

Kansas Uniform Securities Act—Violations of Act, Control Person Liability; SB 405

SB 405 amends the Kansas Uniform Securities Act (Act) to address violations of the Act by a control person and subject the control person, in certain circumstances, to administrative and civil enforcement action.

Under continuing law, registrants (e.g., broker-dealers, broker-dealer agents, investment advisers, investment adviser representatives) violating the Act are subject to disciplinary actions, which may include administrative and civil penalties. This law also provides for disciplinary action for a person in control when the person is also a registrant.

The bill expands control person liability to provide that a person that directly or indirectly controls a person who has engaged, is engaging, or is about to engage in an action constituting a violation of the Act, a rule and regulation promulgated under the Act, or an order issued under the Act may be subjected to the same discipline as the violating person, unless the controlling person did not know and could not have reasonably known of the violating person's actions or conduct. [Note: "Person" is defined in KSA 17-12a102 to mean an individual; corporation; business trust; estate; trust; partnership; limited liability company; association; joint venture; government; governmental subdivision, agency, or instrumentality; public corporation; or any other legal or commercial entity. "Control" is defined in KAR 81-1-1 to mean the possession of the power to direct or influence the direction of the management or policies of a person, directly or indirectly, through the ownership of voting securities, by contract or by other means.]