

**304.50-090 Membership -- Indemnity agreement -- Expulsion, nonrenewal, or cancellation of member by group -- Voluntary withdrawal -- Liability on termination of membership, insolvency, or bankruptcy.**

- (1) An employer joining a workers' compensation self-insured group after the group has been issued a certificate of filing shall submit an application for membership to the board of trustees or its administrator and enter into an indemnity agreement. Membership shall not take effect earlier than each member's date of application. The application for membership and its approval shall be maintained as permanent records of the board of trustees. The board of trustees shall require each member to execute a joint and several liability agreement, or other annual ratification or affirmation of indemnity, upon each renewal.
- (2) The self-insured group shall be considered an individual employer for all purposes of taxation and the individual members of the group shall not be exposed to tax liability other than liability existing as a result of the indemnity agreement with the other group members and the self-insured group.
- (3) At the discretion of the trustees, the self-insured group may include the Kentucky employees of foreign (out-of-state) employers.
- (4) Individual members of a workers' compensation self-insured group shall be subject to expulsion, nonrenewal, or cancellation by the group by giving the member and the commissioner of the Department of Workers' Claims thirty (30) days advance notice. Such expulsion, nonrenewal, or cancellation shall be executed in accordance with the bylaws of the group and for reasons including but not limited to:
  - (a) Adverse claims experience;
  - (b) Lack of cooperation with safety and loss prevention policies; or
  - (c) Failure to report payroll in accordance with the rules and rating plan of the self-insured group.
- (5) At least thirty (30) days prior to the due date, the trustees shall notify each group member of all premiums due, including adjustments. Failure by a member to pay the premium or assessments due prior to the due date may result in immediate cancellation from the group by the trustees. Ten (10) days advance notice of such cancellation shall be given to the member and the commissioner of the Department of Workers' Claims.
- (6) Individual group members may elect to withdraw from the group only upon sixty (60) days written notice to the commissioner of the Department of Workers' Claims and the trustees.
- (7) The trustees shall report to the commissioner any person who behaves fraudulently as described in Subtitle 47 of this chapter.
- (8) A workers' compensation self-insured group shall pay all workers' compensation benefits required under KRS Chapter 342 for which each member incurs liability during its period of membership, including assessments. A member who elects to withdraw its membership or is terminated by a group remains liable for workers' compensation liabilities, obligations, and assessments during the terminated or withdrawn group member's period of membership. A group member shall not be

relieved of its workers' compensation liabilities incurred, including assessments, during its period of membership, except through payment by the group or the member of these liabilities.

- (9) The insolvency or bankruptcy of a group member shall not relieve the workers' compensation self-insured group or any group member of liability for the payment of workers' compensation benefits incurred during the insolvent or bankrupt group member's period of membership.

**Effective:** July 15, 2010

**History:** Amended 2010 Ky. Acts ch. 24, sec. 1638, effective July 15, 2010. -- Created 2005 Ky. Acts ch. 7, sec. 18, effective March 1, 2005.