

1 AN ACT relating to regulatory authorizations by the commissioner of insurance.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 299 IS CREATED TO  
4 READ AS FOLLOWS:

5 (1) As used in this section, "company":

6 (a) Means an entity organized under:

7 1. This chapter; or

8 2. Any law of this state for the purpose of transacting the business of  
9 insurance upon the cooperative or assessment plan, as set forth in  
10 KRS 299.020; and

11 (b) Includes a company as defined in KRS 299.010(3) or (4).

12 (2) A solvent company that is not the subject of a delinquency proceeding under  
13 Subtitle 33 of KRS Chapter 304 may voluntarily dissolve in accordance with the  
14 requirements of this section.

15 (3) (a) A company seeking to voluntarily dissolve under this section shall dissolve  
16 under a dissolution plan that:

17 1. Is in writing;

18 2. Provides for:

19 a. The disposition, by bulk reinsurance or other lawful procedure,  
20 of all insurance in force with the company; and

21 b. Full discharge of all obligations of the company;

22 3. Designates or provides for one (1) or more trustees to conduct and  
23 administer the settlement of the company's affairs;

24 4. Is authorized by its board of directors;

25 5. Is approved or adopted by policyholders or members by vote of not less  
26 than two-third (2/3) of the policyholders or members voting thereon at  
27 a special meeting of the policyholders or members called and held

1                   pursuant to any reasonable notice and information as the  
2                   commissioner approves; and

3                   6. Is filed with and approved by the commissioner.

4                   (b) The commissioner shall approve a dissolution plan that complies with  
5                   paragraph (a) of this subsection unless the commissioner determines the  
6                   plan is:

7                   1. Unlawful;

8                   2. Unfair;

9                   3. Inequitable; or

10                  4. Prejudicial to the interests of members, policyholders, or creditors.

11                  (4) The trustee or trustees designated in a dissolution plan filed by a company under  
12                  subsection (3) of this section shall:

13                  (a) Upon approval of the plan by the commissioner, execute the plan; and

14                  (b) Certify, under oath and in writing, in articles of dissolution prepared in  
15                  accordance with state law and filed with the commissioner, the date when  
16                  all liabilities of the company have been discharged or otherwise adequately  
17                  provided for, and all assets of the company have been liquidated and  
18                  distributed, in accordance with the plan.

19                  (5) (a) The commissioner shall make an examination, in a manner the  
20                  commissioner deems advisable, of the affairs and liquidation of a company  
21                  that voluntarily dissolves under this section.

22                  (b) If, upon examination, the commissioner finds that the facts set forth in, and  
23                  form of, the articles of dissolution filed by the trustee or trustees under  
24                  subsection (4)(b) of this section are accurate and in compliance with state  
25                  law, the commissioner shall:

26                  1. Inscribe his or her approval on the articles; and

27                  2. Provide the approved articles to the company.

1        (c) The company shall:

2                1. Deliver the articles of dissolution approved by the commissioner under  
3                paragraph (b) of this subsection to the Secretary of State for filing;

4                and

5                2. Submit proof of the filing made under subparagraph 1. of this  
6                paragraph to:

7                a. The commissioner; and

8                b. The trustee or trustees.

9        (d) The trustee or trustees that receive proof under paragraph (c)2. of this  
10        subsection of a filing made under paragraph (c)1. of this subsection shall:

11                1. File, for recording, a copy of the articles of dissolution filed with the  
12                Secretary of State in the office of the county clerk of the county in  
13                which the company's principal place of business is or was located; and

14                2. Retain a copy, including proof of filing, of the articles of dissolution  
15                filed with the Secretary of State under paragraph (c)1. of this  
16                subsection for the company's records.

17        (6) The corporate existence of a company dissolved under this section shall forever  
18        be terminated upon the effective date of the articles of dissolution filed with the  
19        Secretary of State under subsection (5)(c)1. of this section.

20        ➔ Section 2. KRS 304.50-010 is amended to read as follows:

21        (1) (a) [The commissioner may authorize twenty (20) or more employers with  
22                common interests or membership in a bona fide trade association, or two (2)  
23                or more governmental entities, to enter into agreements to pool their liabilities  
24                under KRS Chapter 342 for the purpose of qualifying as ]A workers'  
25                compensation self-insured group authorized by the commissioner prior to the  
26                effective date of this Act may continue to operate in accordance with the  
27                authorization and this subtitle[under this subtitle and KRS 342.350]. Any

1 heterogeneous self-insured group so authorized may contract and may sue and  
2 be sued in the name adopted by the group.

3 **(b) On and after the effective date of this Act, additional workers' compensation**  
4 **self-insured groups shall not be authorized by the commissioner for the**  
5 **purpose of qualifying as a self-insured group under this subtitle or Section**  
6 **3 of this Act.**

7 (2) The commissioner shall:

8 **(a)** Promulgate administrative regulations as necessary to govern~~[- admission,~~  
9 ~~certification, and]~~ regulation of workers' compensation self-insured groups as  
10 authorized by this section and KRS 342.350;~~[- The commissioner shall ]~~

11 **(b)** Take any and all action necessary to effectuate the provisions of this subtitle;  
12 ~~**and**[- The commissioner shall ]~~

13 **(c)** Be responsible for maintaining records obtained or prepared in association  
14 with this oversight.

15 (3) The Governor may assign the regulatory authority under this subtitle to another  
16 board or agency pursuant to KRS 12.028.

17 (4) Except as specifically provided in this subtitle, no other provision of this chapter  
18 shall apply to a workers' compensation self-insured group.

19 ➔Section 3. KRS 342.350 is amended to read as follows:

20 (1) In order to comply with KRS 342.340, groups of employers may form, either  
21 among themselves or with employers in other states, mutual insurance associations,  
22 or reciprocal or interinsurance exchanges subject to the insurance laws of this state  
23 and any reasonable conditions and restrictions not inconsistent therewith fixed by  
24 the commissioner. Membership in these mutual insurance associations or reciprocal  
25 or interinsurance exchanges so approved, together with evidence of the payment of  
26 premiums due, shall be evidence of compliance with KRS 342.340.

27 (2) The commissioner may, except as provided in subsection (3), require any mutual

1 insurance association or reciprocal or interinsurance exchange to purchase an  
2 annuity or to effect reinsurance with a company authorized to transact insurance in  
3 this state or to make a deposit with a bank or trust company of this state that shall in  
4 either case be approved by the commissioner for the purpose of fully securing the  
5 payment of all deferred installments upon any claim for compensation.

6 (3) Any mutual insurance association or reciprocal or interinsurance exchange  
7 possessing a surplus of at least one hundred thousand dollars (\$100,000) and not  
8 less in amount than the capital required of a domestic stock insurance company  
9 transacting the same kind of insurance shall not be required to purchase an annuity  
10 or effect reinsurance with a company authorized to transact insurance in this state or  
11 to make a deposit with a bank or trust company of this state for the purpose of fully  
12 securing the payment of all deferred installments upon any claim for compensation.

13 (4) In addition, self-insured groups may be authorized under the provisions of KRS  
14 304.50-010 and administrative regulations promulgated by the commissioner of the  
15 Department of Insurance~~], twenty (20) or more employers with common interests or~~  
16 ~~membership in a bona fide trade association or two (2) or more city, county, charter~~  
17 ~~county, urban county, or consolidated local government employers or their agencies~~  
18 ~~may enter into agreements to pool their liabilities under this chapter for the purpose~~  
19 ~~of qualifying as self-insured groups].~~ Any heterogeneous self-insured group so  
20 authorized may contract and may sue and be sued in the name adopted by the  
21 group.