

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                               STATE OF OKLAHOMA

3                               2nd Session of the 56th Legislature (2018)

4   HOUSE BILL 2993

                              By: McEntire of the House

5   and

6   Sykes of the Senate

7  
8  
9   AS INTRODUCED

10                   An Act relating to workers' compensation; amending  
11                   Sections 97, 98 and 99, Chapter 208, O.S.L. 2013, as  
12                   amended by Sections 3, 4 and 5, Chapter 169, O.S.L.  
13                   2014 (85A O.S. Supp. 2017, Sections 97, 98 and 99),  
14                   which relate to the Self-insurance Guaranty Fund and  
15                   impaired self-insurers; authorizing use of certain  
16                   monies as a credit against assessments for the fund;  
17                   modifying sources for the fund; providing for  
18                   transfer of certain excess proceeds to the fund and  
19                   authorizing use as a credit against assessments for  
20                   the fund; and providing an effective date.

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

22                   SECTION 1.           AMENDATORY           Section 97, Chapter 208, O.S.L.  
23                   2013, as amended by Section 3, Chapter 169, O.S.L. 2014 (85A O.S.  
24                   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

1 and unpaid or interrupted due to the inability of a self-insurer to  
2 meet its compensation obligations because its financial resources,  
3 security deposit, guaranty agreements, surety agreements and excess  
4 insurance are either inadequate or not immediately accessible for  
5 the payment of benefits. Monies in the fund, including interest,  
6 are not subject to appropriation and shall be expended to compensate  
7 employees for eligible benefits for a compensable injury under the  
8 Administrative Workers' Compensation Act, pay outstanding workers'  
9 compensation obligations of the impaired self-insurer, and for all  
10 claims for related administrative fees, operating costs of the Self-  
11 insurance Guaranty Fund Board, attorney fees, and other costs  
12 reasonably incurred by the Board in the performance of its duties.

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

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

21 SECTION 2. AMENDATORY Section 98, Chapter 208, O.S.L.  
22 2013, as amended by Section 4, Chapter 169, O.S.L. 2014 (85A O.S.  
23 Supp. 2017, Section 98), is amended to read as follows:  
24

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

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

7       2. Until the Self-insurance Guaranty Fund contains Two Million  
8 Dollars (\$2,000,000.00) or in the event the amount in the fund falls  
9 below One Million Dollars (\$1,000,000.00), an assessment against  
10 each private self-insurer and group self-insurance association based  
11 on an assessment rate to be determined by the commissioners, not  
12 exceeding one percent (1%) of actual paid losses of the self-insurer  
13 during the preceding calendar year, payable to the Tax Commission  
14 for deposit to the fund. The assessment against private self-  
15 insurers shall be determined using a rate equal to the proportion  
16 that the deficiency in the fund attributable to private self-  
17 insurers bears to the actual paid losses of all private self-  
18 insurers for the year period of January 1 through December 31  
19 preceding the assessment. The assessment against group self-  
20 insurance associations shall be determined using a rate equal to the  
21 proportion that the deficiency in excess of the surplus of the Group  
22 Self-Insurance Association Guaranty Fund at the date of the transfer  
23 attributable to group self-insurance associations bears to the  
24 actual paid losses of all group self-insurance associations

1 cumulatively for any calendar year preceding the assessment. Each  
2 self-insurer shall provide the Workers' Compensation Commission with  
3 such information as the Commission may determine is necessary to  
4 effectuate the purposes of this paragraph. For purposes of this  
5 paragraph, "actual paid losses" means all medical and indemnity  
6 payments, including temporary disability, permanent disability, and  
7 death benefits, and excluding loss adjustment expenses and reserves.

8       a. The assessment shall be paid within thirty (30)  
9       calendar days after the date the commissioners notify  
10      the self-insurer of the assessment.

11      b. A private employer or group self-insurance association  
12      which ceases to be a self-insurer shall remain liable  
13      for any and all assessments of the self-insurer as  
14      provided in this paragraph based on actual paid losses  
15      for the calendar year period preceding the assessment.

16      c. Failure of a self-insurer to pay, or timely pay, an  
17      assessment required by this paragraph, or to report  
18      payment of the same to the Commission within ten (10)  
19      days of payment, shall be grounds for revocation by  
20      the Commission of the self-insurer's permit to self-  
21      insure in this state, after notice and hearing. A  
22      former self-insurer failing to make payments required  
23      by this paragraph promptly and correctly, or failing  
24      to report payment of the same to the Commission within

1           ten (10) days of payment, shall be subject to  
2           administrative penalties as allowed by law, including  
3           but not limited to, a fine in the amount of Five  
4           Hundred Dollars (\$500.00) or an amount equal to one  
5           percent (1%) of the unpaid amount, whichever is  
6           greater, to be paid and deposited to the credit of the  
7           Workers' Compensation Fund created in Section 28 of  
8           this title. It shall be the duty of the Tax  
9           Commission to collect the assessment provided for in  
10          this paragraph. The Tax Commission is authorized to  
11          bring an action for recovery of any delinquent or  
12          unpaid assessments, and may enforce payment of the  
13          assessment by proceeding in accordance with Section 79  
14          of this title.

- 15          d. An impaired self-insurer shall be exempt from  
16          assessments beginning on the date of the Commission's  
17          designation until the Commission determines the self-  
18          insurer is no longer impaired.
- 19          e. The Tax Commission shall determine the fund balance as  
20          of March 1 and September 1 of each year, and when  
21          otherwise requested by the Workers' Compensation  
22          Commission, and shall advise the Workers' Compensation  
23          Commission in writing within thirty (30) days of each  
24          such determination; ~~and~~

- 1        3. Any interest accruing on monies paid into the fund; and  
2        4. Monies transferred pursuant to Section 99 of this title.

3        SECTION 3.        AMENDATORY        Section 99, Chapter 208, O.S.L.  
4        2013, as amended by Section 5, Chapter 169, O.S.L. 2014 (85A O.S.  
5        Supp. 2017, Section 99), is amended to read as follows:

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

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

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

COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 02/28/2018 - DO  
PASS, As Coauthored.