

As Amended by House Committee

Session of 2024

SENATE BILL No. 356

By Committee on Financial Institutions and Insurance

1-17

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~~ **an average and reasonable** amount  
15 fixed by the commissioner, ~~which~~ **that** shall not exceed the amount  
16 recommended by the national association of insurance commissioners, for  
17 such time necessarily and actually occupied in going to and returning from  
18 the place of such examination and for such time the examiner is  
19 necessarily and actually engaged in making such examination including  
20 any day within the regular workweek when the examiner would have been  
21 so engaged had the company or society been open for business, together  
22 with such *reasonably* necessary and actual expenses for traveling and  
23 subsistence as the examiner shall incur because of the performance of such  
24 services.

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

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

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

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

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

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

28 (C) \$100,000 for any insurance company or society that has at least  
29 \$25,000,000 but less than \$50,000,000 in gross premiums, both direct and  
30 assumed, in the preceding calendar year;

31 (D) \$125,000 for any insurance company or society that has at least  
32 \$50,000,000 but less than \$100,000,000 in gross premiums, both direct  
33 and assumed, in the preceding calendar year;

34 (E) \$175,000 for any insurance company or society that has at least  
35 \$100,000,000 but less than \$250,000,000 in gross premiums, both direct  
36 and assumed, in the preceding calendar year;

37 (F) \$250,000 for any insurance company or society that has at least  
38 \$250,000,000 but less than \$500,000,000 in gross premiums, both direct  
39 and assumed, in the preceding calendar year; or

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

43 (3) The amount paid ~~for all outside consulting and data processing~~

1 ~~fees necessary~~ to perform any market regulation examination at any one  
2 company or society, including examination of such company's or society's  
3 subsidiaries, or any combination thereof, and the pro rata amount to fund  
4 the purchase of examination equipment and computer software shall *be*  
5 *reasonable and* not collectively total more than \$25,000.

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

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

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

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

29 Sec. 3. This act shall take effect and be in force from and after its  
30 publication in the ~~statute book~~ **Kansas register**.