

60-3353. Same; in camera review; procedure. (a) Within 30 days after the commissioner, attorney general, or a county or district attorney serves on an insurance company a written request by certified mail for disclosure of an insurance compliance self-evaluative audit document under this subsection, the insurance company that prepared or caused the document to be prepared may file with the appropriate court a petition requesting an in camera hearing on whether the insurance compliance self-evaluative audit document or portions of the document are privileged under this act or subject to disclosure. The court has jurisdiction over a petition filed by any insurance company under this section requesting an in camera hearing on whether the insurance compliance self-evaluative audit document or portions of the document are privileged or subject to disclosure. Failure by the insurance company to file a petition waives the privilege for this request only.

(b) Any insurance company asserting the insurance compliance self-evaluative privilege in response to a request for disclosure under this subsection shall include in its request for an in camera hearing all of the information set forth in subsection (e) of this section.

(c) Upon the filing of a petition under this section, the court shall issue an order scheduling, within 45 days after the filing of the petition, an in camera hearing to determine whether the insurance compliance self-evaluative audit document or portions of the document are privileged under this act or subject to disclosure.

(d) After an in camera review, the court may require disclosure of material for which the privilege in K.S.A. 60-3351, and amendments thereto, is asserted if the court determines, based upon its in camera review, that any one of the conditions set forth in paragraphs (1) and (2) of subsection (b) of K.S.A. 60-3352, and amendments thereto, is applicable as to a civil or administrative proceeding or that any one of the conditions set forth in paragraphs (1) through (3) of subsection (c) of K.S.A. 60-3352 and amendments thereto, is applicable as to a criminal proceeding. Upon making such a determination, the court may only compel the disclosure of those portions of an insurance compliance self-evaluative audit document relevant to issues in dispute in the underlying proceeding. Any compelled disclosure will not be considered to be a public document or be deemed to be a waiver of the privilege for any other civil, criminal or administrative proceeding. A party unsuccessfully opposing disclosure may apply to the court for an appropriate order protecting the document from further disclosure.

(e) At the time of filing any objection to the disclosure, any insurance company asserting the insurance compliance self-evaluative privilege in response to a request for disclosure under this section shall provide to the commissioner, attorney general, or a county or district attorney, all of the following information:

- (1) The date of the insurance compliance self-evaluative audit document.
- (2) The identity of the entity conducting the audit.
- (3) The general nature of the activities covered by the insurance compliance audit.
- (4) An identification of the portions of the insurance compliance self-evaluative audit document for which the privilege is being asserted.

History: L. 2005, ch. 148, § 3; July 1.