

304.2-260 Examination reports -- Distribution -- Hearing -- Order of commissioner -- Confidentiality -- Public inspection -- Regulatory action.

- (1) The commissioner shall deliver a copy of the examination report to the person examined, together with a notice affording the person twenty (20) days or additional reasonable period as the commissioner for good cause may allow within which to review the report and recommend changes therein.
- (2) If so requested by the person examined, within the period allowed under subsection (1) of this section, or if deemed advisable by the commissioner without a request, the commissioner shall hold a hearing relative to the report and shall not file the report in the department for public inspection until after the hearing and his order thereon, except that the commissioner may furnish a copy of the report to the Governor or Attorney General of the state pending final decision thereon.
- (3) If no hearing has been requested or held, the commissioner shall fully consider and review the report, together with any written submissions or rebuttals and any relevant portions of the examiner's workpapers and enter an order within sixty (60) days of the end of the period allowed under subsection (1) of this section. The order of the commissioner shall:
 - (a) Adopt the examination report as filed or with modifications or corrections. If the examination report reveals that the person is operating in violation of or has violated any law, administrative regulation, or prior order of the commissioner, the commissioner may order the person to take action to cure the violations and impose penalties as the commissioner considers necessary and appropriate; or
 - (b) Reject the examination report with directions to the examiners to reopen the examination for purposes of obtaining additional data, documentation, or information, and refiling as provided in KRS 304.2-250; or
 - (c) Call for a hearing for purposes of obtaining additional documentation, data, information, and testimony.
- (4) Upon entry of the commissioner's order, the examination report, with modifications, if any, thereof as the commissioner deems proper, shall be filed in the department for public inspection, except that the commissioner may withhold from public inspection any examination report for so long as he deems the withholding to be necessary for the protection of the person examined against unwarranted injury or to be in the public interest and except that the commissioner shall withhold from public inspection any examination report of a domestic insurer as provided in KRS 304.2-270.
- (5) An examination workpaper shall be deemed confidential information and shall not be available for public inspection, except that the commissioner may in the commissioner's discretion disclose an examination workpaper, the content of a preliminary examination report, examination results, or any other matter resulting to an examination report to the department of insurance of any other state or country, or to the National Association of Insurance Commissioners, or to law enforcement officials of this or any other state, or to an agency of this state or any other state or

the federal government at any time, if the agency or office receiving the report or matters relating to the report agrees in writing to hold the information confidential and in a manner consistent with this section.

- (6) The commissioner shall forward to the person examined a copy of the examination report as filed for public inspection, together with the order of the commissioner.
- (7) If the report concerns the examination of a domestic insurer, a copy of the report, when filed for public inspection, or if withheld from public inspection in accordance with KRS 304.2-270 or subsection (4) of this section, together with the order of the commissioner, shall be presented by the insurer's chief executive officer to the insurer's board of directors or similar governing body at a meeting thereof which shall be held within ninety (90) days next following receipt of the report and order. A copy of the report and order shall also be furnished by the secretary of the insurer, if incorporated, or by the attorney-in-fact if a reciprocal insurer, or Lloyd's plan insurer, to each member of the insurer's board of directors or board of governors, if a reciprocal insurer, or Lloyd's plan insurer, and the certificate of the secretary or attorney-in-fact, which shall be filed promptly with the department, that a copy of the examination report and order, has been so furnished shall be deemed to constitute knowledge of the contents of the report and order by each member.
- (8) The report when so filed in the department shall be admissible in evidence in any action or proceeding brought by the commissioner against the person examined, or against its officers, employees, or agents. In any action or proceeding brought by the commissioner, the commissioner or his examiners may, however, at any time testify and offer proper evidence as to information secured or matters discovered during the course of an examination, whether or not a written report of the examination has been either made, furnished, or filed in the department.
- (9) If the commissioner determines that regulatory action is appropriate as a result of an examination, he or she may initiate any proceedings or actions provided by law.

Effective: July 15, 2010

History: Amended 2010 Ky. Acts ch. 24, sec. 943, effective July 15, 2010. -- Amended 2008 Ky. Acts ch. 152, sec. 4, effective July 15, 2008. -- Amended 1994 Ky. Acts ch. 92, sec. 1, effective July 15, 1994. -- Created 1970 Ky. Acts ch. 301, subtit. 2, sec. 26, effective June 18, 1970.