

58-3069. Same; court order directing payment from, when; hearing; recovery limitation; attorney fees. (a) Any person who meets all of the conditions prescribed by subsection (b) of K.S.A. 58-3068 and amendments thereto, except where the court finds compliance not reasonable or practicable pursuant to subsection (b), may apply to the court in which the judgment was rendered for an order directing the real estate commission to cause payment to be made to such person from the real estate recovery revolving fund. At the time the application is made, the court shall cause notice thereof to be given to the director of the commission, stating the time set by the court for a hearing thereon, which shall not be less than 10 nor more than 30 days after the application is filed.

(b) At the hearing, the claimant shall appear and present such proof and evidence as the court may require to establish the claimant's right to recovery from the real estate recovery revolving fund, and the director of the commission may appear, in person or by counsel, and present evidence or testimony with respect thereto. Upon the hearing, the court may enter an order directing the director of the commission to cause payment to be made to the claimant from the real estate recovery revolving fund if the court determines that:

(1) The claimant meets all of the conditions prescribed by subsection (b) of K.S.A. 58-3068 and amendments thereto; or
(2) compliance with subsection (b)(4), (5) or (6) of K.S.A. 58-3068 and amendments thereto is not reasonable or practicable and the claimant is otherwise qualified and has pursued all reasonable means to collect the amount of the judgment or the unsatisfied portion thereof.

(c) The recovery allowed a claimant hereunder shall be the lesser of:

(1) An amount equal to that part of the unsatisfied portion of the judgment which reflects actual or compensatory damages plus the amount of any reasonable attorney fees incurred by the claimant in effecting recovery hereunder; or
(2) \$15,000.

History: L. 1980, ch. 164, § 36; L. 1981, ch. 304, § 5; L. 1986, ch. 210, § 4; July 1.