

An Act

ENROLLED HOUSE
BILL NO. 2993

By: McEntire of the House

and

Sykes of the Senate

An Act relating to workers' compensation; amending Sections 97, 98 and 99, Chapter 208, O.S.L. 2013, as amended by Sections 3, 4 and 5, Chapter 169, O.S.L. 2014 (85A O.S. Supp. 2017, Sections 97, 98 and 99), which relate to the Self-insurance Guaranty Fund and impaired self-insurers; authorizing use of certain monies as a credit against assessments for the fund; modifying sources for the fund; providing for transfer of certain excess proceeds to the fund and authorizing use as a credit against assessments for the fund; and providing an effective date.

SUBJECT: Workers' compensation

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY Section 97, Chapter 208, O.S.L. 2013, as amended by Section 3, Chapter 169, O.S.L. 2014 (85A O.S. Supp. 2017, Section 97), is amended to read as follows:

Section 97. A. The Self-insurance Guaranty Fund shall be for the purpose of continuation of workers' compensation benefits due and unpaid or interrupted due to the inability of a self-insurer to meet its compensation obligations because its financial resources, security deposit, guaranty agreements, surety agreements and excess insurance are either inadequate or not immediately accessible for the payment of benefits. Monies in the fund, including interest, are not subject to appropriation and shall be expended to compensate employees for eligible benefits for a compensable injury under the Administrative Workers' Compensation Act, pay outstanding workers' compensation obligations of the impaired self-insurer, and for all claims for related administrative fees, operating costs of the Self-

insurance Guaranty Fund Board, attorney fees, and other costs reasonably incurred by the Board in the performance of its duties.

B. Monies transferred pursuant to Section 99 of this title may be expended by the Board to provide a credit against the assessment required to be paid by each private self-insurer and group self-insurer association pursuant to Section 98 of this title.

C. Expenditures from the fund shall be made on warrants issued by the State Treasurer against claims as prescribed by law. The fund shall be subject to audit in the same manner as state funds and accounts, the cost for which shall be paid for from the fund.

SECTION 2. AMENDATORY Section 98, Chapter 208, O.S.L. 2013, as amended by Section 4, Chapter 169, O.S.L. 2014 (85A O.S. Supp. 2017, Section 98), is amended to read as follows:

Section 98. The Self-insurance Guaranty Fund shall be derived from the following sources:

1. Any unexpended funds, including interest thereon, held by the State Treasurer in the Workers' Compensation Self-insurance Guaranty Fund transferred to the Self-insurance Guaranty Fund as provided in Section 124 of this title;

2. Until the Self-insurance Guaranty Fund contains Two Million Dollars (\$2,000,000.00) or in the event the amount in the fund falls below One Million Dollars (\$1,000,000.00), an assessment against each private self-insurer and group self-insurance association based on an assessment rate to be determined by the commissioners, not exceeding one percent (1%) of actual paid losses of the self-insurer during the preceding calendar year, payable to the Tax Commission for deposit to the fund. The assessment against private self-insurers shall be determined using a rate equal to the proportion that the deficiency in the fund attributable to private self-insurers bears to the actual paid losses of all private self-insurers for the year period of January 1 through December 31 preceding the assessment. The assessment against group self-insurance associations shall be determined using a rate equal to the proportion that the deficiency in excess of the surplus of the Group Self-Insurance Association Guaranty Fund at the date of the transfer attributable to group self-insurance associations bears to the actual paid losses of all group self-insurance associations cumulatively for any calendar year preceding the assessment. Each self-insurer shall provide the Workers' Compensation Commission with

such information as the Commission may determine is necessary to effectuate the purposes of this paragraph. For purposes of this paragraph, "actual paid losses" means all medical and indemnity payments, including temporary disability, permanent disability, and death benefits, and excluding loss adjustment expenses and reserves.

- a. The assessment shall be paid within thirty (30) calendar days after the date the commissioners notify the self-insurer of the assessment.
- b. A private employer or group self-insurance association which ceases to be a self-insurer shall remain liable for any and all assessments of the self-insurer as provided in this paragraph based on actual paid losses for the calendar year period preceding the assessment.
- c. Failure of a self-insurer to pay, or timely pay, an assessment required by this paragraph, or to report payment of the same to the Commission within ten (10) days of payment, shall be grounds for revocation by the Commission of the self-insurer's permit to self-insure in this state, after notice and hearing. A former self-insurer failing to make payments required by this paragraph promptly and correctly, or failing to report payment of the same to the Commission within ten (10) days of payment, shall be subject to administrative penalties as allowed by law, including but not limited to, a fine in the amount of Five Hundred Dollars (\$500.00) or an amount equal to one percent (1%) of the unpaid amount, whichever is greater, to be paid and deposited to the credit of the Workers' Compensation Commission Revolving Fund created in Section ~~28~~ 28.1 of this title. It shall be the duty of the Tax Commission to collect the assessment provided for in this paragraph. The Tax Commission is authorized to bring an action for recovery of any delinquent or unpaid assessments, and may enforce payment of the assessment by proceeding in accordance with Section 79 of this title.
- d. An impaired self-insurer shall be exempt from assessments beginning on the date of the Commission's designation until the Commission determines the self-insurer is no longer impaired.

- e. The Tax Commission shall determine the fund balance as of March 1 and September 1 of each year, and when otherwise requested by the Workers' Compensation Commission, and shall advise the Workers' Compensation Commission in writing within thirty (30) days of each such determination; ~~and~~

3. Any interest accruing on monies paid into the fund; and

4. Monies transferred pursuant to Section 99 of this title.

SECTION 3. AMENDATORY Section 99, Chapter 208, O.S.L. 2013, as amended by Section 5, Chapter 169, O.S.L. 2014 (85A O.S. Supp. 2017, Section 99), is amended to read as follows:

Section 99. A. On determination by the Workers' Compensation Commission that a self-insurer has become an impaired self-insurer, the Commission shall secure release of the security required by Section 38 of this title and advise the Self-insurance Guaranty Fund Board of the impairment. Claims administration, including processing, investigating and paying valid claims against an impaired self-insurer under the Administrative Workers' Compensation Act, may include payment by the surety that issued the surety bond or be under a contract between the Commission and an insurance carrier, appropriate state governmental entity or an approved service organization, as approved by the Commission.

B. Excess proceeds from the security remaining after each claim for benefits of an impaired self-insurer has been paid, settled or lapsed, and associated costs of administration of such claim have been paid, shall be transferred to the Self-insurance Guaranty Fund and may be used as a credit against the assessment required to be paid by each private self-insurer and group self-insurer association pursuant to Section 98 of this title, as determined by the Self-insurance Guaranty Fund Board.

SECTION 4. This act shall become effective November 1, 2018.

Passed the House of Representatives the 7th day of March, 2018.

Presiding Officer of the House
of Representatives

Passed the Senate the 26th day of April, 2018.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____
day of _____, 20_____, at _____ o'clock _____ M.
By: _____

Approved by the Governor of the State of Oklahoma this _____
day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____
day of _____, 20_____, at _____ o'clock _____ M.
By: _____