

40-37a06. Failure to comply with law, remedies for benefit of insurer; rights of policyholders, claimants, creditors and other third parties unaffected. (a) (1) If the commissioner believes the controlling producer or any other person has not complied with this act, or any regulation or order promulgated hereunder, the commissioner may, after a hearing conducted under the provisions of the Kansas administrative procedures act, order the controlling producer to cease placing business with the controlled insurer; and

(2) if it was found that because of such noncompliance, the controlled insurer or any policyholder thereof has suffered any loss or damage, the commissioner may maintain a civil action or intervene in an action brought by or on behalf of the insurer or policyholder for recovery of compensatory damages for the benefit of the insurer or policyholder or other appropriate relief.

(b) If an order for liquidation or rehabilitation of the controlled insurer has been entered pursuant to K.S.A. 40-3605 et seq., and amendments thereto, and the receiver appointed under that order believes that the controlling producer or any other person has not materially complied with this act, or any regulation or order promulgated hereunder, and the insurer suffered any loss or damage therefrom, the receiver may maintain a civil action for recovery of damages or other appropriate sanctions for the benefit of the insurer.

(c) Nothing contained in this section shall affect the right of the commissioner to impose any other penalties provided for in chapter 40 of the Kansas Statutes Annotated.

(d) Nothing contained in this section is intended to or shall in any manner alter or affect the rights of policyholders, claimants, creditors or other third parties.

History: L. 1992, ch. 14, § 6; L. 2005, ch. 163, § 7; July 1.