

1 AN ACT relating to self-insurance guaranty funds.

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

3 ➔Section 1. KRS 342.908 is amended to read as follows:

- 4 (1) The commissioner shall notify a guaranty fund if the commissioner has knowledge
5 that any member of the guaranty fund has failed to timely pay workers'
6 compensation benefits required by this chapter or if a court of competent
7 jurisdiction has declared the member to be bankrupt or insolvent.
- 8 (2) In the event of issuance of a certificate of default, the commissioner shall call all
9 security and transfer it to the appropriate guaranty fund created pursuant to this
10 section. The commissioner shall also immediately notify, by certified mail, the
11 guaranty fund and order the guaranty fund to assume the workers' compensation
12 obligations of the member required in this chapter. The guaranty fund shall
13 commence payment of these obligations within fourteen (14) days of receipt of
14 notification and order of the commissioner. Payment shall be made to claimants
15 whose entitlement to benefits can be ascertained by the guaranty fund with or
16 without proceedings before the Department of Workers' Claims or a court of
17 competent jurisdiction. Upon assumption of the obligations of a member by a
18 guaranty fund, the guaranty fund shall have the right to immediate possession of
19 any security, and the custodian, surety, or issuer of any irrevocable letter of credit
20 shall turn over the security, proceeds of the surety bond, or letter of credit to the
21 guaranty fund, together with the interest that has accrued since the date of the
22 member's insolvency. The guaranty fund may administer payment of benefits or it
23 may retain a third party to do so.
- 24 (3) Notwithstanding any other provision of law, any cash, securities, irrevocable letters
25 of credit, specific excess or aggregate excess insurance proceeds, or any other
26 security deposited or posted in accordance with this section shall be used first, when
27 due, to pay workers' compensation claims. After the security has been exhausted,

1 the payment of workers' compensation claims from member assessments may be
2 made. Where the guaranty fund member-assessment account is used to pay workers'
3 compensation claims on an emergency or an interim basis, pending receipt by the
4 guaranty fund of security which is due but not yet received, the member-assessment
5 account shall be reimbursed for payment from the security when it is received, and
6 the priorities stated above shall thereafter apply.

7 (4) (a) To the extent necessary to secure funds for the initial establishment of each
8 guaranty fund member-assessment account, the board of directors of each
9 guaranty fund created pursuant to this section shall levy assessments based on
10 the premium of each individual self-insured employer, as defined and
11 calculated pursuant to KRS 342.0011(28), for members of the Kentucky
12 individual self-insurers guaranty fund and for the Kentucky coal employers
13 self-insurance guaranty fund, and KRS 342.0011(24) for the Kentucky group
14 self-insurance guaranty fund, but no such assessments shall ever exceed, in
15 the aggregate, from all members of a single guaranty fund, an amount in
16 excess of one million dollars (\$1,000,000) at any given time.

17 (b) The assessments shall be made at a maximum annual assessment of:

18 1. One-half of one percent (0.5%) of the premium for each member of the
19 Kentucky individual self-insurance guaranty fund as defined and
20 calculated pursuant to KRS 342.0011(28);

21 2. Two percent (2%) of the premium for each member of the Kentucky
22 coal employers guaranty fund as defined and calculated pursuant to KRS
23 342.0011(28); and

24 3. Three-fourths of one percent (0.75%) of the premium for each member
25 of the Kentucky group self-insurance guaranty fund as defined and
26 calculated pursuant to KRS 342.0011(24).

27 (5) The initial assessment for each guaranty fund created pursuant to this section shall

1 be for an amount equal to five hundred thousand dollars (\$500,000), to be levied
2 and collected within a one (1) year period. There shall be no reassessments against
3 any member unless the current balance of such guaranty fund created pursuant this
4 section is insufficient after deducting the amount paid for or reserved for
5 outstanding claims and for administrative and other costs in managing the guaranty
6 fund at which point the board of directors shall raise assessments sufficient to bring
7 the minimum amount of the guaranty fund to five hundred thousand dollars
8 (\$500,000) or such other amount not to exceed, in any event, one million dollars
9 (\$1,000,000) based upon a maximum annual assessment for each guaranty fund.

10 (6) A guaranty fund created pursuant to this section shall pay no dividends, rebates,
11 interest, or otherwise distribute income from the guaranty fund to any of its
12 members, unless the guaranty fund has the assets prescribed in subsection (5) of this
13 section and the distributions are approved by the commissioner.

14 (7) The commissioner shall be provided with any relevant information by the employer,
15 any excess insurer, any third party administrator, or any issuer of any irrevocable
16 letter of credit, issuer of any surety bond, or custodian of any security necessary for
17 the commissioner to carry out the commissioner's obligations under this chapter,
18 and the commissioner shall provide this information to the guaranty fund as
19 necessary to carry out its obligations.

20 (8) The payment of benefits by a guaranty fund does not release any person or entity
21 from any liability to the individual guaranty fund for full reimbursement.

22 **(9) (a) For the purposes of this subsection:**

23 **1. "Annual special fund assessment" means the assessment imposed**
24 **upon a member fund pursuant to KRS 342.122(1)(b);**

25 **2. "Division" means the Division of Workers' Compensation Funds in**
26 **the Department of Workers' Claims;**

27 **3. "Group fund" means the Kentucky group self-insurance fund**

1 established pursuant to KRS 342.906(2); and

2 4. "Member fund" means a member or former member of the Kentucky
3 group self-insurance fund that is assessed under subsection (4) of this
4 section on or after January 1, 2026, for liabilities incurred while a
5 member.

6 (b) Notwithstanding any provision of KRS 342.122 to the contrary, or any other
7 provision of this chapter or other law, for calendar years beginning January
8 1, 2027, and January 1, 2028:

9 1. The amount of the annual special fund assessment imposed upon a
10 member fund shall be retained by the member fund and paid to the
11 credit of the group fund for the purpose of satisfying the group fund's
12 outstanding workers' compensation claims; and

13 2. A member fund shall pay the amounts of its annual special fund
14 assessment to the group fund on the schedule set forth in KRS
15 342.122(2)(a) and (b) and shall provide the division with notice of the
16 assessments paid.

17 (c) The provisions of this subsection shall not apply to any special fund
18 assessment for any calendar year beginning after December 31, 2028.