

As Amended by House Committee

Session of 2024

SENATE BILL No. 356

By Committee on Financial Institutions and Insurance

1-17

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~~ **a, 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
36 workers compensation act as provided in K.S.A. 44-576, and amendments

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

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

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

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

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

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

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

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

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

43 (3) The amount paid ~~for all outside consulting and data processing~~

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

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

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

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

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

29 Sec. 3. This act shall take effect and be in force from and after its
30 publication in the ~~statute book~~ **Kansas register**.