



# KENTUCKY

AGC Self Insurers' Fund

*"Kentucky's Authority in Construction Workers' Compensation Since 1979"*

---

# WORKERS' COMPENSATION & EMPLOYERS' LIABILITY POLICY

---

## Program Administrator:

Ladegast & Heffner Claims Service, Inc.  
P.O. Box 436949  
Louisville, KY 40253-6949

**Sponsored Exclusively by:**





# WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY INSURANCE POLICY

## QUICK REFERENCE

<b>INFORMATION PAGE PAGE</b>	<b>BEGINNING ON</b>	<b>INFORMATION PAGE PAGE</b>	<b>BEGINNING ON</b>
<b>GENERAL SECTION.....</b>	<b>1</b>	<b>Part Two con't.....</b>	<b>4</b>
A. The Policy.....	1	H. Limits of Liability.....	4
B. Who is Insured.....	1	I. Recovery From Others.....	5
C. Workers' Compensation Law.....	1	J. Actions Against Us.....	5
D. State.....	1	<b>PART THREE -</b>	
E. Locations.....	1	<b>OTHER STATES' INSURANCE.....</b>	<b>5</b>
<b>PART ONE -</b>		A. How This Insurance Applies.....	5
<b>WORKERS' COMPENSATION INSURANCE.....</b>	<b>1</b>	<b>PART FOUR -</b>	
A. How This Insurance Applies.....	1	<b>YOUR DUTIES IF INJURY OCCURS.....</b>	<b>5</b>
B. We Will Pay.....	2	<b>PART FIVE - PREMIUM.....</b>	<b>6</b>
C. We Will Defend.....	2	A. Our Manuals.....	6
D. We Will Also Pay.....	2	B. Classifications.....	6
E. Other Insurance.....	2	C. Remuneration.....	6
F. Payments You Must Make.....	2	D. Premium Payments.....	6
G. Recovery From Others.....	2	E. Final Premium.....	6
H. Statutory Provisions.....	2	F. Records.....	6
<b>PART TWO -</b>		G. Audit.....	6
<b>EMPLOYERS' LIABILITY INSURANCE.....</b>	<b>3</b>	<b>PART SIX -</b>	
A. How This Insurance Applies.....	3	<b>CONDITIONS.....</b>	<b>7</b>
B. We Will Pay.....	3	A. Inspection.....	7
C. Stop Gap Coverage.....	3	B. Long Term Policy.....	7
D. Exclusions.....	3	C. Transfer of Your Rights and Duties.....	7
E. We Will Defend.....	4	D. Cancellation.....	7
F. We Will Also Pay.....	4	E. Sole Representative.....	7
G. Other Insurance.....	4		

**IMPORTANT:** This Quick Reference is not part of the Workers' Compensation and Employers' Liability Insurance Policy and does **not** provide coverage. Refer to the Workers' Compensation and Employers' Liability Insurance Policy itself for actual contractual provisions.

**PLEASE READ THE POLICY CAREFULLY.**

# **KENTUCKY ASSOCIATED GENERAL CONTRACTORS SELF INSURERS' FUND WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY GROUP SELF INSURERS' POLICY**

In return for the payment of the premium, subject to all terms of this group self-insurers' policy and pursuant to the terms of the Kentucky Workers' Compensation Act, Kentucky Revised Statute, Chapter 342, we agree with you as follows:

## **GENERAL SECTION**

### **A. The Policy**

This group self insurance policy includes at its effective date the Information Page and all endorsements and schedules listed there. It is a contract of group self insurance between you (the employer named in Item I of the Information Page) and us (the insurer named on the Information Page). The only agreements relating to this group self insurance policy are stated in this policy, and the application and agreement signed by you to obtain this policy, which is incorporated herein by reference. The terms of this policy may not be changed or waived except by endorsement issued by us to be part of this policy.

THIS COVERAGE HAS BEEN PLACED WITH A WORKERS' COMPENSATION SELF-INSURED GROUP WHICH IS REGULATED BY THE DEPARTMENT OF INSURANCE AND HAS RECEIVED A CERTIFICATE OF FILING FROM THE COMMONWEALTH OF KENTUCKY. CLAIMS AGAINST GROUP MEMBERS ARE COVERED BY THE SELF-INSURED GROUP INSURANCE GUARANTY ASSOCIATION, BUT ARE NOT COVERED BY THE KENTUCKY INSURANCE GUARANTY ASSOCIATION. GROUP MEMBERS SHALL BE ASSESSED IN THE EVENT OF INSOLVENCY OF THE WORKERS' COMPENSATION SELF-INSURED GROUP.

### **B. Who is Insured**

You are self insured under this group self-insurers' policy if you are an employer named in Item 1 of the Information Page. If that employer is a partnership, and if you are one of its partners, you are self-insured, but only in your capacity as an employer of the partnership's employees.

### **C. Workers' Compensation Law**

Workers' Compensation Law means the workers or workers' compensation laws and occupational disease law of each state or territory named in Item 3.A. of the Information Page. It includes any amendments to that law which are in effect during the policy period. It does not include any federal workers or workers' compensation law, any federal occupational disease law or the provisions of any law that provide nonoccupational disability benefits.

### **D. State**

State means Kentucky and such other states, except Florida, Illinois, New Jersey and New York, where the insured employs Regularly Employed Kentucky Employees. A Regularly Employed Kentucky Employee is defined as: An employee who is a resident of Kentucky and/or employed by a resident Kentucky employer or is hired from a resident Kentucky union hall and performs work within the scope of said employment for said employer for a minimum period of eight (8) hours in the Commonwealth of Kentucky prior to performing any work in any other state, excluding Florida, Illinois, New Jersey and New York, with said period evidenced by payroll records from said employer. This statement shall not conflict with KRS 342.670 (1), (a,b,c, or d).

### **E. Locations**

This policy covers all of your workplaces, subject to part "D," unless you have other insurance or are self-insured.

## **PART ONE - WORKERS' COMPENSATION GROUP SELF INSURANCE**

### **A. How This Insurance Applies**

This workers' compensation group self insurance applies to bodily injury by accident or bodily injury by disease. Bodily injury includes resulting death.

1. Bodily injury by accident must occur during the policy period.

2. Bodily injury by disease must be caused or aggravated by the conditions of your employment. The employee's last day of last exposure to the conditions causing or aggravating such bodily injury by disease must occur during the policy period.

## **B. We Will Pay**

We will pay promptly when due the benefits required of you by the workers' compensation law.

## **C. We Will Defend**

We have the right and duty to defend at our expense any claim, proceeding or suit against you for benefits payable by this insurance. We have the right to investigate and settle these claims, proceedings or suits. We have no duty to defend a claim, proceeding or suit that is not covered by this group self insurance.

## **D. We Will Also Pay**

We will also pay these costs, in addition to other amounts payable under this group self insurance, as part of any claim, proceeding or suit we defend:

1. reasonable expenses incurred at our request, but not loss of earnings;
2. premiums for bonds to release attachments and for appeal bonds in bond amounts up to the amount payable under this insurance;
3. litigation costs taxed against you;
4. interest on a judgment as required by law until we offer the amount due under this insurance; and
5. expenses we incur.

## **E. Other Insurance**

We will not pay more than our share of benefits and costs covered by this group self insurance policy and other insurance or self insurance. Subject to any limits of liability that may apply, all shares will be equal until the loss is paid. If any insurance or self insurance is exhausted, the shares of all remaining insurance will be equal until the loss is paid.

## **F. Payments You Must Make**

You are responsible for any payments in excess of the benefits regularly provided by the workers compensation law including those required because:

1. of your serious and willful misconduct;
2. you knowingly employ an employee in violation of law;
3. you fail to comply with a health or safety law or regulation; or

4. you discharge, coerce or otherwise discriminate against any employee in violation of the workers' compensation law.

If we make any payments in excess of the benefits regularly provided by the workers compensation law on your behalf, you will reimburse us promptly.

## **G. Recovery From Others**

We have your rights, and the rights of persons entitled to the benefits of this group self insurance policy, to recover our payments from anyone liable for the injury. You will do everything necessary to protect those rights for us and to help us enforce them.

## **H. Statutory Provisions**

These statements apply where they are required by law.

1. As between an injured worker and us, we have notice of the injury when you have notice.
2. Your default or the bankruptcy or insolvency of you or your estate will not relieve us of our duties under this insurance after an injury occurs.
3. We are directly and primarily liable to any person entitled to the benefits payable by this insurance. Those persons may enforce our duties; so may an agency authorized by law. Enforcement may be against us or against you and us.
4. Jurisdiction over you is jurisdiction over us for purposes of the workers' compensation law. We are bound by decisions against you under the law, subject to the provisions of this policy that are not in conflict with that law.
5. This group self insurance policy conforms to the parts of the workers' compensation law that apply to:
  - a. benefits payable by this insurance;
  - b. special taxes, payments into security or other special funds, and assessments payable by us under that law.

Nothing in these paragraphs relieves you of your duties under this policy.

## **PART TWO - EMPLOYERS' LIABILITY GROUP SELF INSURANCE**

### **A. How This Insurance Applies**

This employers' liability group self insurance policy applies to bodily injury by accident or bodily injury by disease. Bodily injury includes resulting death.

1. The bodily injury must arise out of and in the course of the injured employee's employment by you.
2. The employment must be necessary or incidental to your work in a state or territory listed in Item 3.A. of the Information Page.
3. Bodily injury by accident must occur during the policy period.
4. Bodily injury by disease must be caused or aggravated by the conditions of your employment. The employee's last day of last exposure to the conditions causing or aggravating such bodily injury by disease must occur during the policy period.
5. If you are sued, the original suit and any related legal actions for damages for bodily injury by accident or by disease must be brought in the United States of America, its territories or possessions.

### **B. We Will Pay**

We will pay all sums you legally must pay as damages because of bodily injury to your employees, provided the bodily injury is covered by this Employers' Liability Group Self Insurance.

The damages we will pay, where recovery is permitted by law, include damages:

1. for which you are liable to a third party by reason of a claim or suit against you by that third party to recover the damages claimed against such third party as a result of injury to your employee;
2. for care and loss of services; and
3. for consequential bodily injury to a spouse, child, parent, brother or sister of the injured employee; provided that these damages are the direct consequence of bodily injury that arises out of and in the course of the injured employee's employment by you; and
4. because of bodily injury to your employee that arises out of and in the course of employment, claimed against you in a capacity other than as employer.

### **C. Stop Gap Coverage**

In consideration of the premium charged, it is agreed that if, under any circumstances, it is

determined that any of your employees who are reported and declared under workers' compensation law or laws of a monopolistic fund of the state is injured in the course of his employment and is not entitled to receive (or elects not to accept) the benefits provided by the afore-mentioned law, or such law permits such employee to receive such benefits and to have a cause of action against the insured as if such laws had not been enacted, for any excess of damages over and above the amount of such benefits, then this group self insurance policy shall pay on your behalf all sums which you shall become legally obligated to pay as damages for bodily injury resulting from an occurrence to which this group self insurance policy applies, where the bodily injury was

1. sustained in the United States of America, its territories, or possessions by any employee of the insured arising out of and in the course of his employment by the insured, or
2. sustained while temporarily outside the United States of America, its territories, or possessions by an employee of the insured who is a citizen or resident of the United States, arising out of and in the course of his employment by you, but this group self insurance policy does not apply to any suit brought in or any judgment rendered by any court outside the United States of America, its territories, or possessions, or to an action on such judgment wherever brought.

For purposes of this provision, the term "occurrence" shall include any act by you resulting in bodily injury to which this group self insurance policy applies, which was committed by you with the deliberate intention of producing such bodily injury.

### **D. Exclusions**

This group self insurance policy does not cover:

1. punitive or exemplary damages because of bodily injury to an employee employed in violation of law;
2. liability assumed by you under contract or agreement with a party or parties other than one or more of the named insureds. This exclusion does not apply to a warranty that your work will be done in a workmanlike manner;
3. punitive or exemplary damages on account of bodily injury to which this group self insurance applies, where such bodily injury resulted from any act by you committed with the deliberate intention of producing such bodily injury;
4. bodily injury by disease unless prior to thirty-



six months at the end of the self insurance policy period written claim is made or suit is brought against you for damages because of such injury or death resulting therefrom;

5. any obligation for which you or any carrier as your insurer may be held liable under any workers' compensation or occupational disease law or any unemployment compensation or disability benefits law, or any other similar law;
6. bodily injury to an employee while employed in violation of law with your actual knowledge or the actual knowledge of any of your executive officers;
7. any obligation imposed by a workers' compensation, occupational disease, unemployment compensation, or disability benefits law, or any similar law;
8. bodily injury intentionally caused or aggravated by you;
9. bodily injury occurring outside the United States of America, its territories or possessions. This exclusion does not apply to bodily injury to a citizen or resident of the United States of America who is temporarily outside the USA;
10. damages arising out of coercion, criticism, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation, discrimination against or termination of any employee, or any personnel practices, policies, acts or omissions;
11. bodily injury to any person in work subject to the Longshore and Harbor Workers' Compensation Act (33 USC Sections 901-950), the Nonappropriated Fund Instrumentalities Act (5 USC Sections 8171-8173), the Outer Continental Shelf Lands Act (43 USC Sections 1331-1356), the Defense Base Act (42 USC Sections 1651-1654), the Federal Coal Mine Health and Safety Act of 1969 (30 USC Sections 901-942), any other federal workers or workers' compensation law or other federal occupational disease law, or any amendments to these laws;
12. bodily injury to any person in work subject to the Federal Employers' Liability Act (45 USC Sections 51-60), any other federal laws obligating an employer to pay damages to an employee due to bodily injury arising out of or in the course of employment, or any amendments to those laws;
13. bodily injury to a master or member of the crew of any vessel;
14. fines or penalties imposed for violation of federal or state law; and

15. damages payable under the Migrant and Seasonal Agricultural Worker Protection Act (29 USC Sections 1801-1872) and under any other federal law awarding damages for violation of those laws or regulations issued thereunder, and any amendments to those laws.

#### **E. We Will Defend**

We have the right and duty to defend, at our expense, any claim, proceeding or suit against you for damages payable by this group self insurance. We have the right to investigate and settle these claims, proceedings and suits.

We have no duty to defend a claim proceeding or suit that is not covered by this group self insurance policy. We have no duty to defend or continue defending after we have paid our applicable limit to liability under this insurance.

#### **F. We Will Also Pay**

We will also pay these costs, in addition to other amounts payable under this insurance, as part of any claim, proceeding, or suit we defend:

1. reasonable expenses incurred at our request, but not loss of earnings;
2. premiums for bonds to release attachments and for appeal bonds in bond amounts up to the limit of our liability under this insurance;
3. litigation costs taxed against you;
4. interest on a judgment as required by law until we offer the amount due under this insurance; and
5. expenses we incur.

#### **G. Other Insurance**

We will not pay more than our share of damages and costs covered by this group self insurance policy and other insurance or self insurance. Subject to any limits of liability that apply, all shares will be equal until the loss is paid. If any insurance or self insurance is exhausted, the shares of all remaining insurance and self insurance will be equal until the loss is paid.

#### **H. Limits of Liability**

Our liability to pay for damages is limited. Our limits of liability are shown in Item 3.B. of the Information Page. They apply as explained below.

1. Bodily Injury by Accident. The limit shown for "bodily injury by accident - each accident" is the most we will pay for all damages covered by this insurance because of bodily injury to one or more employees in any one accident.

A disease is not bodily injury by accident unless it results directly from bodily injury by accident.

2. Bodily Injury by Disease. The limit shown for

“bodily injury by disease - policy limit” is the most we will pay for all damages covered by this insurance and arising out of bodily injury by disease, regardless of the number of employees who sustain bodily injury by disease. The limit shown for “bodily injury by disease - each employee” is the most we will pay for all damages because of bodily injury by disease to any one employee.

Bodily injury by disease does not include disease that results directly from a bodily injury by accident.

3. We will not pay any claims for damages after we have paid the applicable limit of our liability under this insurance.

#### **I. Recovery From Others**

We have your rights to recover our payment from

anyone liable for an injury covered by this insurance. You will do everything necessary to protect those rights for us and to help us enforce them.

#### **J. Actions Against Us**

There will be no right of action against us under this insurance unless:

1. You have complied with all the terms of this policy; and
2. The amount you owe has been determined without consent or by actual trial and final judgment.

This insurance does not give anyone the right to add us as a defendant in an action against you to determine your liability. The bankruptcy or insolvency of you or your estate will not relieve us of our obligations under this Part.

### **PART THREE - OTHER STATES GROUP SELF INSURANCE**

#### **A. How This Insurance Applies**

1. This other states group self insurance applies only if one or more states are shown in Item 3.C. of the Information Page.
2. Provided that you employ Regularly Employed Kentucky Employees, if you begin work in any one of those states after the effective date of this policy and are not insured or are not self insured for such work, all provisions of the policy will apply as though that state were listed in Item 3A of the Information Page. A Regularly Employed Kentucky Employee is defined as: An employee who is a resident of Kentucky and/or employed by a resident

Kentucky employer or is hired from a resident Kentucky union hall and performs work within the scope of said employment for said employer for a minimum period of eight (8) hours in the Commonwealth of Kentucky prior to performing any work in any other state, excluding Florida, Illinois, New Jersey and New York, with said period evidenced by payroll records from said employer. This statement shall not conflict with KRS 342.670 (1), (a,b,c, or d).

3. We will reimburse you for the benefits required by the workers' compensation law of that state if we are not permitted to pay the benefits directly to persons entitled to them.

### **PART FOUR - YOUR DUTIES IF INJURY OCCURS**

Tell us at once if injury occurs that may be covered by this policy. Your other duties are listed here.

1. Provide for immediate medical and other services required by the workers compensation law.
2. Give us or our agent the names and addresses of the injured persons and of witnesses, and other information we may need.
3. Promptly give us all notices, demands and legal papers related to the injury, claim, proceeding or suit.

4. Cooperate with us and assist us, as we may request, in the investigation, settlement or defense of any claim, proceeding or suit.
5. Do nothing after an injury occurs that would interfere with our right to recover from others.
6. Do not voluntarily make payments, assume obligations or incur expenses, except at your own cost.



## **PART FIVE - PREMIUM**

### **A. Our Manuals**

All premium for this policy will be determined by our manuals of rules, rates, rating plans and classifications. We may change our manuals and apply the changes to this policy if authorized by law or a governmental agency regulating this insurance.

### **B. Classifications**

Your Estimated or Annual Billing shows the rate and premium basis for certain business or work classifications. These classifications were assigned based on an estimate of the exposures you would have during the policy period. If your actual exposures are not properly described by those classifications, contact the Fund office for correct classifications and rates. Final classification assignments will be determined by final audit.

### **C. Remuneration**

Premium for each work classification is determined by multiplying a rate times a premium basis. Remuneration is the most common premium basis. This premium basis includes payroll and all other remuneration paid or payable during the policy period for the services of:

1. all your officers and employees engaged in work covered by this policy; and
2. all other persons engaged in work that you have subcontracted, work for you involving removal, excavation or drilling of soil, rock or mineral, or cutting or removal of timber from land, or work for you performed of a kind which is a regular and recurrent part of the work of your trade, business, occupation or profession. This includes but is not limited to sole proprietorships, partnerships, subcontractors, independent contractors and contract/casual laborers with NO employees and or NO certificates of workers' compensation insurance. If you do not have payroll records for these persons, the contract price for their services and materials may be used as the premium basis. This paragraph #2 will not apply if you give us proof that the employers of these persons lawfully secured their workers' compensation obligations.

### **D. Premium Payments**

You will pay all premiums when due. You will pay the premium even if part or all of a workers' compensation law is not valid.

### **E. Final Premium**

The premium shown on your Estimated or Annual Billing, schedules, and endorsements is an estimate. The final premium will be determined after this policy ends by using the actual, not the estimated, premium basis and the proper classifications and rates that lawfully apply to the business and work covered by this policy. If the final premium is more than the premium you paid to us, you must pay us the balance. If it is less, we will refund the balance to you. The final premium will not be less than the minimum premium per policy.

If this policy is canceled. Final premium will be determined in the following way unless our manuals provide otherwise:

1. Final cancellation audit will be conducted for the portion of the year in which you were provided coverage. This audit will be performed no less than 45 days following cancellation.
2. If the final audit premium is less than the pro-rata based minimum premium, the final premium will reflect the pro-rata premium.

### **F. Records**

You will keep records of information needed to compute premium. You will provide us with copies of those records when we ask for them.

### **G. Audit**

You will let us examine and audit all your records that relate to this policy. These records include ledgers, journals, registers, vouchers, contracts, tax reports, payroll and disbursement records, and programs for storing and retrieving data. We may conduct the audits during regular business hours during the policy period and within three years after the policy period ends. Information developed by audit will be used to determine final premium. Insurance rate service organizations have the same rights we have under this provision.

## **PART SIX - CONDITIONS**

### **A. Inspection**

We have the right, but are not obliged to have an independent organization perform safety and underwriting inspections at your workplaces at any time. They relate only to the insurability of the workplaces and the premiums to be charged. We may give you reports on the conditions we find. We may also recommend changes. While they may help reduce losses, we do not undertake to perform the duty of any person to provide for the health or safety of your employees or the public. We do not warrant that your workplaces are safe or healthful or that they comply with laws, regulations, codes or standards. Insurance rate service organizations have the same rights we have under this provision.

### **B. Long Term Policy**

If the policy period is longer than one year and sixteen days, all provisions of this policy will apply as though a new policy were issued on each annual anniversary that this policy is in force.

### **C. Transfer of Your Rights and Duties**

Your rights or duties under this policy may not be transferred without our written consent.

If you die and we receive notice within thirty days after your death, we will cover your legal representative as insured.

### **D. Cancellation**

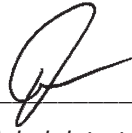
1. You may cancel this policy. You must mail or deliver advance written notice to us stating when the cancellation is to take effect.
2. We may cancel this policy. We must mail or deliver to you not less than 30 days advance written notice stating when the cancellation is to take effect. Mailing that notice to you at your mailing address shown in Item 1 of the Information Page will be sufficient to prove notice.
3. The policy period will end on the day and hour stated in the cancellation notice.
4. Any of these provisions that conflict with a law that controls the cancellation of the insurance in this policy is changed by this statement to comply with the law.

### **E. Sole Representative**

The insured first named in Item I of the Information Page will act on behalf of all insureds to change this policy, receive return premium, and give or receive notice of cancellation.

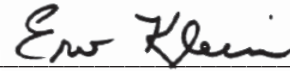
IN WITNESS WHEREOF, the Associated General Contractors Self Insurers' Fund has caused this Policy to be signed by its Chairman of the Board of Trustees and its Administrator, but the same shall not be binding unless countersigned by the Administrator of the Self Insurance Fund on the Information Page.

The Kentucky Associated General Contractors Self Insurers' Fund



---

*Administrator  
Karl T. Ladegast*



---

*Chairman  
Erv Klein*



**Content History**

Original Print Date 1/1/99  
First Revision Date 1/1/00  
Second Revision Date 1/1/06  
Third Revision Date 1/1/07  
Fourth Revision Date 1/1/08  
Fifth Revision Date 1/1/11 (Print Date: May 2011)

**Kentucky Associated General Contractors Self Insurers' Fund**