2016 Kansas Statutes

84-9-625.   Judicial remedies for secured party noncompliance; damages. (a) **Judicial orders concerning noncompliance.** If it is established that a secured party is not proceeding in accordance with this article, a court may order or restrain collection, enforcement, or disposition of collateral on appropriate terms and conditions.

(b)   **Damages for noncompliance.** Subject to subsections (c), (d) and (f), a person is liable for damages in the amount of any loss caused by a failure to comply with this article. Loss caused by a failure to comply may include loss resulting from the debtor's inability to obtain, or increased costs of, alternative financing.

(c)   **Persons entitled to recover damages; statutory damages if collateral is consumer goods.** Except as otherwise provided in K.S.A. 2016 Supp. 84-9-628, and amendments thereto:

(1)   A person that, at the time of the failure, was a debtor, was an obligor, or held a security interest in or other lien on the collateral may recover damages under subsection (b) for its loss; and

(2)   if the collateral is consumer goods, a person that was a debtor or a secondary obligor at the time a secured party failed to comply with this part may recover for that failure in any event an amount not less than the credit service charge plus 10% of the principal amount of the obligation or the time-price differential plus 10% of the cash price.

(d)   **Recovery when deficiency eliminated or reduced.** A debtor whose deficiency is eliminated under K.S.A. 2016 Supp. 84-9-626, and amendments thereto, may recover damages for the loss of any surplus. However, a debtor or secondary obligor whose deficiency is eliminated or reduced under K.S.A. 2016 Supp. 84-9-626, and amendments thereto, may not otherwise recover under subsection (b) for noncompliance with the provisions of this part relating to collection, enforcement, disposition, or acceptance.

(e)   **Statutory damages: Noncompliance with specified provisions.** In addition to any damages recoverable under subsection (b), the debtor, consumer obligor, or person named as a debtor in a filed record, as applicable, may recover $500 in each case from a person that:

(1)   Fails to comply with K.S.A. 2016 Supp. 84-9-208, and amendments thereto;

(2)   fails to comply with K.S.A. 2016 Supp. 84-9-209, and amendments thereto;

(3)   files a record that the person is not entitled to file under K.S.A. 2016 Supp. 84-9-509(a), and amendments thereto;

(4)   fails to cause the secured party of record to file or send a termination statement as required by K.S.A. 2016 Supp. 84-9-513(a) or (c), and amendments thereto;

(5)   fails to comply with K.S.A. 2016 Supp. 84-9-616(b)(1), and amendments thereto, and whose failure is part of a pattern, or consistent with a practice, of noncompliance; or

(6)   fails to comply with K.S.A. 2016 Supp. 84-9-616(b)(2), and amendments thereto.

(f)   **Statutory damages: Noncompliance with K.S.A. 2016 Supp. 84-9-210, and amendments thereto.** A debtor or consumer obligor may recover damages under subsection (b) and, in addition, $500 in each case from a person that, without reasonable cause, fails to comply with a request under K.S.A. 2016 Supp. 84-9-210, and amendments thereto. A recipient of a request under K.S.A. 2016 Supp. 84-9-210, and amendments thereto, which never claimed an interest in the collateral or obligations that are the subject of a request under that section has a reasonable excuse for failure to comply with the request within the meaning of this subsection.

(g)   **Limitation of security interest: Noncompliance with K.S.A. 2016 Supp. 84-9-210, and amendments thereto.** If a secured party fails to comply with a request regarding a list of collateral or a statement of account under K.S.A. 2016 Supp. 84-9-210, and amendments thereto, the secured party may claim a security interest only as shown in the list or statement included in the request as against a person that is reasonably misled by the failure.

History: L. 2000, ch. 142, § 123; L. 2002, ch. 159, § 24; L. 2012, ch. 84, § 17; July 1, 2013.