

31A-16-111 Required sale of improperly acquired stock -- Penalties.

- (1) If the commissioner finds that the acquiring person has not substantially complied with the requirements of this chapter in acquiring control of a domestic insurer, the commissioner may require the acquiring person to sell the acquiring person's stock of the domestic insurer in the manner specified in Subsection (2).
- (2)
 - (a) The commissioner shall effect the sale required by Subsection (1) in the manner which, under the particular circumstances, appears most likely to result in the payment of the full market value for the stock by persons who have the collective competence, experience, financial resources, and integrity to obtain approval under Subsection 31A-16-103(8).
 - (b) Sales made under this section are subject to approval by the Third Judicial District Court for Salt Lake County, which court has the authority to effect the terms of the sale.
- (3) The proceeds from sales made under this section shall be distributed first to the person required by this section to sell the stock, but only up to the amount originally paid by the person for the securities. Additional sale proceeds shall be paid to the General Fund.
- (4) The person required to sell and persons related to or affiliated with the seller may not purchase the stock at the sale conducted under this section.
- (5)
 - (a) A director or officer of an insurance holding company system violates this chapter if the director or officer knowingly:
 - (i) participates in or assents to a transaction or investment that:
 - (A) has not been properly reported or submitted pursuant to:
 - (I) Subsections 31A-16-105(1) and (2); or
 - (II) Subsection 31A-16-106(1)(b); or
 - (B) otherwise violates this chapter; or
 - (ii) permits any of the officers or agents of the insurer to engage in a transaction or investment described in Subsection (5)(a)(i).
 - (b) A director or officer in violation of Subsection (5)(a) shall pay, in the director's or officer's individual capacity, a civil penalty of not more than \$20,000 per violation:
 - (i) upon a finding by the commissioner of a violation; and
 - (ii) after notice and hearing before the commissioner.
 - (c) In determining the amount of the civil penalty under Subsection (5)(b), the commissioner shall take into account:
 - (i) the appropriateness of the penalty with respect to the gravity of the violation;
 - (ii) the history of previous violations; and
 - (iii) any other matters that justice requires.
- (6)
 - (a) When it appears to the commissioner that any insurer or any director, officer, employee, or agent of the insurer, has committed a willful violation of this chapter, the commissioner may cause criminal proceedings to be instituted:
 - (i)
 - (A) in the district court for the county in this state in which the principal office of the insurer is located; or
 - (B) if the insurer has no principal office in this state, in the Third District Court for Salt Lake County; and
 - (ii) against the insurer or the responsible director, officer, employee, or agent of the insurer.
 - (b)
 - (i) An insurer that willfully violates this chapter may be fined not more than \$20,000.

- (ii) Any individual who willfully violates this chapter is guilty of a third degree felony, and upon conviction may be:
 - (A) fined in that person's individual capacity not more than \$5,000;
 - (B) imprisoned; or
 - (C) both fined and imprisoned.
- (7) This section does not limit the other sanctions applicable to violations of this title under Section 31A-2-308.

Amended by Chapter 114, 2000 General Session