

40-3307. Examination of registered insurers; powers of commissioner; expert advisers; expenses, liability of insurers; subpoenas. (a) Subject to the limitation contained in this section and in addition to the powers which the commissioner of insurance has under K.S.A. 40-222 and K.S.A. 40-222a, and amendments thereto, relating to the examination of insurers, the commissioner of insurance shall have the power to examine any insurer registered under K.S.A. 40-3305, and amendments thereto, and such insurer's affiliates to ascertain the financial condition, including enterprise risk, of such insurer.

(b) (1) The commissioner of insurance may order any insurer registered under K.S.A. 40-3305, and amendments thereto, to produce such records, books or other information in the possession of the insurer or its affiliates as are reasonably necessary to determine compliance with this act.

(2) To determine compliance with this act, the commissioner of insurance may order any insurer registered under K.S.A. 40-3305, and amendments thereto, to produce information not in the possession of the insurer, if the insurer can obtain access to such information pursuant to contractual relationships, statutory obligations or another method. In the event the insurer cannot obtain the information requested by the commissioner of insurance, the insurer shall provide the commissioner of insurance a detailed explanation of the reason that the insurer cannot obtain the information and the identity of the holder of information. Whenever it appears to the commissioner of insurance that the detailed explanation is without merit, the commissioner of insurance may require, after notice and hearing, the insurer to pay a penalty of not more than \$1,000 for each day's delay, or may suspend or revoke the license of the insurer.

(c) The commissioner of insurance may retain at the registered insurer's expense such attorneys, actuaries, accountants and other experts not otherwise a part of the staff of the commissioner of insurance as the commissioner of insurance shall determine to be reasonably necessary to assist in the conduct of the examination under subsection (a). Any persons so retained shall be under the direction and control of the commissioner of insurance and shall act in a purely advisory capacity.

(d) Each registered insurer producing examination records, books and papers pursuant to subsection (a) shall be liable for and shall pay the expense of such examination in accordance with K.S.A. 40-223 and K.S.A. 40-253, and amendments thereto.

(e) The commissioner of insurance shall have the power to issue subpoenas, administer oaths and examine under oath any person for purposes of determining compliance with this section. Upon the failure or refusal of any person to obey a subpoena, the commissioner of insurance may petition a court of competent jurisdiction, and upon proper showing, the court may enter an order compelling the witness to appear and testify or produce documentary evidence. Failure to obey the court order shall be punishable as contempt of court. Every person subpoenaed shall be obliged to attend as a witness at the place specified in the subpoena, when subpoenaed, anywhere within the state. Such subpoenaed person shall be entitled to the same fees and mileage, if claimed, as a witness in K.S.A. 28-125, and amendments thereto. Fees, mileage and actual expense, if any, necessarily incurred in securing the attendance and testimony of witnesses shall be itemized, charged against and paid by the company being examined.

History: L. 1974, ch. 183, § 7; L. 2013, ch. 15, § 7; July 1.