

As Amended by House Committee

Session of 2024

HOUSE BILL No. 2533

By Committee on Insurance

Requested by Eric Turek on behalf of the Kansas Insurance Department

1-18

1 AN ACT concerning insurance; relating to examinations; requiring that
2 insurance examiner per diem amounts and expenses, outside consulting
3 and data processing fees and pro rata funding for examination
4 equipment and software be reasonable; establishing a tiered fee
5 structure for examinations of insurance companies and societies based
6 on gross premiums; amending K.S.A. 40-223 and repealing the existing
7 section.
8

9 *Be it enacted by the Legislature of the State of Kansas:*

10 Section 1. K.S.A. 40-223 is hereby amended to read as follows: 40-
11 223. (a) (1) Except as provided in K.S.A. 40-110 and 40-253, and
12 amendments thereto, any person who makes any examination under the
13 provisions of this act may receive, as full compensation for such person's
14 services, on a per diem basis ~~an~~ **an average and reasonable** amount
15 fixed by the commissioner, ~~which~~ *that* shall not exceed the amount
16 recommended by the national association of insurance commissioners, for
17 such time necessarily and actually occupied in going to and returning from
18 the place of such examination and for such time the examiner is
19 necessarily and actually engaged in making such examination including
20 any day within the regular workweek when the examiner would have been
21 so engaged had the company or society been open for business, together
22 with such *reasonably* necessary and actual expenses for traveling and
23 subsistence as the examiner shall incur because of the performance of such
24 services.

25 (2) For the purposes of this act, "necessary and actual expenses" shall
26 be limited, whether for travel within the state or travel outside the state, to
27 those limitations expressed in K.S.A. 75-3207, and amendments thereto,
28 ~~which~~ *that* pertain to official travel outside the state. The daily charge shall
29 be calculated by dividing the amount the examiner is authorized by the
30 commissioner of insurance to charge per week by the number of days in
31 the regular workweek of the company or society being examined.

32 (b) (1) All of such compensation, expenses, the employer's share of
33 the federal insurance contributions act taxes, the employer's contribution to
34 the Kansas public employees retirement system as provided in K.S.A. 74-
35 4920, and amendments thereto, the self-insurance assessment for the

1 workers compensation act as provided in K.S.A. 44-576, and amendments
2 thereto, the employer's cost of the state health care benefits program under
3 K.S.A. 75-6507, and amendments thereto, a pro rata amount determined
4 by the commissioner to provide vacation and sick leave for the examiner
5 ~~not to exceed the number of days allowed state officers and employees in~~
6 ~~the classified service pursuant to regulations promulgated in accordance~~
7 ~~with the Kansas civil service act,~~ all **average and reasonable** outside
8 consulting and data processing fees necessary to perform any examination,
9 and ~~a~~ **an average and reasonable** pro rata amount determined by the
10 commissioner ~~not to exceed an annual aggregate of \$18,000~~ to fund the
11 purchase, maintenance and enhancement of examination equipment and
12 computer software shall be paid to the commissioner of insurance by the
13 insurance company or society so examined, on demand of the
14 commissioner.

15 (2) The amount paid for all *costs pursuant to paragraph (1)*, outside
16 consulting and data processing fees necessary to perform any financial
17 examination at any one company or society, including examination of such
18 company's or society's subsidiaries or any combination thereof, and the pro
19 rata amount to fund the purchase of examination equipment and computer
20 software shall not collectively total more than:

21 (A) \$50,000 for any insurance company or society ~~which~~ *that* has less
22 than ~~\$200,000,000~~ \$5,000,000 in gross premiums, both direct and
23 assumed, in the preceding calendar year; or

24 (B) ~~\$500,000 for any insurance company or society which has~~
25 ~~\$200,000,000 or more in gross premiums, both direct and assumed, in the~~
26 ~~preceding calendar year~~ \$75,000 for any insurance company or society *that*
27 *has at least \$5,000,000 but less than \$25,000,000 in gross premiums, both*
28 *direct and assumed, in the preceding calendar year;*

29 (C) \$100,000 for any insurance company or society *that has at least*
30 *\$25,000,000 but less than \$50,000,000 in gross premiums, both direct and*
31 *assumed, in the preceding calendar year;*

32 (D) \$125,000 for any insurance company or society *that has at least*
33 *\$50,000,000 but less than \$100,000,000 in gross premiums, both direct*
34 *and assumed, in the preceding calendar year;*

35 (E) \$175,000 for any insurance company or society *that has at least*
36 *\$100,000,000 but less than \$250,000,000 in gross premiums, both direct*
37 *and assumed, in the preceding calendar year;*

38 (F) \$250,000 for any insurance company or society *that has at least*
39 *\$250,000,000 but less than \$500,000,000 in gross premiums, both direct*
40 *and assumed, in the preceding calendar year; or*

41 (G) *the actual total costs paid in connection with the examination for*
42 *any insurance company or society that has at least \$500,000,000 in gross*
43 *premiums, both direct and assumed, in the preceding calendar year.*

1 (3) The amount paid ~~for all outside consulting and data processing~~
2 ~~fees necessary~~ to perform any market regulation examination at any one
3 company or society, including examination of such company's or society's
4 subsidiaries, or any combination thereof, and the pro rata amount to fund
5 the purchase of examination equipment and computer software shall *be*
6 *reasonable and* not collectively total more than \$25,000.

7 (c) Such demand shall be accompanied by the sworn statement of the
8 person making such examination, setting forth in separate items the
9 number of days necessarily and actually occupied in going to and returning
10 from the place of such examination, the number of days the examiners
11 were necessarily and actually engaged in making such examination
12 including those days within the regular workweek while the examination
13 was in progress and the company or society had closed for business, and
14 the necessary and actual expenses for traveling and subsistence, incurred
15 in and on account of such services.

16 (d) A duplicate of every such sworn statement shall be kept on file in
17 the office of the commissioner of insurance. All moneys so paid to the
18 commissioner of insurance shall be remitted to the state treasurer in
19 accordance with the provisions of K.S.A. 75-4215, and amendments
20 thereto. Upon receipt of each such remittance, the state treasurer shall
21 deposit the entire amount in the state treasury to the credit of the insurance
22 company examination fund. The state treasurer shall issue duplicate
23 receipts ~~therefor~~, one to be delivered to the commissioner of insurance and
24 the other to be filed with the director of accounts and reports.

25 **(e) As used in this section, "average and reasonable" relates to**
26 **the amounts or fees that are comparable to fees assessed by other**
27 **persons who have rendered similar services in the area where the**
28 **examination occurred.**

29 Sec. 2. K.S.A. 40-223 is hereby repealed.

30 Sec. 3. This act shall take effect and be in force from and after its
31 publication in the statute book.