

## 2012 Kansas Statutes

**40-3311. Violations of act; penalties.** (a) Every director or officer of an insurance holding company system who knowingly violates, participates in, or assents to, or who knowingly shall permit any of the officers or agents of the insurer to engage in transactions or make investments which have not been properly reported or submitted pursuant to subsection (a) of K.S.A. 40-3305 or subsections (c) or (d) of K.S.A. 40-3306 and amendments thereto, or which otherwise violates this act, shall pay, in such directors' or officers' individual capacity, a civil forfeiture of not more than \$5,000 per violation, after notice and hearing before the commissioner. In determining the amount of the civil forfeiture, the commissioner shall take into account the appropriateness of the forfeiture with respect to the gravity of the violation, the history of previous violations, and such other matters as justice may require.

(b) Whenever it appears to the commissioner that any insurer subject to this act or any director, officer, employee or agent thereof has engaged in any transaction or entered into a contract which is subject to K.S.A. 40-3306 and amendments thereto and which would not have been approved had such approval been requested, the commissioner may order the insurer to cease and desist immediately any further activity under that transaction or contract. After notice and hearing the commissioner may also order the insurer to void any such contracts and restore the status quo if such action is in the best interest of the policyholders, creditors or the public.

(c) Whenever it appears to the commissioner that any insurer or any director, officer, employee or agent thereof has committed a willful violation of this act, the commissioner may cause criminal proceedings to be instituted by the district court for the county in which the principal office of the insurer is located or if such insurer has no such office in this state, then by the district court for Shawnee county against such insurer or the responsible director, officer, employee or agent thereof. Any insurer which willfully violates this act may be fined not more than \$50,000. Any individual who willfully violates this act may be fined in individual capacity not more than \$10,000 or, be imprisoned for not more than one to three years, or both.

(d) Any officer, director or employee of an insurance holding company system who knew or reasonably should have known they were subscribing to or making or causing to be made any false statements, false reports or false filings with the intent to deceive the commissioner in the performance of duties under this act, upon conviction thereof, shall be imprisoned for not more than five to 10 years or fined \$100,000, or both. Any fines imposed shall be paid by the officer, director or employee in such person's individual capacity.

**History:** L. 1974, ch. 183, § 11; L. 1976, ch. 217, § 3; L. 1991, ch. 138, § 6; L. 1992, ch. 288, § 7; L. 1997, ch. 24, § 6; July 1.