

§223. Conduct of examination; access to records; correction

1. Whenever the superintendent determines to examine the affairs of any person, the superintendent shall designate one or more examiners and instruct them as to the scope of the examination. The superintendent may designate a bureau employee or may designate an examiner outside the bureau who has been retained pursuant to section 208. Examiners may be attorneys, appraisers, independent actuaries, independent certified public accountants or other professionals and specialists with skills relevant to the examination. The examiner shall, upon demand, exhibit the examiner's official credentials to the person under examination.

A. An examiner may not be designated by the superintendent if the examiner directly or indirectly has a conflict of interest or is affiliated with the management of or owns a pecuniary interest in any person subject to examination under sections 221 and 222. This section may not be construed to preclude automatically an examiner from being:

- (1) A policyholder or claimant under an insurance policy;
- (2) A grantor of a mortgage or similar instrument on the examiner's residence to a regulated entity if done under customary terms and in the ordinary course of business;
- (3) An investment owner in shares of regulated diversified investment companies; or
- (4) A settlor or beneficiary of a "blind trust" into which any otherwise impermissible holdings have been placed. [PL 1991, c. 828, §7 (NEW).]

[PL 2017, c. 169, Pt. B, §11 (AMD).]

2. The superintendent shall conduct each examination in an expeditious, fair and impartial manner, consistent with current guidelines and procedures adopted from time to time by the National Association of Insurance Commissioners and published in its Financial Condition Examiners Handbook or Market Regulation Handbook, as applicable, or their successor publications.

[PL 2017, c. 169, Pt. B, §12 (AMD).]

3. Upon any such examination, the superintendent, or the examiner if specifically so authorized in writing by the superintendent, shall have power to administer oaths, and to examine under oath any individual as to any matter relevant to the affairs under examination or relevant to the examination.

[PL 1969, c. 132, §1 (NEW); PL 1973, c. 585, §12 (AMD).]

4. Every person being examined, its officers, attorneys, employees, agents and representatives shall make freely available to the superintendent or designated examiners the accounts, records, documents, files, information, assets and matters of that person in that person's possession or control relating to the subject of the examination and shall facilitate the examination. The refusal of any insurer to submit to examination is grounds for revocation or refusal of a license or renewal license.

[PL 1991, c. 828, §8 (AMD).]

5. If the superintendent or examiner finds any accounts or records to be inadequate, or inadequately kept or posted, the superintendent may employ experts to reconstruct, rewrite, post or balance them at the expense of the person being examined, if such person has failed to maintain, complete or correct such records or accounting after the superintendent or examiner has given such person written notice and a reasonable opportunity to do so.

[RR 2021, c. 1, Pt. B, §166 (COR).]

6. Neither the superintendent nor any examiner shall remove any record, account, document, file or other property of the person being examined from the offices or place of such person, except with the written consent of such person in advance of such removal or pursuant to an order of court duly obtained. This provision shall not be deemed to affect the making and removal of copies or abstracts of any such record, account, document, or file.

[PL 1969, c. 132, §1 (NEW); PL 1973, c. 585, §12 (AMD).]

7. Any individual who refuses without just cause to be examined under oath or who willfully obstructs or interferes with the examiners in the exercise of their authority pursuant to this section shall, upon conviction thereof, be subject to a fine of not more than \$2,500 or imprisonment for less than a year, or by both.

[PL 1969, c. 132, §1 (NEW).]

SECTION HISTORY

PL 1969, c. 132, §1 (NEW). PL 1973, c. 585, §12 (AMD). PL 1991, c. 828, §§7,8 (AMD). PL 1993, c. 313, §14 (AMD). PL 2017, c. 169, Pt. B, §§11, 12 (AMD). RR 2021, c. 1, Pt. B, §166 (COR).

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