

2019 Kansas Statutes

16a-6-108. Enforcement of act; cease and desist orders; penalties; appeals. (1)

If the administrator determines after notice and opportunity for a hearing that any person has engaged, is engaging or is about to engage in any act or practice constituting a violation of any provision of this act or any rule and regulation, order or administrative interpretation hereunder, the administrator by order may require that such person cease and desist from the unlawful act or practice and take such affirmative action as in the judgment of the administrator will carry out the purposes of this act.

(2) If the administrator makes written findings of fact that the public interest will be irreparably harmed by delay in issuing an order under subsection (1), the administrator may issue an emergency cease and desist order. Such order shall be subject to the same procedures as an emergency order issued under K.S.A. 77-536, and amendments thereto. Upon the entry of such an order the administrator shall promptly notify the person subject to the order that it has been entered, of the reasons and that upon written request the matter will be set for a hearing which shall be conducted in accordance with the provisions of the Kansas administrative procedure act. If no hearing is requested and none is ordered by the administrator, the order will remain in effect until it is modified or vacated by the administrator. If a hearing is requested or ordered, the administrator, after notice of and opportunity for hearing to the person subject to the order, shall by written findings of fact and conclusion of law vacate, modify or make permanent the order.

(3) If the administrator reasonably believes that a person has violated this act or a rule and regulation, order or administrative interpretation of the administrator under this act, the administrator, in addition to any specific power granted under this act, after notice and hearing in an administrative proceeding, unless the right to notice and hearing is waived by the person against whom the sanction is imposed, may require any or all of the following:

(a) Censure the person if the person is licensed under this act;

(b) issue an order against an applicant, licensed person, residential mortgage loan originator registrant or other person who knowingly violates this act or a rule and regulation, order or administrative interpretation of the administrator under this act, imposing a civil penalty up to a maximum of \$5,000 for each violation. If any person is found to have knowingly or willfully violated any provision of this act, and such violation is committed against elder or disabled persons, as defined in K.S.A. 50-676, and amendments thereto, in addition to any civil penalty otherwise provided by law, the administrator may impose an additional penalty not to exceed \$5,000 for each such violation;

(c) revoke or suspend the person's license or registration or bar the person from subsequently applying for a license or registration under this act; or

(d) issue an order requiring the person to pay restitution for any loss arising from the violation or requiring the person to disgorge any profits arising from the violation. Such order may include the assessment of interest not to exceed 8% per annum from the date of the violation.

(4) Any person aggrieved by a final order of the administrator may obtain a review of the order in accordance with the provisions of the Kansas judicial review act.

History: L. 1973, ch. 85, § 101; L. 1986, ch. 318, § 21; L. 1999, ch. 107, § 31; L. 2005, ch. 144, § 19; L. 2009, ch. 29, § 22; L. 2010, ch. 17, § 36; July 1.