

STATE OF OKLAHOMA

2nd Session of the 56th Legislature (2018)

HOUSE BILL 2993

By: McEntire

AS INTRODUCED

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.

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

1 the payment of benefits. Monies in the fund, including interest,
2 are not subject to appropriation and shall be expended to compensate
3 employees for eligible benefits for a compensable injury under the
4 Administrative Workers' Compensation Act, pay outstanding workers'
5 compensation obligations of the impaired self-insurer, and for all
6 claims for related administrative fees, operating costs of the Self-
7 insurance Guaranty Fund Board, attorney fees, and other costs
8 reasonably incurred by the Board in the performance of its duties.

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

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

17 SECTION 2. AMENDATORY Section 98, Chapter 208, O.S.L.
18 2013, as amended by Section 4, Chapter 169, O.S.L. 2014 (85A O.S.
19 Supp. 2017, Section 98), is amended to read as follows:

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

22 1. Any unexpended funds, including interest thereon, held by
23 the State Treasurer in the Workers' Compensation Self-insurance
24

1 Guaranty Fund transferred to the Self-insurance Guaranty Fund as
2 provided in Section 124 of this title;

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

1 paragraph, "actual paid losses" means all medical and indemnity
2 payments, including temporary disability, permanent disability, and
3 death benefits, and excluding loss adjustment expenses and reserves.

4 a. The assessment shall be paid within thirty (30)
5 calendar days after the date the commissioners notify
6 the self-insurer of the assessment.

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

12 c. Failure of a self-insurer to pay, or timely pay, an
13 assessment required by this paragraph, or to report
14 payment of the same to the Commission within ten (10)
15 days of payment, shall be grounds for revocation by
16 the Commission of the self-insurer's permit to self-
17 insure in this state, after notice and hearing. A
18 former self-insurer failing to make payments required
19 by this paragraph promptly and correctly, or failing
20 to report payment of the same to the Commission within
21 ten (10) days of payment, shall be subject to
22 administrative penalties as allowed by law, including
23 but not limited to, a fine in the amount of Five
24 Hundred Dollars (\$500.00) or an amount equal to one

1 percent (1%) of the unpaid amount, whichever is
2 greater, to be paid and deposited to the credit of the
3 Workers' Compensation Fund created in Section 28 of
4 this title. It shall be the duty of the Tax
5 Commission to collect the assessment provided for in
6 this paragraph. The Tax Commission is authorized to
7 bring an action for recovery of any delinquent or
8 unpaid assessments, and may enforce payment of the
9 assessment by proceeding in accordance with Section 79
10 of this title.

11 d. An impaired self-insurer shall be exempt from
12 assessments beginning on the date of the Commission's
13 designation until the Commission determines the self-
14 insurer is no longer impaired.

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

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

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

1 SECTION 3. AMENDATORY Section 99, Chapter 208, O.S.L.
2 2013, as amended by Section 5, Chapter 169, O.S.L. 2014 (85A O.S.
3 Supp. 2017, Section 99), is amended to read as follows:

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

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

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

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