



Ohio Revised Code

Section 3901.07 Examination of financial affairs of insurer.

Effective: August 8, 1991

Legislation: Senate Bill 137 - 119th General Assembly

(A) As used in this section, "insurer" means any person doing or authorized to do any insurance business in this state.

(B)(1) Before issuing any license to do the business of insurance in this state, the superintendent of insurance, or a person appointed by him, may examine the financial affairs of any insurer.

(2) The superintendent, or any person appointed by him, may examine, as often as he considers it desirable, the affairs of any insurer and of any person as to any matter relevant to the financial affairs of the insurer or to the examination.

(3) The superintendent, or any person appointed by him, shall examine each domestic insurer at least once every three years as to its condition, fulfillment of its contractual obligations, and compliance with applicable laws, provided that he may defer making the examination for a longer period not to exceed five years.

(C) In scheduling and determining the nature, scope, and frequency of any examination authorized or required by division (B) of this section, the superintendent shall consider such matters as the results of financial statement analyses and ratios, changes in management or ownership, actuarial opinions, reports of independent certified public accountants, and any other criteria he considers appropriate.

(D) The superintendent, in lieu of making any examination authorized or required by division (B) of this section, may accept the report of an examination of a foreign or alien insurer made and certified by the superintendent of insurance or other insurance supervisory official of the state or government of domicile or state of entry. The examination of an alien insurer shall be limited to its United States business except as otherwise required by the superintendent.

(E) Whenever the superintendent determines to examine the affairs of any insurer pursuant to any examination authorized or required by division (B) of this section, he shall appoint as examiners one



or more competent persons not employed by or interested in any insurer except as a policyholder. The superintendent shall instruct the examiners as to the scope of the examination.

Each examiner appointed under this division shall have convenient access at all reasonable hours to the books, records, files, securities, and other documents of the insurer, its managers, agents, or other persons that are relevant to the examination. The examiner may administer oaths and examine any person under oath as to any matter relevant to the affairs of the insurer or the examination.

(F) If the superintendent finds the accounts of an insurer being examined pursuant to any examination authorized or required by division (B) of this section to be inadequate or improperly kept or posted and if the insurer has been afforded a reasonable opportunity to correct the accounts, the superintendent may employ or require the insurer to employ experts to rewrite, post, or balance the accounts. The employment of experts under this division shall be at the expense of the insurer.

(G) In connection with any examination authorized or required by division (B) of this section, the superintendent may appoint one or more competent persons to appraise the real property of the insurer or any real property on which the insurer holds security.

(H) The examiner in charge of any examination authorized or required by division (B) of this section shall make a true report of the examination, verified under oath, that shall comprise only facts appearing upon the books, records, or other documents of the insurer or its agents or other persons examined, or as ascertained from the sworn testimony of its officers or agents or other persons examined concerning its affairs, and such conclusions and recommendations as may be reasonably warranted from those facts. The reports so verified shall be prima-facie evidence in any action or proceeding for the rehabilitation or liquidation of the insurer brought in the name of the state against the insurer or its officers or agents.

(I) The examined insurer, within thirty days after the postmark on the envelope in which the report was mailed, may file with the superintendent written objections to the report. The objections shall be attached to and made a part of the report, which then shall be placed in the files of the department of insurance as a public record.

(J)(1) The officers, directors, managers, employees, and agents of an insurer shall facilitate in every



way any examination authorized or required by division (B) of this section and, to the extent of their authority, aid the examiners and persons appointed or employed pursuant to divisions (E), (F), and (G) of this section in conducting the examination.

(2) No officer, director, manager, employee, or agent of an insurer shall do any of the following:

(a) Fail to comply with division (J)(1) of this section;

(b) Refuse, without just cause, to be examined under oath;

(c) Knowingly obstruct or interfere with an examiner or any person appointed or employed pursuant to division (E), (F), or (G) of this section in the exercise of his authority under this section.

(3) No insurer shall refuse to submit to an examination authorized or required by division (B) of this section. The superintendent, in accordance with Chapter 119. of the Revised Code, may suspend or revoke or refuse to issue or renew the license of any insurer that violates division (J)(3) of this section.

(K) Personnel conducting an examination shall be compensated for each day or portion thereof worked at the rates provided in the examiners' handbook published by the national association of insurance commissioners or the rates applicable to such personnel under section 124.15 or 124.152 of the Revised Code, whichever are higher. Such personnel shall also be reimbursed for their travel and living expenses at rates not to exceed the rates provided in the examiners' handbook published by the association. Personnel who are appointed by the superintendent, but are not employees of the department of insurance, shall be compensated for their work and travel and living expenses at reasonable and customary rates.

(L) If an examination is made of any insurer, the expenses thereof shall be paid by the insurer.

The superintendent shall provide each insurer with an itemized statement of the expenses incurred in the performance of the examination functions authorized or required by this section. Upon receipt of the superintendent's statement, the insurer shall remit the amount thereof to the superintendent who shall remit to the treasurer of state pursuant to section 3901.071 of the Revised Code for deposit in



the superintendent's examination fund.

(M) As used in this section, "expenses" means:

(1) The entire compensation for each day or portion thereof worked by all personnel, including those who are not employees of the department of insurance, in:

(a) The conduct of such examination calculated at the rates provided in the examiners' handbook published by the national association of insurance commissioners;

(b) The review and analysis of the annual and any interim financial statements of insurers licensed in this state;

(c) The ongoing evaluation and monitoring of the financial affairs of licensed insurers;

(d) The preparation of the premium or franchise tax liability of licensed insurers;

(e) The review and evaluation of foreign and alien insurers seeking a license in this state;

(f) A portion of the training and continuing education costs of examiners.

(2) Travel and living expenses of all personnel, including those who are not employees of the department, directly engaged in the conduct of such examination calculated at rates not to exceed the rates provided in the examiners' handbook published by the association;

(3) All other incidental expenses incurred by or on behalf of such personnel in the conduct of such examination;

(4) An allocated share of all expenses not paid as described in division (M)(1), (2), or (3) of this section that are necessarily incurred in carrying out the duties of the superintendent under this section, including the expenses of direct overhead and support staff for the examiners and persons appointed or employed pursuant to divisions (E), (F), and (G) of this section.