

2012 Kansas Statutes

84-9-625. Remedies for secured parties; failure to comply with article. [See Revisor's Note] (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 in consumer-goods transaction.** Except as otherwise provided in K.S.A. 2012 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 percent of the principal amount of the obligation or the time-price differential plus 10 percent of the cash price.

(d) **Recovery when deficiency eliminated or reduced.** A debtor whose deficiency is eliminated under K.S.A. 2012 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. 2012 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. 2012 Supp. 84-9-208, and amendments thereto;

(2) fails to comply with K.S.A. 2012 Supp. 84-9-209, and amendments thereto;

(3) files a record that the person is not entitled to file under K.S.A. 2012 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. 2012 Supp. 84-9-513(a) or (c), and amendments thereto;

(5) fails to comply with K.S.A. 2012 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. 2012 Supp. 84-9-616(b)(2), and amendments thereto.

(f) **Statutory damages: Noncompliance with K.S.A. 2012 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. 2012 Supp. 84-9-210, and amendments thereto. A recipient of a request under K.S.A. 2012 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. 2012 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. 2012 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; May 23.

Revisor's Note:

CAUTION: Section was amended effective July 1, 2013, see L. 2012, ch. 84, § 17.