Advisory Forum presented by the NCCI on September 9, 2024, an overview of the Kentucky workers' compensation system noted the following (compiled from 2023 year-end data):

- Written premium volume increased slightly in the latest year, from \$497 to \$502 million
- Payroll increased by 6%, driven by increases in both employment and wage growth
- Accident year combined ratios continue to be favorable
- Lost time claims declined 3%, returning to multi-year trend
- Indemnity and medical severity increased moderately, while frequency continues to decline
- Combined ratios increased from 84% of premiums written to 86%

U.S. workers' compensation results continued a favorable trend in 2023. This was the seventh consecutive year that the private workers' compensation insurance market posted a combined ratio below 90% and the tenth consecutive year of underwriting profitability. Industry reserves are robust.

The workers' compensation system continues to be healthy. While consumer inflation has been elevated, the inflation for workers' compensation medical costs remained relatively stable. The increases observed in indemnity severity are largely driven by increased wages, which have risen significantly in recent years. Workers' compensation premiums are based on payroll, which is an inflation-sensitive exposure base. The combination of continued frequency declines and moderate benefit costs at or below the level of wage growth, have continued to put downward pressure on overall costs relative to collected premiums.

Conclusion

Self-insurance is a powerful and flexible risk-management tool as evidenced by the growth in the alternative market. In the area of workers' compensation, Kentucky is no exception. Attached is Exhibit III, which identifies the top 10 commercial writers of workers' compensation in Kentucky for 2023. Although not considered commercial carriers, the five active workers' compensation self-insured groups with approximately \$63 million in premiums, comprise 8.9% of Kentucky's

\$579 million¹ workers' compensation market. Therefore, it is imperative that strong regulatory oversight is maintained to ensure the protection of injured workers and the public at large.

¹ This figure represents the total for licensed carriers and group self-insureds only. It does not include workers' compensation written on a surplus lines basis or through individual self-insureds. These amounts are not readily identifiable, but are substantial in amount.

Exhibit I

**Kentucky Workers' Compensation Self Insured Groups
Annual Filings Submitted in 2022**

FUND & PERIOD ENDED	ASSETS	LIABILITIES	FUND BALANCE (EQUITY)	PREMIUMS & OTHER REVENUE	LOSSES & OTHER EXPENSES	CHANGE IN FUND BALANCE	MEMBERS
Kentucky Association of Counties (6/30/22)	\$133,434,594	\$96,252,586	\$37,182,008	\$28,880,484	\$27,359,299	\$(18,613,751)	675
KY Associated Gen. Contractors Self Ins. Fund (12/31/22)	\$441,860,039	\$318,520,761	\$123,339,278	\$60,241,252	\$7,892,626	\$2,643,840	3,531
KY League of Cities Worker's Comp Fund (6/30/22)	\$66,664,568	\$37,823,479	\$28,841,089	\$16,353,218	\$8,433,176	\$527,585	381
Kentucky Retail Federation (12/31/22)	\$8,981,620	\$4,168,328	\$4,813,292	\$533,988	\$(589,268)	\$(208,375)	821
Forest Industry of KY Self-Insurance Fund (12/31/22)	\$17,504,998	\$9,235,835	\$8,269,163	\$2,171,791	\$1,965,805	\$(1,489,071)	35
GROUP TOTALS	<u>\$732,716,934</u>	<u>\$531,218,498</u>	<u>\$201,498,436</u>	<u>\$121,972,174</u>	<u>\$78,902,473</u>	<u>\$22,851,284</u>	<u>5,465</u>

Exhibit II

**Kentucky Workers' Compensation Self Insured Groups
Annual Filings Submitted in 2023**

FUND & PERIOD ENDED	ASSETS	LIABILITIES	FUND BALANCE (EQUITY)	PREMIUMS & OTHER REVENUE	LOSSES & OTHER EXPENSES	CHANGE IN FUND BALANCE	MEMBERS
Kentucky Association of Counties (6/30/23)	\$140,061,575	\$98,841,660	\$41,219,159	\$24,826,380	\$26,970,188	\$4,037,907	672
KY Associated Gen. Contractors Self Ins. Fund (12/31/23)	\$439,001,017	\$294,029,579	\$144,971,438	\$56,594,955	\$27,732,862	\$21,457,401	3,618
KY League of Cities Worker's Comp Fund (6/30/23)	\$69,453,104	\$36,337,348	\$33,115,756	\$215,409	\$266,585	\$4,866,847	382
Kentucky Retail Federation (12/31/23)**	\$4,870,885	\$4,038	\$4,886,847	\$3,163,794	\$2,536,548	\$632,159	0**
Forest Industry of KY Self-Insurance Fund (12/31/23)	\$18,495,862	\$8,300,200	\$10,495,862	\$3,726,208	\$1,859,039	\$1,524,465	34
GROUP TOTALS	\$531,182,868	\$437,512,825	\$234,689,062	\$63,700,366	\$59,365,222	\$32,518,779	4,034

Note: The Fund issued cancellation notices to members effective May 31, 2022 with no new policies written in is the process of run-off. (**)

Exhibit III

Top Ten Commercial Workers' Compensation Writers

Insurance Company	Domicile	2022 Premiums Written	2022 Market Share	2021 Premiums Written	2021 Market Share	2020 Premiums Written	2020 Market Share
Kentucky Employers Mut Ins	KY	161,837,132	27.92%	142,865,000	25.83%	131,859,006	26.53%
ClearPath Mut Ins Co*	MD	42,788,816	7.38%	44,315,000	8.01%	43,639,121	8.78%
Zurich Amer Ins Co	NY	25,093,037	4.33%	20,925,000	3.78%	17,036,306	3.43%
Bridgefield Cas Ins Co	FL	16,128,915	2.78%	14,750,000	2.66%	14,808,238	2.98%
Rockwood Cas Ins Co	PA	11,836,787	2.04%	10,865,000	1.96%	8,730,970	1.76%
Travelers Prop Cas Co of Amer	CT	9,410,153	1.62%	10,003,000	1.80%	8,588,768	1.73%
Standard Fire Ins Co	CT	8,007,405	1.38%	6,513,579	1.12%	6,793,502	1.17%
Pinnaclepoint Ins Co	WV	7,414,955	1.28%	7,049,000	1.27%	6,793,502	1.37%
Indemnity Ins Co of North Amer	PA	7,068,628	1.22%	6,991,000	1.26%	5,768,624	1.16%
Hartford Accident & Ind Co	CT	6,209,099	1.07%	5,836,691	1.01%	5,666,493	0.98%
NOTE: 337 companies reporting		\$579,555,968		\$552,992,000	100%	\$497,038,771	100%

Note: KESA Workers' Comp Fund converted to ClearPath Mutual Insurance Company (*)

These figures represent the total for licensed carriers and group self-insureds only. They do not include surplus lines or individual self-insureds.