

RCW 48.31B.035 Examination of insurers—Commissioner may order production of information—Failure to comply—Costs of examination.

(1) Subject to the limitation contained in this section and in addition to the powers that the commissioner has under chapter 48.03 RCW relating to the examination of insurers, the commissioner has the power to examine any insurer registered under RCW 48.31B.025 and its affiliates to ascertain the financial condition of the insurer, including the enterprise risk to the insurer by the ultimate controlling party, or by any entity or combination of entities within the insurance holding company system, or by the insurance holding company system on a consolidated basis.

(2) (a) The commissioner may order any insurer registered under RCW 48.31B.025 to produce such records, books, papers, or other information in the possession of the insurer or its affiliates as are reasonably necessary to determine compliance with this title.

(b) To determine compliance with this title, the commissioner may order any insurer registered under RCW 48.31B.025 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 other method. In the event the insurer cannot obtain the information requested by the commissioner, the insurer shall provide the commissioner 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 that the detailed explanation is without merit, the commissioner may require, after notice and hearing, the insurer to pay a fine of ten thousand dollars for each day's delay, or may suspend or revoke the insurer's license. The commissioner shall transfer the fine collected under this section to the state treasurer for deposit into the general fund.

(3) The commissioner may retain at the registered insurer's expense such attorneys, actuaries, accountants, and other experts not otherwise a part of the commissioner's staff as are reasonably necessary to assist in the conduct of the examination under subsection (1) of this section. Any persons so retained are under the direction and control of the commissioner and shall act in a purely advisory capacity.

(4) Notwithstanding the provisions under RCW 48.03.060, each registered insurer producing for examination records, books, and papers under subsection (1) of this section is liable for and must pay the expense of the examination.

(5) In the event the insurer fails to comply with an order, the commissioner has the power to examine the affiliates to obtain the information. The commissioner also has the power to issue subpoenas, to administer oaths, and to 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 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 is punishable as contempt of court. Every person is required to attend as a witness at the place specified in the subpoena, when subpoenaed, anywhere within the state. Every person is entitled to the same fees and mileage, if claimed, as a witness as provided in RCW 48.03.070. The fees, mileage, and other actual expenses, if any, necessarily incurred in securing the attendance of witnesses, and

their testimony, must be itemized and charged against, and be paid by, the company being examined. [2015 c 122 s 7; 1993 c 462 s 8.]

Effective dates—2015 c 122: See note following RCW 48.31B.005.