

2023 Kansas Statutes

50-1009. Powers of securities commissioner; enforcement of subpoenas; privilege against self-incrimination; certificate of compliance or noncompliance, admissibility in evidence. (a) The commissioner may do the following:

- (1) Adopt rules and regulations to implement this act;
- (2) make investigations and examinations:
 - (A) In connection with any application for registration of any loan broker or any registration already granted; or
 - (B) whenever it appears to the commissioner, upon the basis of a complaint or information, that reasonable grounds exist for the belief that an investigation or examination is necessary or advisable for the more complete protection of the interests of the public;
- (3) appoint special investigators to aid in investigations conducted pursuant to this act. Such special investigators shall have the same authority with respect to enforcement of this act as specified for special investigators appointed under subsection (a) of K.S.A. 2005 Supp. 17-12a602, and amendments thereto, in enforcing the Kansas uniform securities act;
- (4) charge as costs of investigation or examination all reasonable expenses, including a per diem prorated upon the salary of the commissioner or employee and actual traveling and hotel expenses. All reasonable expenses are to be paid by the party or parties under investigation or examination;
- (5) issue notices and orders, including cease and desist notices and orders, after making an investigation or examination under paragraph (2). The commissioner may also bring an action on behalf of the state to enjoin a person from violating this act. The commissioner shall notify the person that an order or notice has been issued, the reasons for it and that a hearing will be set in accordance with the provisions of the Kansas administrative procedures act after the commissioner receives a written request from the person requesting a hearing;
- (6) sign all orders, official certifications, documents or papers issued under this act or delegate the authority to sign any of those items to a deputy;
- (7) hold and conduct hearings;
- (8) hear evidence;
- (9) conduct inquiries with or without hearings;
- (10) receive reports of investigators or other officers or employees of the state of Kansas or of any municipal corporation or governmental subdivision within the state;
- (11) administer oaths or cause them to be administered;
- (12) subpoena witnesses and compel them to attend and testify;
- (13) compel the production of books, records and other documents; and
- (14) order depositions to be taken of any witness residing within or without the state. The depositions shall be taken in the manner prescribed by law for depositions in civil actions and made returnable to the commissioner.

(b) If any person refuses to obey a subpoena issued under this act, the commissioner may make application to any court of competent jurisdiction to order the person to appear before the commissioner and produce documentary evidence or give evidence as directed in the subpoena. The failure to obey the order of the court shall be subject to punishment by the court as contempt of court.

(c) No person shall be excused from complying with a subpoena on the ground that the testimony or evidence required may tend to incriminate the person or subject the person to a penalty or forfeiture. No individual may be prosecuted or subject to any penalty or forfeiture for or on account of any transaction, matter or thing which the individual is compelled to testify or produce evidence, after claiming the privilege against self-incrimination. However, the individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

(d) In any prosecution, action, suit or proceeding based upon or arising out of this act, the commissioner may sign a certificate showing compliance or noncompliance with this act by any loan broker. This shall constitute prima facie evidence of compliance or noncompliance with this act and shall be admissible in evidence in any action at law or in equity to enforce this act.

History: L. 1988, ch. 328, § 9; L. 1992, ch. 226, § 10; L. 2004, ch. 154, § 60; July 1, 2005.