

44-342. Same; termination of contractual relationship; penalty and interest for nonpayment, when. (a) Subject to the provisions of subsection (d), whenever a principal discharges a commission salesperson or whenever a commission salesperson quits or resigns, the principal shall pay, at the usual place of payment, the commission salesperson's commissions earned through the last day of the contractual relationship not later than 30 days after the last day of the contractual relationship or by mail postmarked within that period.

(b) If a principal knowingly fails to pay a commission salesperson any earned commission as required by subsection (a), such principal shall be liable therefor and shall be additionally liable for damages in the fixed amount of 1% of the unpaid earned commissions for each day, except Sunday and legal holidays, upon which such failure continues after the day upon which payment is required by subsection (a) or in an amount equal to the unpaid earned commissions, whichever is less. For the purpose of such additional damages, the failure to pay shall not be deemed to continue after the date of the filing of a petition in bankruptcy with respect to the principal if such principal is adjudicated bankrupt upon such petition.

(c) If a principal fails to pay a commission salesperson any earned commission as required by subsection (a), such principal may be assessed interest as provided under K.S.A. 16-201, and amendments thereto, on such commissions from the date such commissions are required to be paid pursuant to subsection (a).

(d) Notwithstanding the provisions of subsection (a), if the terminated or resigning commission salesperson was entrusted with the collection, disbursement or handling of money or property during the contractual relationship, such person has 10 days after the termination of the contractual relationship to audit and adjust the accounts of such commission salesperson before the 30-day period required for payment of commissions earned through the last day of the contractual relationship begins. In such cases, the penalty provided in subsection (b) shall apply only after the expiration of the 10-day audit period and the 30-day period required under this subsection.

History: L. 1987, ch. 185, § 2; July 1.