60D.21 EXAMINATION.

Subdivision 1. **Power of commissioner.** Subject to the limitation contained in this section and in addition to the powers that the commissioner has under chapter 60A relating to the examination of insurers, the commissioner shall also have the power to examine an insurer registered under section 60D.19 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 an entity or combination of entities within the insurance holding company system, or by the insurance holding company system on a consolidated basis.

Subd. 1a. **Access to books and records.** (a) The commissioner may order an insurer registered under section 60D.19 to produce the records, books, or other information papers in the possession of the insurer or its affiliates that are reasonably necessary to determine compliance with sections 60D.15 to 60D.29.

(b) To determine compliance with sections 60D.15 to 60D.29, the commissioner may order an insurer registered under section 60D.19 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 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 the information. 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.

Subd. 2. **Use of consultants.** The commissioner may retain at the registered insurer's expense the attorneys, actuaries, accountants, and other experts not otherwise a part of the commissioner's staff that are reasonably necessary to assist in the conduct of the examination under subdivision 1. Any person so retained shall be under the direction and control of the commissioner and shall act in a purely advisory capacity.

Subd. 3. **Expenses.** Each registered insurer producing for examination records, books, and papers pursuant to subdivision 1 is liable for and shall pay the expense of the examination in accordance with section 60A.03.

Subd. 4. **Compelling production.** In the event the insurer fails to comply with an order, the commissioner may examine the affiliates to obtain the information. The commissioner may also issue subpoenas, administer oaths, and to examine under oath any person for purposes of determining compliance with this section. Upon the failure or refusal of a person to obey a subpoena, the commissioner may petition a court of competent jurisdiction, and upon proper showing, the court may enter an order compelling the witness to appear and testify or produce documentary evidence. Failure to obey the court order is punishable as contempt of court. Every person is obliged to attend as a witness at the place specified in the subpoena, when subpoenaed, anywhere within the state. The person is entitled to the same fees and mileage, if claimed, as a witness in district court. The fees, mileage, and actual expense, if any, necessarily incurred in securing the attendance of witnesses and their testimony, must be itemized and charged against, and be paid by, the company being examined.

History: *1991 c 325 art 14 s 8; 2014 c 198 art 5 s 18-20*