

SENATE BILL No. 356

By Committee on Financial Institutions and Insurance

1-17

Proposed Amendment to SB 356
House Committee on Insurance
Office of Revisor of Statutes
March 4, 2024

1 AN ACT concerning insurance; relating to examinations; requiring that
2 insurance examiner per diem amounts and expenses, outside consulting
3 and data processing fees and pro rata funding for examination
4 equipment and software be reasonable; establishing a tiered fee
5 structure for examinations of insurance companies and societies based
6 on gross premiums; amending K.S.A. 40-223 and repealing the existing
7 section.
8

9 *Be it enacted by the Legislature of the State of Kansas:*

10 Section 1. K.S.A. 40-223 is hereby amended to read as follows: 40-
11 223. (a) (1) Except as provided in K.S.A. 40-110 and 40-253, and
12 amendments thereto, any person who makes any examination under the
13 provisions of this act may receive, as full compensation for such person's
14 services, on a per diem basis ~~an a~~ *reasonable* amount fixed by the
15 commissioner, ~~which that~~ shall not exceed the amount recommended by
16 the national association of insurance commissioners, for such time
17 necessarily and actually occupied in going to and returning from the place
18 of such examination and for such time the examiner is necessarily and
19 actually engaged in making such examination including any day within the
20 regular workweek when the examiner would have been so engaged had the
21 company or society been open for business, together with such *reasonably*
22 necessary and actual expenses for traveling and subsistence as the
23 examiner shall incur because of the performance of such services.

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24 (2) For the purposes of this act, "necessary and actual expenses" shall
25 be limited, whether for travel within the state or travel outside the state, to
26 those limitations expressed in K.S.A. 75-3207, and amendments thereto,
27 ~~which that~~ pertain to official travel outside the state. The daily charge shall
28 be calculated by dividing the amount the examiner is authorized by the
29 commissioner of insurance to charge per week by the number of days in
30 the regular workweek of the company or society being examined.

31 (b) (1) All of such compensation, expenses, the employer's share of
32 the federal insurance contributions act taxes, the employer's contribution to
33 the Kansas public employees retirement system as provided in K.S.A. 74-
34 4920, and amendments thereto, the self-insurance assessment for the
35 workers compensation act as provided in K.S.A. 44-576, and amendments
36 thereto, the employer's cost of the state health care benefits program under

1 K.S.A. 75-6507, and amendments thereto, a pro rata amount determined
 2 by the commissioner to provide vacation and sick leave for the examiner
 3 ~~not to exceed the number of days allowed state officers and employees in~~
 4 ~~the classified service pursuant to regulations promulgated in accordance~~
 5 ~~with the Kansas civil service act, all reasonable~~ outside consulting and
 6 data processing fees necessary to perform any examination, and ~~a~~
 7 ~~reasonable~~ pro rata amount determined by the commissioner ~~not to exceed~~
 8 ~~an annual aggregate of \$18,000~~ to fund the purchase, maintenance and
 9 enhancement of examination equipment and computer software shall be
 10 paid to the commissioner of insurance by the insurance company or
 11 society so examined, on demand of the commissioner.

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12 (2) The amount paid for all *costs pursuant to paragraph (1)*, outside
 13 consulting and data processing fees necessary to perform any financial
 14 examination at any one company or society, including examination of such
 15 company's or society's subsidiaries or any combination thereof, and the pro
 16 rata amount to fund the purchase of examination equipment and computer
 17 software shall not collectively total more than:

18 (A) \$50,000 for any insurance company or society ~~which~~ *that* has less
 19 than ~~\$200,000,000~~ \$5,000,000 in gross premiums, both direct and
 20 assumed, in the preceding calendar year; or

21 (B) ~~\$500,000 for any insurance company or society which has~~
 22 ~~\$200,000,000 or more in gross premiums, both direct and assumed, in the~~
 23 ~~preceding calendar year~~ \$75,000 for any insurance company or society *that*
 24 *has at least \$5,000,000 but less than \$25,000,000 in gross premiums, both*
 25 *direct and assumed, in the preceding calendar year;*

26 (C) \$100,000 for any insurance company or society *that has at least*
 27 *\$25,000,000 but less than \$50,000,000 in gross premiums, both direct and*
 28 *assumed, in the preceding calendar year;*

29 (D) \$125,000 for any insurance company or society *that has at least*
 30 *\$50,000,000 but less than \$100,000,000 in gross premiums, both direct*
 31 *and assumed, in the preceding calendar year;*

32 (E) \$175,000 for any insurance company or society *that has at least*
 33 *\$100,000,000 but less than \$250,000,000 in gross premiums, both direct*
 34 *and assumed, in the preceding calendar year;*

35 (F) \$250,000 for any insurance company or society *that has at least*
 36 *\$250,000,000 but less than \$500,000,000 in gross premiums, both direct*
 37 *and assumed, in the preceding calendar year; or*

38 (G) *the actual total costs paid in connection with the examination for*
 39 *any insurance company or society that has at least \$500,000,000 in gross*
 40 *premiums, both direct and assumed, in the preceding calendar year.*

41 (3) The amount paid ~~for all outside consulting and data processing~~
 42 ~~fees necessary~~ to perform any market regulation examination at any one
 43 company or society, including examination of such company's or society's

1 subsidiaries, or any combination thereof, and the pro rata amount to fund
2 the purchase of examination equipment and computer software shall *be*
3 *reasonable and* not collectively total more than \$25,000.

4 (c) Such demand shall be accompanied by the sworn statement of the
5 person making such examination, setting forth in separate items the
6 number of days necessarily and actually occupied in going to and returning
7 from the place of such examination, the number of days the examiners
8 were necessarily and actually engaged in making such examination
9 including those days within the regular workweek while the examination
10 was in progress and the company or society had closed for business, and
11 the necessary and actual expenses for traveling and subsistence, incurred
12 in and on account of such services.

13 (d) A duplicate of every such sworn statement shall be kept on file in
14 the office of the commissioner of insurance. All moneys so paid to the
15 commissioner of insurance shall be remitted to the state treasurer in
16 accordance with the provisions of K.S.A. 75-4215, and amendments
17 thereto. Upon receipt of each such remittance, the state treasurer shall
18 deposit the entire amount in the state treasury to the credit of the insurance
19 company examination fund. The state treasurer shall issue duplicate
20 receipts therefor, one to be delivered to the commissioner of insurance and
21 the other to be filed with the director of accounts and reports.

22 Sec. 2. K.S.A. 40-223 is hereby repealed.

23 Sec. 3. This act shall take effect and be in force from and after its
24 publication in the ~~statute book~~

Kansas register

(e) As used in this section, "average and reasonable" relates to the amounts or fees that are comparable to fees assessed by other persons who have rendered similar services in the area where the examination occurred.