

**Effective 10/1/2015**

**31A-16-107.5 Examination of registered insurers.**

- (1) Subject to the limitation contained in this section and the powers which the commissioner has under Chapter 2, Administration of the Insurance Laws, relating to the examination of insurers, the commissioner has the power to examine an insurer registered under Section 31A-16-105 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 the insurance holding company system on a consolidated basis.
- (2)
  - (a) The commissioner may order an insurer registered under Section 31A-16-105 to produce the records, books, or other information papers in the possession of the insurer or its affiliates as are reasonably necessary to determine compliance with this chapter.
  - (b) To determine compliance with this chapter, the commissioner may order an insurer registered under Section 31A-16-105 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 other methods.
  - (c) If an 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 the information.
  - (d) 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 penalty of \$5,000 for each day's delay, or may suspend or revoke the insurer's license.
- (3) The commissioner may retain, at the registered insurer's expense, attorneys, actuaries, accountants, and other experts not otherwise a part of the commissioner's staff, if they are necessary to assist in the conduct of the examination under Subsection (1). Any persons so retained are under the direction and control of the commissioner and shall act in a purely advisory capacity.
- (4) A registered insurer who produces records, books, and papers under Subsection (1) for examination is liable for and shall pay the expense of the examination under Section 31A-2-205.
- (5) If an insurer fails to comply with an order issued under this section, the commissioner may:
  - (a) examine the affiliates to obtain the information; or
  - (b) issue subpoenas, administer oaths, and examine under oath any person for purposes of determining compliance with this section.
- (6) Upon the failure or refusal of any person to obey a subpoena under Subsection (5), the commissioner may petition the Third District Court of Salt Lake County to enter an order compelling the witness to appear and testify or produce documentary evidence. A person shall be obliged to attend as a witness at the place specified in the subpoena, when subpoenaed, anywhere within the state. A person subpoenaed is entitled to the same fees and mileage, if claimed, as a witness in the Third District Court of Salt Lake County, which fees, mileage, and actual expense, if any, necessarily incurred in securing the attendance of witnesses, and their testimony, shall be itemized and charged against, and be paid by, the company being examined.

Renumbered and Amended by Chapter 244, 2015 General Session