

### **304.37-040 Examination by commissioner.**

- (1) Subject to the limitation contained in this section and in addition to the powers which the commissioner has under KRS Chapter 304 relating to the examination of insurers, the commissioner shall also have the power to:
  - (a) Examine an insurer registered under KRS 304.37-020 and its affiliates to ascertain the financial condition of the insurer, including the enterprise risk, to the insurer by:
    1. The ultimate controlling party;
    2. Any entity or combination of entities within the insurance holding company system; or
    3. The insurance holding company system on a consolidated basis;
  - (b) Order any insurer registered under KRS 304.37-020 to produce such records, books, or other information in the possession of the insurer or its affiliates as shall be necessary to determine compliance with this subtitle; and
  - (c) Order any insurer registered under KRS 304.37-020 to produce information not in the possession of the insurer if the insurer can obtain access to the information pursuant to contractual relationships, statutory obligations, or another 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. Failure of the insurer to provide the information without good cause may result in a civil penalty pursuant to KRS 304.99-020.
- (2) The commissioner shall exercise his or her power under subsection (1) of this section only if the examination of the insurer under KRS Chapter 304 is inadequate or the interests of the policyholders of such insurer may be adversely affected.
- (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 shall be reasonably necessary to assist in the conduct of the examination under subsection (1) of this section. Any persons so retained shall be under the direction and control of the commissioner and shall act in a purely advisory capacity.
- (4) Each registered insurer producing for examination records, books, and papers pursuant to subsection (1) of this section shall be liable for and shall pay the expense of such examination in accordance with the provisions of KRS Chapter 304.
- (5) If the insurer fails to comply with an order, the commissioner shall have the power to examine its affiliates to obtain the information, and may subpoena witnesses in accordance with KRS 304.2-340.

**Effective:** July 12, 2012

**History:** Amended 2012 Ky. Acts ch. 74, sec. 16, effective July 12, 2012. -- Amended 2010 Ky. Acts ch. 24, sec. 1475, effective July 15, 2010. -- Created 1972 Ky. Acts ch. 52, sec. 4, effective June 16, 1972.