

Effective 10/1/2015

31A-16-112 Sanctions.

- (1)
 - (a) Notwithstanding Section 31A-2-308, the following sanctions apply:
 - (i) An insurer failing, without just cause, to file a registration statement required by this chapter is required, after notice and hearing, to pay a penalty of \$10,000 for each day's delay, to be recovered by the commissioner and the penalty so recovered shall be paid into the General Fund.
 - (ii) The maximum penalty under this section is \$250,000.
 - (b) The commissioner may reduce the penalty if the insurer demonstrates to the commissioner that the imposition of the penalty would constitute a financial hardship to the insurer.
- (2) A director or officer of an insurance holding company system who knowingly violates, participates in, or assents to, or who knowingly shall permit any of the officers or agents of the insurer to engage in transactions or make investments that have not been properly reported or submitted pursuant to Subsection 31A-16-105(1), 31A-16-106(1)(b), or 31A-16-106(2), or that violates this chapter, shall pay, in the director's or officer's individual capacity, a civil forfeiture of not more than \$10,000 per violation, notwithstanding Section 31A-2-308, after notice and hearing before the commissioner. In determining the amount of the civil forfeiture, the commissioner shall take into account the appropriateness of the forfeiture with respect to the gravity of the violation, the history of previous violations, and such other matters as justice may require.
- (3) Whenever it appears to the commissioner that any insurer subject to this chapter or a director, officer, employee, or agent of the insurer has engaged in any transaction or entered into a contract that is subject to Section 31A-16-106 and that would not have been approved had the approval been requested, the commissioner may order the insurer to cease and desist immediately any further activity under that transaction or contract. After notice and hearing, the commissioner may also order the insurer to void any contract and restore the status quo if the action is in the best interest of the policyholders, creditors, or the public.
- (4) Whenever it appears to the commissioner that an insurer or any director, officer, employee, or agent of the insurer has committed a willful violation of this chapter, the commissioner may refer the case to the appropriate prosecutor. Venue for the criminal action shall be in the Third District Court of Salt Lake County, against the insurer or the responsible director, officer, employee, or agent of the insurer. An insurer that willfully violates this chapter may be fined not more than \$250,000 notwithstanding Section 31A-2-308. An individual who willfully violates this chapter may be fined in the individual's individual capacity not more than \$100,000 notwithstanding Section 31A-2-308 and is guilty of a third-degree felony.
- (5) An officer, director, or employee of an insurance holding company system who willfully and knowingly subscribes to or makes or causes to be made any false statements, false reports, or false filings with the intent to deceive the commissioner in the performances of the commissioner's duties under this chapter, is guilty of a third-degree felony. Any fines imposed shall be paid by the officer, director, or employee in the officer's, director's, or employee's individual capacity.
- (6) Whenever it appears to the commissioner that a person has committed a violation of Section 31A-16-103 and that prevents the full understanding of the enterprise risk to the insurer by affiliates or by the insurance holding company system, the violation may serve as an independent basis for disapproving dividends or distributions and for placing the insurer under an order of supervision in accordance with Section 31A-27-503.

Enacted by Chapter 244, 2015 General Session