

4123.292 Coverage through an other states' insurer.

(A) Notwithstanding sections 4123.35 and 4123.82 of the Revised Code, an employer may elect to obtain other-states' coverage through an other-states' insurer or, if the administrator of workers' compensation elects to offer such coverage, through the administrator pursuant to division (B) of this section. An employer who elects to obtain other-states' coverage shall submit a written notice to the administrator stating that election and, if the employer elects to obtain that coverage through an other-states' insurer, the name of the other-states' insurer through whom the employer has obtained that coverage. If an employer fails to pay the employer's premium for other-states' coverage, the administrator shall consider the employer to be noncompliant for the purposes of having other-states' coverage but shall not consider the employer to be a noncomplying employer for purposes of this chapter or Chapter 4121., 4127., or 4131. of the Revised Code unless the employer otherwise fails to comply with section 4123.35 of the Revised Code.

(B) The administrator may secure other-states' coverage to allow an employer who wishes to obtain other-states' coverage pursuant to this section and who elects to obtain that coverage through the administrator for workers' compensation claims arising in a state or states other than this state. If the administrator elects to secure other-states' coverage, the administrator shall follow the competitive bidding requirements specified in Chapter 125. of the Revised Code to select one other-states' insurer, and the administrator, with the advice and consent of the bureau of workers' compensation board of directors, shall award the contract to provide other-states' coverage for employers located in this state to the other-states' insurer that is the lowest and best bidder.

(C) If the administrator elects to secure other-states' coverage pursuant to division (B) of this section, the administrator shall calculate an employer's premium for other-states' coverage provided through the administrator separately from calculating any other premiums or assessments charged under this chapter or Chapter 4121., 4127., or 4131. of the Revised Code. The administrator shall calculate the employer's other-states' coverage premium in the same manner the administrator calculates an employer's premium for the state insurance fund pursuant to division (A) of section 4123.29 and section 4123.34 of the Revised Code, except that, when calculating the employer's premium for other-states' coverage under this division, the administrator shall do all of the following:

- (1) Base the employer's other-states' coverage premium on the terms specified in the contract the administrator enters into with an insurance company pursuant to division (B) of this section;
- (2) When determining the expenditure of wages, payroll, or both upon which to base the employer's other-states' coverage premium, use only the amount of wages, payroll, or both the employer paid to the employer's employees for performing labor or providing services for the employer in a state or states other than this state;
- (3) Not take into account the amount of wages, payroll, or both the employer paid to the employer's employees for performing labor or providing services for the employer in this

state or any compensation or benefits paid for claims covered by the state insurance fund.

(D) If the administrator elects to secure other states' coverage, the administrator, with the advice and consent of the board, shall adopt rules to implement divisions (B) and (C) of this section.

(E) An other-states' insurer that provides other-states' coverage to an employer pursuant to this section shall do all of the following when calculating the employer's premium for that coverage:

(1) When determining the amount of wages, payroll, or both upon which to base the employer's premium, use only the amount of wages, payroll, or both the employer paid to the employer's employees for performing labor or providing services for the employer in a state or states other than this state;

(2) Not take into account the amount of wages, payroll, or both the employer paid to the employer's employees for performing labor or providing services for the employer in this state or any compensation or benefits paid for claims otherwise covered by this chapter or Chapter 4121., 4127., or 4131. of the Revised Code;

(3) Take into account any other factors the other-states' insurer uses to calculate premiums for workers' compensation insurance.

(F) The board and the individual members thereof, the administrator, and the bureau of workers' compensation shall not incur any obligation or liability if another state determines that the other-states' coverage provided under this section does not satisfy the requirements specified in that state's workers' compensation law for obtaining workers' compensation coverage in that state.

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