

**304.50-140 Suspension or revocation of certificate of filing -- Civil penalty --
Hearing and appeal -- Notification requirements and exceptions.**

- (1) After a hearing or upon agreement by the workers compensation self-insured group, the commissioner may suspend or revoke the certificate of filing of a self-insured group, impose a civil penalty of up to ten thousand dollars (\$10,000) per violation, or both if the group:
 - (a) Operates significantly in contravention of its basic organizational document or in a manner contrary to that described in and reasonably inferred from any other information submitted under this subtitle, or administrative regulations relating to this subtitle, unless amendments to the submissions have been filed with and approved by the commissioner or there has been a significant and adverse change in the management of the self-insured group;
 - (b) Or any person at the direction of the group advertises or merchandises its services in an untrue, misrepresentative, misleading, deceptive, or unfair manner, or engages in unfair or deceptive practices as defined in Subtitle 12 of this chapter;
 - (c) Violates the provisions of this subtitle or administrative regulations adopted thereunder;
 - (d) Obtains a certificate of filing by unfair or deceptive means;
 - (e) Misappropriates, converts illegally, withholds, or refuses to pay upon proper demand any moneys that belong to a member, an employee of a member, or a person otherwise entitled to such moneys by the group or its administrator; or
 - (f) Violated or failed to correct a violation of this subtitle or administrative regulations promulgated under this subtitle within a reasonable time period established by the commissioner in administrative regulations.
- (2) In addition, the commissioner may impose a civil penalty of up to ten thousand dollars (\$10,000) per day for continuing violations.
- (3) The commissioner shall conduct a hearing under this section in accordance with Subtitle 2 of this chapter. The ruling of the commissioner may be appealed to Franklin Circuit Court in accordance with KRS 304.2-370. The commissioner, during the pendency of an appeal or request for a hearing, may utilize the security deposit provided by the self-insured group to make payments of any workers' compensation benefits currently due.
- (4) If the commissioner revokes a self-insured group's certification, the commissioner shall immediately notify the Kentucky group self-insurance guaranty fund as established in KRS 342.906(2).
- (5) When a certificate of filing of a self-insured group is suspended, the group shall not, during the period of suspension, enroll any new participants or engage in any advertising or solicitation.
- (6) If the certificate of filing of a self-insured group is revoked for reasons other than hazardous financial condition, the group shall proceed, immediately following the effective date of the order of revocation, to conclude its affairs and shall conduct no further business, except as may be essential to the orderly conclusion of the affairs of the group. The group shall engage in no further

advertising or solicitation. The commissioner may, by written order, prevent further operation of the self-insured group if further operation is not deemed to be in the best interest of the members, and the self-insured group's members will be afforded the greatest practical opportunity to obtain workers compensation coverage elsewhere. If the commissioner permits further operation, the workers compensation self-insured group shall continue to collect the premiums and assessments required of its members.

- (7) The commissioner, in his or her discretion and without advance notice or a hearing, may suspend or revoke the certificate of filing of any workers compensation self-insured group upon commencement of the following proceedings:

- (a) Receivership;
- (b) Conservatorship;
- (c) Rehabilitation; or
- (d) Other delinquency proceedings.

Effective: July 15, 2010

History: Amended 2010 Ky. Acts ch. 24, sec. 1646, effective July 15, 2010. --
Created 2005 Ky. Acts ch. 7, sec. 28, effective March 1, 2005.