



Ohio Revised Code

Section 3901.35 Requiring production of records.

Effective: September 4, 2014

Legislation: Senate Bill 140 - 130th General Assembly

(A)(1) In addition to the powers that the superintendent has under sections 3901.01 to 3901.31 of the Revised Code, relating to the examination of insurers, the superintendent of insurance, subject to sections 119.01 to 119.13 of the Revised Code, shall also have the power to examine any insurer registered under section 3901.33 of the Revised Code 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 any entity or combination of entities within the insurance holding company system, or by the insurance holding company system on a consolidated basis.

(2) The superintendent of insurance may order any insurer registered under section 3901.33 of the Revised Code to produce such records, books, or other information papers in the possession of the insurer and its affiliates as may be reasonably necessary to determine compliance with sections 3901.32 to 3901.37 of the Revised Code.

(3) To determine compliance with sections 3901.32 to 3901.37 of the Revised Code, the superintendent may order any insurer registered under section 3901.33 of the Revised Code to produce information not in the possession of the insurer if the insurer can obtain access to such information pursuant to a contractual relationship, statutory obligation, or other method. If the insurer cannot obtain the information requested by the superintendent, the insurer shall provide the superintendent a detailed explanation of the reason that the insurer cannot obtain the information and the identity of the holder of information. Whenever it appears to the superintendent that the detailed explanation is without merit, the superintendent may require, after notice and hearing, that the insurer pay a penalty of up to five hundred dollars per day, or the superintendent may suspend or revoke the insurer's license.

(B) The superintendent may retain at the registered insurer's expense such attorneys, actuaries, accountants, and other experts not otherwise a part of the superintendent's staff as shall be reasonably necessary to assist in the conduct of the examination under division (A) of this section. Any persons so retained shall be under the direction and control of the superintendent and shall act



in a purely advisory capacity.

(C) Each registered insurer producing for examination records, books, and papers pursuant to division (A) of this section shall be liable for and shall pay the expense of such examination in accordance with section 3901.07 of the Revised Code.

(D) If the insurer fails to comply with an order issued pursuant to this section, the superintendent may examine the affiliates to obtain the information. The superintendent also may issue subpoenas, administer oaths, and examine under oath any person for purposes of determining compliance with this section. Upon the failure or refusal of any person to obey a subpoena, the superintendent may petition the court of common pleas of Franklin county for an order compelling the witness to appear and testify or produce documentary evidence. Failure to obey the court order shall be punishable as contempt of court. A person who receives a subpoena issued pursuant to this division shall appear as a witness at the place specified in the subpoena within the state. The person is entitled to the same fees and mileage as a witness in a civil action in the court of common pleas. Any fees, mileage, or actual expenses necessarily incurred in securing the attendance of a witness and their testimony shall be itemized and charged against the insurer being examined.