

**342.1231 Payment for assessment, penalty and interest, and expenses -- Procedure for protesting special fund assessments -- Expenses of audits, how paid -- Mailing of assessment notice -- Documents relevant to reports and audits -- Notice and payment of refund -- Penalty for late payment.**

- (1) The funding commission may mail to the assessment payer a notice of any assessment assessed by it. The assessment shall be final if not protested in writing to the funding commission within thirty (30) days from the date of notice. Payment for the assessment, penalty and interest, and expenses shall be received by the funding commission within thirty (30) days from the date the notice becomes final. The protest shall be accompanied by a supporting statement setting forth the grounds upon which the protest is made. Upon written request, the funding commission may extend the time for filing the supporting statement if it appears the delay is necessary and unavoidable. The refusal of such extension may be reviewed in the same manner as a protested assessment.
- (2) After a timely protest has been filed, the assessment payer may request a conference with the funding commission. The request shall be granted in writing stating the date and time set for the conference. The assessment payer may appear in person or by representative. Further conferences may be held by mutual agreement.
- (3) After considering the assessment payer's protest, including any matters presented at the final conference, the funding commission shall issue a final ruling on any matter still in controversy, which shall be mailed to the assessment payer. The ruling shall state that it is a final ruling of the funding commission, generally state the issues in controversy, the funding commission's position thereon and set forth the procedure for prosecuting an appeal to the Board of Claims pursuant to KRS 49.220.
- (4) The assessment payer may request in writing a final ruling at any time after filing a timely protest and supporting statement. When a final ruling is requested, the funding commission shall issue such ruling within sixty (60) days or at the next board of directors meeting, whichever is later, from the date the request is received by the funding commission.
- (5) After a final ruling has been issued, the assessment payer may appeal to the Board of Claims pursuant to KRS 49.220.
- (6) The expenses incurred by the funding commission in conducting audits required in this chapter shall be paid by the audited entities in accordance with administrative regulations promulgated by the funding commission.
- (7) Notwithstanding any provision to the contrary, a notice of assessment under subsection (1) of this section shall not be collected unless the notice of assessment is mailed to the assessment payer not later than five (5) years from the due date of the quarterly premium report or the date the amended quarterly premium report is filed, whichever is later. A quarterly premium report shall not be amended later than one (1) year after the due date of the quarterly premium report.
- (8) Assessment payers shall preserve, retain, and provide all documents relevant to quarterly premium reports and subject to audits to the funding commission upon request during the completion of the audit.

- (9) (a) The funding commission may mail the assessment payer notice of a refund amount to be returned to an insured. The insurance carrier shall pay the amount of the refund to the insured within sixty (60) days from the date of notice sent by the funding commission. If, after good-faith efforts, the refund cannot be returned to the insured, the refund amount shall be remitted to the funding commission within thirty (30) days from the last date of attempting the refund.
- (b) If a refund amount to an insured is unpaid on the date on which it is due, then that amount shall bear a penalty of one and one-half percent (1.5%) per month from that due date. The funding commission shall have the authority to waive part or all of the penalty where failure to pay is shown, to the satisfaction of the funding commission, to be for a reasonable cause.
- (10) "Assessment payer" as used in this section means insurance carrier, self-insured group, and self-insured employer.

**Effective:** June 29, 2021

**History:** Amended 2021 Ky. Acts ch. 185, sec. 88, effective June 29, 2021. -- Amended 2018 Ky. Acts ch. 54, sec. 5, effective July 14, 2018. -- Amended 2017 Ky. Acts ch. 74, sec. 100, effective June 29, 2017. -- Amended 2005 Ky. Acts ch. 7, sec. 38, effective March 1, 2005. -- Created 1990 Ky. Acts ch. 33, sec. 5, effective July 13, 1990.