

1 AN ACT relating to workers' compensation.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 342.120 is amended to read as follows:

4 (1) There is created the Division of Workers' Compensation Funds in the Department
5 of Workers' Claims which shall be responsible for the administration of the special
6 fund and the coal workers' pneumoconiosis fund and the maintenance of records
7 regarding the payment of claims by these funds. The Division of Workers'
8 Compensation Funds shall have no responsibility for the coal workers'
9 pneumoconiosis fund once the assets and liabilities have been transferred to the
10 Kentucky Employers' Mutual Insurance Authority, which will administer the fund
11 pursuant to KRS 342.1243. The Division of Workers' Compensation Funds shall be
12 headed by a director appointed by the secretary of the Education and Labor Cabinet,
13 with the prior written approval of the Governor pursuant to KRS 12.050. The
14 director shall be responsible for overseeing the administration of the funds and the
15 maintenance of records regarding the payment of claims by the funds.

16 (2) The special fund shall have no liability upon any claim in which the injury
17 occurred, or for cumulative trauma, the disability became manifest, or, for
18 occupational disease, if the date of injury or last exposure occurred, after December
19 12, 1996.

20 (3) Where the employer has settled its liability for income benefits and thereafter a
21 determination has been made of the special fund's liability, the special fund portion
22 of the benefit rate shall be paid over the maximum period provided for by statute
23 for that disability, with the period of payment beginning on the date settlement was
24 approved by an administrative law judge. This provision is remedial and shall apply
25 to all pending and future claims.

26 **(4) (a) *The Division of Workers' Compensation Funds shall engage in an optional***
27 ***program to resolve its outstanding liabilities through lump-sum settlements***

1 for as many claims as practicable, beginning with those receiving the
 2 smallest weekly benefits, by January 1, 2024.

3 (b) If an injured worker chooses to receive a lump-sum payment pursuant to
 4 this subsection:

5 1. The injured worker may elect to be represented in the settlement
 6 process by an attorney of his or her choice;

7 2. The legal fees of the injured worker shall be paid from the special
 8 fund, in addition to the lump-sum payment; and

9 3. The legal fees shall not exceed more than one percent (1%) of the
 10 lump-sum payment to the injured worker.

11 (c) The special fund may contract with a third party administrator for the
 12 lump-sum settlement of claims.

13 ➔Section 2. KRS 342.122 is amended to read as follows:

- 14 (1) (a) For ~~calendar year 1997 and for each calendar year thereafter, for~~ the purpose
 15 of funding and prefunding the liabilities of the special fund and ~~and~~ financing
 16 the administration and operation of the Kentucky Workers' Compensation
 17 Funding Commission, and financing the expenditures for all programs in the
 18 Department of Workers' Claims, Occupational Safety and Health Review
 19 Commission, Workers' Compensation Nominating Committee, Department of
 20 Workplace Standards, except expenditures for the Division of Wages and
 21 Hours contained in the Department of Workplace Standards and the
 22 proportional support for general administration and support based on an
 23 approved indirect cost allocation plan within the Education and Labor
 24 Cabinet, as reflected in the enacted budget of the Commonwealth and enacted
 25 by the General Assembly, the funding commission shall impose a special fund
 26 assessment rate of not less than six percent (6%) ~~of nine percent (9%)~~ upon
 27 the amount of workers' compensation premiums received ~~on and after~~

1 ~~January 1, 1997, through December 31, 1997,]~~ by every insurance carrier
2 writing workers' compensation insurance in the Commonwealth, by every
3 self-insured group operating under the provisions of KRS 342.350(4) and
4 Chapter 304, and against the premium, as defined in KRS 342.0011, of every
5 employer carrying his or her own risk.

6 (b) The funding commission shall~~[, for calendar year 1998 and thereafter,]~~
7 establish for the special fund an assessment rate to be assessed against all
8 premium received during that calendar year which shall produce enough
9 revenue to amortize on a level basis the unfunded liability of the special fund
10 as of June 30 preceding January 1 of each year, for the period remaining ***on or***
11 ***before*** ~~[until]~~ December 31, 2029.

12 **(c) Notwithstanding paragraph (a) of this subsection, when the special fund**
13 **balance has reached a balance sufficient to produce enough revenue to**
14 **amortize the remaining claims balance and to fund the operations of the**
15 **Kentucky Workers' Compensation Funding Commission solely for the**
16 **purpose of finalization of claims administration, the assessment provided**
17 **for in this section shall be used for the sole purpose of financing all**
18 **programs within the Education and Labor Cabinet, except the Department**
19 **of Workplace Standards and the Office of Employer and Apprenticeship**
20 **Services in the Department of Workforce Development, at an assessment**
21 **rate reflected in the budget of the Commonwealth enacted by the General**
22 **Assembly.** The interest rate to be used in this calculation shall reflect the

23 funding commission's investment experience to date and the current
24 investment policies of the commission. This assessment shall be imposed
25 upon the amount of workers' compensation premiums received by every
26 insurance carrier writing workers' compensation insurance in the
27 Commonwealth, by every self-insured group operating under the provisions of

1 KRS 342.350(4) and Chapter 304, and against the premium, as defined in
2 KRS 342.0011, of every employer carrying its own risk. On or before October
3 1 of each year, the commission shall notify each insurance carrier writing
4 workers' compensation insurance in the Commonwealth, every group of self-
5 insured employers, and each employer carrying its own risk, of the rates
6 which shall become effective on January 1 of each year, unless modified by
7 the General Assembly.

8 ~~(d)~~~~(e)~~ All assessments imposed by this section shall be paid to the Kentucky
9 Workers' Compensation Funding Commission and shall be credited to the
10 benefit reserve fund within the Kentucky Workers' Compensation Funding
11 Commission.

12 ~~(e)~~~~(d)~~ The assessments imposed in this chapter shall be in lieu of all other
13 assessments or taxes on workers' compensation premiums.

14 (2) (a) These assessments shall be paid quarterly not later than the thirtieth day of the
15 month following the end of the quarter in which the premium is received.
16 Receipt shall be considered timely through actual physical receipt or by
17 postmark of the United States Postal Service. Employers carrying their own
18 risk and employers defined in KRS 342.630(2) shall pay the annual
19 assessments in four (4) equal quarterly installments.

20 (b) Beginning on January 1, 2020, all assessments shall be electronically remitted
21 to the funding commission quarterly not later than the thirtieth day of the
22 month following the end of the quarter in which the premium is received.
23 Receipt shall be considered timely when filed and remitted using the
24 appropriate electronic pay system as prescribed by the funding commission.
25 Employers carrying their own risk and employers defined in KRS 342.630(2)
26 shall pay the annual assessments in four (4) equal quarterly installments.

27 (3) The assessments imposed by this section may be collected by the insurance carrier

1 from the insured. However, the insurance carrier shall not collect from the employer
2 any amount exceeding the assessments imposed pursuant to this section. If the
3 insurance carrier collects the assessment from an insured, the assessment shall be
4 collected at the same time and in the same proportion as the premium is collected.
5 The assessment for an insurance policy or other evidence of coverage providing a
6 deductible may be collected in accordance with this chapter on a premium amount
7 that equates to the premium that would have applied without the deductible. Each
8 statement from an insurance carrier presented to an insured reflecting premium and
9 assessment amounts shall clearly identify and distinguish the amount to be paid for
10 premium and the amount to be paid for assessments. No insurance carrier shall
11 collect from an insured an amount in excess of the assessment percentages imposed
12 by this chapter. The assessment for an insurance policy or other evidence of
13 coverage providing a deductible may be collected in accordance with this chapter
14 on a premium amount that equates to the premium that would have applied without
15 the deductible. The percentages imposed by this chapter for an insurance policy
16 issued by an insurance company shall be those percentages in effect on the annual
17 effective date of the policy, regardless of the date that the premium is actually
18 received by the insurance company.

19 (4) A self-insured group may elect to report its premiums and to have its assessments
20 computed in the same manner as insurance companies. This election may not be
21 rescinded for at least ten (10) years, nor may this election be made a second time
22 for at least another ten (10) years, except that the board of directors of the funding
23 commission may, at its discretion, waive the ten (10) year ban on a case-by-case
24 basis after formal petition has been made to the funding commission by a self-
25 insured group.

26 (5) The funding commission, as part of the collection and auditing of the special fund
27 assessments required by this section, shall annually require each insurance carrier

1 and each self-insured group to provide a list of employers which it has insured or
2 which are members and the amount collected from each employer. Additionally, the
3 funding commission shall require each entity paying a special fund assessment to
4 report the SIC code for each employer and the amount of premium collected from
5 each SIC code. An insurance carrier or self-insured group may require its insureds
6 or members to furnish the SIC code for each of their employees. However, the
7 failure of any employer to furnish said codes shall not relieve the insurance carrier
8 or self-insured group from the obligation to furnish same to the funding
9 commission. The Department of Workforce Development, Education and Labor
10 Cabinet, is hereby directed to make available the SIC codes assigned in its records
11 to specific employers to aid in the reporting and recording of the special fund
12 assessment data.

13 (6) Each self-insured employer, self-insured group, or insurance carrier shall provide
14 any information and submit any reports the Department of Revenue or the funding
15 commission may require to effectuate the provisions of this section. In addition, the
16 funding commission may enter reciprocal agreements with other governmental
17 agencies for the exchange of information necessary to effectuate the provisions of
18 this section.

19 (7) The special fund shall be required to maintain a central claim registry of all claims
20 to which it is named a party, giving each such claim a unique claim number and
21 thereafter recording the status of each claim on a current basis. The registry shall be
22 established by January 26, 1988, for all claims on which payments were made since
23 July 1, 1986, or which were pending adjudication since July 1, 1986, by audit of all
24 claim files in the possession of the special fund.

25 (8) The fund heretofore designated as the subsequent claim fund is abolished, and there
26 is substituted therefor the special fund as set out by this section, and all moneys and
27 properties owned by the subsequent claim fund are transferred to the special fund.

1 (9) Notwithstanding any other provisions of this section or this chapter to the contrary,
2 the total amount of funds collected pursuant to the assessment rates adopted by the
3 funding commission shall not be limited to the provisions of this section.

4 (10) All assessment rates imposed for periods prior to January 1, 1997, under KRS
5 342.122 shall forever remain applicable to premiums received on policies with
6 effective dates prior to January 1, 1997, by every insurance carrier writing workers'
7 compensation insurance in the Commonwealth, by every self-insured group
8 operating under the provision of KRS 342.350(4) and Chapter 304, and against the
9 premium, as defined in KRS 342.0011, of every employer carrying its own risk.