

342.1242 Kentucky coal workers' pneumoconiosis fund -- Liability for and manner of making payments for awards for coal workers' pneumoconiosis -- Assessments to finance fund -- When assessments cease.

- (1) There is created the Kentucky coal workers' pneumoconiosis fund which shall have one-half (1/2) of the liability for income benefits, including retraining benefits, payable for claims brought under KRS 342.732 for last exposure incurred on or after December 12, 1996, which are filed on or before June 30, 2017. Income benefit payments by the Kentucky coal workers' pneumoconiosis fund shall be made contemporaneous with the payments made by the employer, except that the employer shall make all payments due under a final award or approved settlement for any claims filed after June 30, 2017.
- (2) For claims brought under KRS 342.732 for last exposure incurred on or after December 12, 1996 which are filed on or before June 30, 2017, the employer shall defend any claim brought under KRS 342.732 and upon conclusion shall seek participation in payment of the final award or settlement by the Kentucky coal workers' pneumoconiosis fund by making written request upon the director in the manner prescribed by administrative regulation to be promulgated by the commissioner of the Department of Workers' Claims.
- (3)
 - (a) For the purpose of funding the liabilities of the Kentucky coal workers' pneumoconiosis fund and financing the administration and operation of the Kentucky coal workers' pneumoconiosis fund, as reflected in the budget of the Commonwealth enacted by the General Assembly, a Kentucky coal workers' pneumoconiosis fund assessment at the rate of three percent (3%) is hereby imposed upon the amount of workers' compensation premiums received on and after January 1, 1997, through December 31, 1997, by every insurance carrier writing workers' compensation insurance in the Commonwealth and by every self-insured group operating under the provisions of KRS 342.350(4) and Chapter 304, from employers engaged in the severance or processing of coal. Likewise, on and after January 1, 1997, through December 31, 1997, an assessment at the rate of three percent (3%) of premium shall be paid by every employer engaged in the severance or processing of coal who is carrying his or her own risk.
 - (b) In addition to the assessment imposed in paragraph (a) of this subsection, an additional Kentucky coal workers' pneumoconiosis fund assessment at the rate of two and one-half cents (\$0.025) per ton is hereby imposed upon the total annual amount of tons of coal severed on or after January 1, 1997, through December 31, 1997, by every entity engaged in the severance of coal as required pursuant to KRS Chapter 143.
 - (c) As of June 30, 2018, and each year thereafter until the liabilities of the fund are fully funded, the Funding Commission and the Kentucky Employers' Mutual Insurance Authority shall determine the assets of the fund and the claim liability incurred by the fund for all previous years and shall establish the rates under the provisions of paragraphs (a) and (b) of this subsection necessary as of January 1 of the next year to fund claim liabilities through

December 31 of the next year of operations. The assessment rate authorized by this section for premiums received and tons of coal severed shall be set so as to receive fifty percent (50%) of the needed revenue from each assessment. Notice of any rate changes shall be provided no later than October 1 of the year preceding the rate change.

- (4) All assessments imposed by this section shall be paid to the Kentucky Workers' Compensation Funding Commission and shall be transferred to the Kentucky Employers' Mutual Insurance Authority, which is administering the coal workers' pneumoconiosis fund. In addition, the powers and responsibilities of the Kentucky Workers' Compensation Funding Commission including its fiduciary duties and responsibilities relating to assessments collected for the special fund pursuant to KRS 342.122, 342.1222, 342.1223, 342.1226, 342.1229, and 342.1231 shall apply to assessments collected for the Kentucky coal workers' pneumoconiosis fund created pursuant to this section. Each entity subject to assessments for the Kentucky coal workers' pneumoconiosis fund shall provide any and all information requested by the Kentucky Workers' Compensation Funding Commission necessary to carry out its powers and responsibilities relating thereto.
- (5) These assessments shall be paid quarterly not later than the thirtieth day of the month following the end of the quarter in which the premium is received or the coal is processed or severed. Receipt shall be considered timely through actual physical receipt or by postmark by the United States Postal Service. Employers carrying their own risk and employers defined in KRS 342.630(2) shall pay the annual assessments in four (4) equal quarterly installments. Penalty and interest penalties imposed pursuant to KRS 342.1221 and the authority of the Kentucky Workers' Compensation Funding Commission to waive part or all of the penalty shall apply to assessments for the Kentucky coal workers' pneumoconiosis fund in the same manner and amount as they are imposed on assessments for the special fund under KRS 342.122.
- (6) Notwithstanding any other provisions of this section or this chapter to the contrary, the total amount of funds collected pursuant to the assessment rates adopted by the funding commission shall not be limited to the provisions of this section.
- (7) Claims for benefits by reason of the development of coal workers' pneumoconiosis shall be maintained pursuant to KRS 342.732, and the Kentucky coal workers' pneumoconiosis fund shall be liable for payment of a part of the liability only for employees of employers engaged in the severance or processing of coal as defined in KRS 342.0011(23)(a) and (b).
- (8) Assessments issued pursuant to this section shall cease to be imposed once the liabilities of the fund are fully funded. After the liabilities are fully funded, any excess assessments shall be refunded to the employers on a pro rata basis.

Effective: April 10, 2017

History: Amended 2017 Ky. Acts ch. 173, sec. 4, effective April 10, 2017. -- Amended 2010 Ky. Acts ch. 24, sec. 1791, effective July 15, 2010. -- Amended 2006 Ky. Acts ch. 124, sec. 2, effective April 4, 2006. -- Amended 2005 Ky. Acts ch. 7, sec. 39, effective March 1, 2005. -- Amended 2002 Ky. Acts ch. 246, sec. 2, effective July 15, 2002. -- Created 1996 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 34, effective

December 12, 1996.