

**342.906 Guaranty funds -- Required participation -- Purpose -- Operating procedures -- Use of moneys -- Liability for actions.**

- (1) There is created a nonprofit, unincorporated legal entity to be known as the Kentucky individual self-insurance guaranty fund to function as the guaranty fund for individually insured employers, excluding individually self-insured coal employers, to secure workers' compensation liabilities under this chapter and pursuant to administrative regulations promulgated by the commissioner. Each noncoal, individually self-insured employer who has qualified and been certified by the commissioner as a self-insured employer on or after March 1, 1997, shall participate as a member of the guaranty fund created pursuant to this subsection as a condition of maintaining its certificate required to be self-insured under this chapter. The commissioner shall revoke any self-insurer's certificate and authority to be self-insured if the self-insured employer fails to maintain membership in the guaranty fund or fails to pay assessments levied by the guaranty fund created pursuant to this subsection.
- (2) There is created a nonprofit, unincorporated legal entity known as the Kentucky group self-insurance fund to function as a guaranty fund for self-insured groups or associations established under KRS 342.350(4) and 304.50-010, to secure workers' compensation liabilities under this chapter and pursuant to administrative regulations promulgated by the commissioner of the Department of Insurance. Each self-insured group or association that is authorized to self-insure and certified by the commissioner of the Department of Insurance to self-insure on or after March 1, 1997, shall participate as a member of the guaranty fund created pursuant to the provisions of this subsection, as a condition of maintaining its authorization and certificate to self-insure. The commissioner of the Department of Insurance shall revoke any authorization and certificate to self-insure of any self-insured group or association for failure to maintain membership in the guaranty fund or failure to pay assessments levied by the guaranty fund created pursuant to the provisions of this subsection.
- (3) There is created a nonprofit, unincorporated legal entity known as the Kentucky coal employers self-insurance fund to function as a guaranty fund for individually self-insured coal employers to secure workers' compensation liabilities under this chapter and pursuant to administrative regulations promulgated by the commissioner. Each coal employer that is individually self-insured and that has been authorized and certified to self-insure on or after March 1, 1997, shall participate as a member of the guaranty fund created pursuant to the provisions of this subsection as a condition of maintaining authorization and certification to self-insure. The commissioner shall revoke a coal employer's authority and certification to self-insure for failure to maintain membership in the guaranty fund or to pay assessments levied by the guaranty fund created pursuant to the provisions of this subsection.
- (4) The guaranty funds created pursuant to this section are created for the purposes of meeting the obligations of insolvent individually self-insured employers or members of a self-insured group or association incurred while members of a guaranty fund and after exhaustion of all security, including bonds, escrow deposits, insurance, or reinsurance, required by this chapter or

KRS 304.50-045 and 304.50-050. The method of operation of each guaranty fund created pursuant to the provisions of this section shall be established by a plan of operation pursuant to administrative regulations promulgated by the commissioner.

- (5) The Kentucky individual self-insurance guaranty fund and the Kentucky coal employers self-insurance guaranty fund shall each be governed by a nine (9) member board of directors who shall serve staggered terms not to exceed four (4) years, be representative of individual self-insurers, and be elected by the members of the guaranty fund. Each member of the board shall have one (1) vote. In addition to the nine (9) directors elected by the members, the commissioner of the Department of Workers' Claims and the commissioner of the Department of Insurance, or their designees, shall be ex officio nonvoting members of the board of directors. A member of the board of directors may designate another member to act in the member's place as though the member were acting, and the designee's actions shall be deemed those of the member.
- (6) The Kentucky group self-insurance guaranty fund shall be governed by a board of directors composed of one (1) representative of each self-insured group or association. In addition, the commissioner of the Department of Workers' Claims and the commissioner of the Department of Insurance, or their designees, shall be ex officio nonvoting members of the board of directors. A director may designate another member to act in the member's place, and the designee's actions shall be deemed those of the director.
- (7) Each guaranty fund created pursuant to this section shall establish bylaws and a plan of operation subject to prior approval of the commissioner, necessary to the purposes of this chapter and to carry out the responsibilities of each guaranty fund. Each guaranty fund may carry out its responsibilities directly or by contract and may purchase services and insurance and borrow funds as it deems necessary for the protection of the members and their employees.
- (8) Security called by the commissioner and disbursed to the guaranty funds, and assessments made upon members, shall vest in the guaranty funds, shall not thereafter be deemed state property, and shall not be subject to appropriation by the General Assembly or any other state agency.
- (9) All moneys in the individual guaranty funds, exclusive of costs reasonably necessary to conduct business, shall be used solely to compensate persons entitled to receive workers' compensation benefits from a Kentucky member who has defaulted in performance of its workers' compensation benefit payment obligations under this chapter.
- (10) No liability shall lie, whether at law or in equity, against any director, agent, or employee of a guaranty fund created pursuant to this section, on account of any action or inaction taken by any of them in the administration of a guaranty fund.

**Effective:** July 15, 2010

**History:** Amended 2010 Ky. Acts ch. 24, sec. 1858, effective July 15, 2010. -- Amended 2005 Ky. Acts ch. 7, sec. 48, effective March 1, 2005. -- Created 1996 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 23, effective December 12, 1996.