

In subsection (d)(1) of this section, the former phrase "if claimed", which modified "witness fees and mileage", is deleted as unnecessary in light of subsection (d)(2) of this section.

Also in subsection (d)(1) of this section, the former reference to a "circuit" court is deleted as unnecessary since witness fees for attending court apply to any court. See CJ § 9-202.

The Insurance Article Review Committee notes, for consideration by the General Assembly, that subsection (b)(3) of this section differs from most comparable provisions of the Code because it requires a circuit court to enforce a subpoena of the Commissioner rather than making enforcement by the circuit court discretionary. Most comparable provisions of the Code make enforcement of a subpoena issued by an administrative unit discretionary in light of the normal prerogatives of a court. See, e.g., BOP § 16-209(a)(4), BR § 1-203(a), and SP § 2-110B.

The Committee also notes that it is unclear who is responsible for paying witness fees, mileage, and expenses under subsection (d)(2)(i) of this section if the person being examined is found not to have violated the law. Similarly, it is unclear who is responsible for paying witness fees, mileage, and expenses under subsection (d)(2)(ii) of this section if the Commissioner requests a hearing. The General Assembly may wish to consider clarifying who is responsible for payment under these circumstances.

Defined terms: "Commissioner" § 1-101

"County" § 1-101

"Person" § 1-101

2-204. ORDERS AND NOTICES.

(A) FORM.

AN ORDER OR NOTICE OF THE COMMISSIONER MUST BE IN WRITING AND SIGNED BY THE COMMISSIONER OR AN INDIVIDUAL AUTHORIZED BY THE COMMISSIONER.

(B) CONTENTS OF ORDER.

(1) AN ORDER OF THE COMMISSIONER SHALL STATE:

(I) ITS EFFECTIVE DATE;

(II) ITS PURPOSE;

(III) THE GROUNDS ON WHICH IT IS BASED; AND

(IV) THE PROVISIONS OF THIS ARTICLE UNDER WHICH ACTION IS OR PROPOSED TO BE TAKEN.

(2) FAILURE TO DESIGNATE A PARTICULAR PROVISION OF THIS ARTICLE IN ACCORDANCE WITH PARAGRAPH (1)(IV) OF THIS SUBSECTION DOES NOT DEPRIVE THE COMMISSIONER OF THE RIGHT TO RELY ON THAT PROVISION.