

Arizona**6-132. Violation of title; civil penalty**

The superintendent may assess a civil penalty in an amount of not more than five thousand dollars against a person, including any officer, director, employee, agent or other person who participates in the conduct of the affairs of the person, for any knowing violation of any provision of this title or of any rule or order adopted or issued pursuant to this title. If the assessment is not paid in full within thirty days after the service of the notice of the assessment on the person, the attorney general, on request of the superintendent, shall bring an action in the superior court in the county in which a violation of this section is alleged to have occurred in the same manner as the filing of other actions. On the finding of a knowing violation of this section by the defendant in any such action, the court may enforce the civil penalty imposed by the superintendent or may impose a different civil penalty in an amount as it deems appropriate for each violation. Each day of violation constitutes a separate offense.

6-136. Violation of order or injunction; penalty

Any person who violates any order or injunction issued by a court of competent jurisdiction pursuant to this title shall, in addition to any other penalty or remedy for contempt of court, forfeit and pay to this state a civil penalty of not more than ten thousand dollars for each violation as such court may deem just and proper. For the purpose of this section, the superior court issuing any order or injunction shall retain jurisdiction and the cause shall be continued. The attorney general acting in the name of this state may petition for recovery of civil penalties pursuant to this section.

6-502. Reports and examinations

A. The superintendent shall examine or cause to be examined each credit union at periodic intervals as provided by section 6-122. The superintendent shall forward a report of the examination to the board of directors of the credit union examined within thirty days after completion of the report. Within thirty days after the receipt of the report the directors shall meet to consider matters contained in the report.

B. In lieu of the examination required by subsection A of this section, the superintendent may accept an examination or audit report of the condition of a credit union made by the national credit union administration or by a certified public accountant licensed in this state or other qualified person or organization approved by the superintendent. The credit union shall bear the cost of any such examination or audit. A certified public accountant or other qualified person or organization making an audit to be submitted in lieu of an examination by the superintendent shall obtain prior approval from the superintendent before conducting such an audit. In approving such an audit the superintendent may prescribe minimum requirements for the audit including the date by which the audit must be completed and a copy filed with the superintendent.

C. Within thirty days after the end of each calendar quarter a credit union shall report to the superintendent, on forms supplied by the superintendent for that purpose, its financial condition and the results of its operation for such quarter.

D. Unless excused for cause before or after the due date, a credit union which fails to file a report when due shall pay the department, as assessed, up to one hundred dollars for each day of delinquency.

California**§ 216.3. Authority of Commissioner to levy civil penalties against licensees or subsidiaries; Maximum penalties; Factors**

(a) For purposes of this section, the following definitions apply:

(1) "Applicable law" means:

(A) With respect to any bank, Division 1.5 (commencing with Section 4800), and any of the following provisions of Division 1 (commencing with *Section 99*) of the *Financial Code*:

- (i) Article 5 (commencing with Section 270) of Chapter 2.
- (ii) Article 3 (commencing with Section 640) of Chapter 5.
- (iii) Article 4.5 (commencing with Section 670) of Chapter 5.
- (iv) Article 6 (commencing with Section 690) of Chapter 5.
- (v) Chapter 6 (commencing with Section 750).
- (vi) Chapter 10 (commencing with Section 1200).
- (vii) Article 1 (commencing with Section 1400) of Chapter 11.
- (viii) Chapter 12 (commencing with Section 1500).
- (ix) Chapter 13.5 (commencing with Section 1700).
- (x) Section 286.
- (xi) Section 287.
- (xii) Section 289.
- (xiii) Section 290.
- (xiv) Section 1951.
- (xv) Section 3359.
- (xvi) Chapter 19 (commencing with Section 3500).
- (xvii) Chapter 21.5 (commencing with Section 3750).
- (xviii) Chapter 22 (commencing with Section 3800).

(B) With respect to any savings association, any provision of Division 1.5 (commencing with Section 4800) and Division 2 (commencing with Section 5000).

(C) With respect to any issuer of traveler's checks, any provision of Chapter 14A (commencing with Section 1851) of Division 1.

(D) With respect to any insurance premium finance company, any provision of Division 7 (commencing with Section 18000).

(E) With respect to any business and development corporation, any provision of Division 15 (commencing with Section 31000).

(F) With respect to any credit union, any of the following provisions:

(i) Section 14252.

(ii) Section 14253.

(iii) Section 14255.

(iv) Article 4 (commencing with Section 14350) of Chapter 3 of Division 5.

(v) Section 14401.

(vi) Section 14404.

(vii) Section 14408, only as that section applies to gifts to directors, volunteers, and employees, and the related family or business interests of the directors, volunteers, and employees.

(viii) Section 14409.

(ix) Section 14410.

(x) Article 5 (commencing with Section 14600) of Chapter 4 of Division 5.

(xi) Article 6 (commencing with Section 14650) of Chapter 4 of Division 5, excluding subdivision (a) of Section 14651.

(xii) Section 14803.

(xiii) Section 14851.

(xiv) Section 14858.

(xv) Section 14860.

(xvi) Section 14861.

(xvii) Section 14863.

(G) With respect to any person licensed to transmit money abroad, any provision of Chapter 14 (commencing with Section 1800).

(H) With respect to any person licensed to sell payment instruments, any provision of Division 16 (commencing with Section 33000).

(2) "Licensee" means any bank, savings association, credit union, transmitter of money abroad, issuer of payment instruments, issuer of traveler's checks, insurance premium finance agency, or business and industrial development corporation that is authorized by the commissioner to conduct business in this state.

(b) Notwithstanding any other provision of this code that applies to a licensee or a subsidiary of a licensee, after notice and an opportunity to be heard, the commissioner may, by order that shall include findings of fact which incorporates a determination made in accordance with subdivision (e), levy civil penalties against any licensee or any subsidiary of a licensee who has violated any provision of applicable law, any order issued by the commissioner, any written agreement between the commissioner and the licensee or subsidiary of the licensee, or any condition of any approval issued by the commissioner. Notwithstanding any other provision of law, neither the commissioner nor any employee of the department shall disclose or permit the

disclosure of any record, record of any action, or information contained in a record of any action, taken by the commissioner under the provisions of this section, unless the action was taken pursuant to paragraph (2) of subdivision (b), to persons other than federal or state government employees who are authorized by statute to obtain the records in the performance of their official duties, unless the disclosure is authorized or requested by the affected licensee or the affected subsidiary of the licensee. The commissioner shall have the sole authority to bring any action with respect to a violation of applicable law subject to a penalty imposed under this section.

Except as provided in paragraphs (1) and (2), any penalty imposed by the commissioner may not exceed one thousand dollars (\$1,000) a day, provided that the aggregate penalty of all offenses in any one action against any licensee or subsidiary of a licensee shall not exceed fifty thousand dollars (\$50,000).

(1) If the commissioner determines that any licensee or subsidiary of the licensee has recklessly violated any applicable law, any order issued by the commissioner, any provision of any written agreement between the commissioner and the licensee or subsidiary, or any condition of any approval issued by the commissioner, the commissioner may impose a penalty not to exceed five thousand dollars (\$5,000) per day, provided that the aggregate penalty of all offenses in an action against any licensee or subsidiary of a licensee shall not exceed seventy-five thousand dollars (\$75,000).

(2) If the commissioner determines that any licensee or subsidiary of the licensee has knowingly violated any applicable law, any order issued by the commissioner, any provision of any written agreement between the commissioner and the licensee or subsidiary, or any condition of any approval issued by the commissioner, the commissioner may impose a penalty not to exceed ten thousand dollars (\$10,000) per day, provided that the aggregate penalty of all offenses in an action against any licensee or subsidiary of a licensee shall not exceed 1 percent of the total assets of the licensee or subsidiary of a licensee subject to the penalty.

(c) Nothing in this section shall be construed to impair or impede the commissioner from pursuing any other administrative action allowed by law.

(d) Nothing in this section shall be construed to impair or impede the commissioner from bringing an action in court to enforce any law or order he or she has issued, including orders issued under this section. Nothing in this section shall be construed to impair or impede the commissioner from seeking any other damages or injunction allowed by law.

(e) In determining the amount and the appropriateness of initiating a civil money penalty under subdivision (b), the commissioner shall consider all of the following:

(1) Evidence that the violation or practice or breach of duty was intentional or was committed with a disregard of the law or with a disregard of the consequences to the institution.

(2) The duration and frequency of the violations, practices, or breaches of duties.

(3) The continuation of the violations, practices, or breaches of duty after the licensee or subsidiary of the licensee was notified, or, alternatively, its immediate cessation and correction.

(4) The failure to cooperate with the commissioner in effecting early resolution of the problem.

(5) Evidence of concealment of the violation, practice, or breach of duty or, alternatively, voluntary disclosure of the violation, practice, or breach of duty.

(6) Any threat of loss, actual loss, or other harm to the institution, including harm to the public confidence in the institution, and the degree of that harm.

(7) Evidence that a licensee or subsidiary of a licensee received financial gain or other benefit as a result of the violation, practice, or breach of duty.

(8) Evidence of any restitution paid by a licensee or subsidiary of a licensee of losses resulting from the violation, practice, or breach of duty.

(9) History of prior violations, practices, or breaches of duty, particularly where they are similar to the actions under consideration.

(10) Previous criticism of the institution for similar actions.

(11) Presence or absence of a compliance program and its effectiveness.

(12) Tendency to engage in violations of law, unsafe or unsound banking practices, or breaches of duties.

(13) The existence of agreements, commitments, orders, or conditions imposed in writing intended to prevent the violation, practice, or breach of duty.

(14) Whether the violation, practice, or breach of duty causes quantifiable, economic benefit or loss to the licensee or the subsidiary of the licensee. In those cases, removal of the benefit or recompense of the loss usually will be insufficient, by itself, to promote compliance with the applicable law, order, or written agreement. The penalty amount should reflect a remedial purpose and should provide a deterrent to future misconduct.

(15) Other factors as the commissioner may, in his or her opinion, consider relevant to assessing the penalty or establishing the amount of the penalty.

(f) The amounts collected under this section shall be deposited in the appropriate fund of the department. For purposes of this subdivision, the term "appropriate fund" means the fund to which the annual assessments of fined licensees, or the parent licensee of the fined subsidiary, are credited.

HISTORY:

Added Stats 2003 ch 445 § 1 (AB 1355). Amended Stats 2004 ch 183 § 97 (AB 3082); Stats 2008 ch 501 § 8 (AB 2749), effective January 1, 2009.

Connecticut

Sec. 36a-50. Enforcement action. Notice and hearing. Civil penalty. Injunction, restraining order and writ. Restitution. Costs. (a)(1) Whenever the commissioner finds as the result of an investigation that any person has violated any provision of the general statutes within the jurisdiction of the commissioner, or any regulation, rule or order adopted or issued thereunder, the commissioner may send a notice to such person by registered or certified mail, return receipt requested, or by any express delivery carrier that provides a dated delivery receipt. The notice shall be deemed received by the person on the earlier of the date of actual receipt or seven days after mailing or sending. Any such notice shall include: (A) A statement of the time, place, and nature of the hearing; (B) a statement of the legal authority and jurisdiction under which the hearing is to be held; (C) a reference to the particular sections of the general statutes, regulations, rules or orders alleged to have been violated; (D) a short and plain statement of the matters asserted; (E) the maximum penalty that may be imposed for such violation; and (F) a statement indicating that such person may file a written request for a hearing on the matters asserted within fourteen days of receipt of the notice.

(2) If a hearing is requested within the time specified in the notice, the commissioner shall hold a hearing upon the matters asserted in the notice unless such person fails to appear at the hearing. After the hearing, if the commissioner finds that the person has violated any such provision, regulation, rule or order, the commissioner may, in the commissioner's discretion and in addition to any other remedy authorized by law, order that a civil penalty not exceeding one hundred thousand dollars per violation be imposed upon such person. If such person does not request a hearing within the time specified in the notice or fails to appear at the hearing, the commissioner may, as the facts require, order that a civil penalty not exceeding one hundred thousand dollars per violation be imposed upon such person.

(3) Each action undertaken by the commissioner under this subsection shall be in accordance with the provisions of chapter 54.

(b) Whenever it appears to the commissioner that any such person has violated, is violating or is about to violate any such provision, regulation, rule or order, the commissioner may, in the commissioner's discretion and in addition to any other remedy authorized by law: (1) Bring an action in the superior court for the judicial district of Hartford to enjoin the acts or practices and to enforce compliance with any such provision, regulation, rule or order. Upon a proper showing, a permanent or temporary injunction, restraining order or writ of mandamus shall be granted and a receiver or conservator may be appointed for such person or such person's assets. The court shall not require the commissioner to post a bond; (2) seek a court order imposing a penalty not to exceed one hundred thousand dollars per violation against any such person found to have violated any such provision, regulation, rule or order; or (3) apply to the superior court for the judicial district of Hartford for an order of restitution whereby such person shall be ordered to make restitution of any sums shown by the commissioner to have been obtained by such person in violation of any such provision, regulation, rule or order, plus interest at the rate set forth in section 37-3a. Such restitution shall, at the option of the court, be payable to the receiver or conservator appointed pursuant to this subsection, or directly to the person whose assets were obtained in violation of any such provision, regulation, rule or order. Whenever the

commissioner prevails in any action brought under this subsection, the court may allow to the state its costs.

(c) The provisions of this section shall not apply to chapters 672a, 672b and 672c.

Sec. 36a-53. (Formerly Sec. 36-25). Proceedings by commissioner upon violation of banking laws. Civil penalties. (a) As used in this section, (1) "related person" means a director, officer, employee, independent contractor, manager or general partner, and (2) "Connecticut holding company" means a holding company that holds a subsidiary that is a Connecticut bank.

(b) (1) Whenever the commissioner finds as the result of an investigation that any related person of any Connecticut bank, Connecticut holding company, Connecticut credit union or Connecticut credit union service organization (A) has violated or is violating any provision of the general statutes within the jurisdiction of the commissioner, or any regulation, rule or order adopted or issued thereunder, or any condition imposed in writing by the commissioner, (B) has breached or is breaching any written agreement with the commissioner, (C) has engaged or participated in or is engaging or participating in any unsafe or unsound practice in connection with any bank, Connecticut holding company, Connecticut credit union, federal credit union or credit union service organization, (D) has been or is charged in any information, indictment or complaint with the commission of or participation in a crime which is punishable by imprisonment for a term exceeding one year under state or federal law, and continued service or participation by such related person may pose a threat to the interests of depositors or members, or threatens to impair public confidence in any bank, Connecticut holding company, Connecticut credit union, federal credit union or Connecticut credit union service organization, (E) has used or is using such related person's position in a manner contrary to the interest of any bank, Connecticut holding company, Connecticut credit union, federal credit union or credit union service organization, or its depositors or members, or (F) has been or is negligent in the performance of such related person's duties, after having been warned in writing by the commissioner to discontinue any such continuing delinquency, the commissioner may send notice to such related person by registered or certified mail, return receipt requested, or by any express delivery carrier that provides a dated delivery receipt. The notice shall be deemed received by the related person on the earlier of the date of actual receipt or seven days after mailing or sending. Any such notice shall include: (i) A statement of the time, place and nature of the hearing; (ii) a statement of the legal authority and jurisdiction under which the hearing is to be held; (iii) a reference to the particular sections of the general statutes, regulations, rules or orders alleged to have been violated; (iv) a short and plain statement of the matters asserted; and (v) a statement indicating that such related person may file a written request for a hearing on the matters asserted within fourteen days of receipt of the notice. If a hearing is requested within the time specified in the notice, the commissioner shall hold a hearing upon the matters asserted in the notice unless such related person fails to appear at the hearing. After the hearing, if the commissioner finds that any of the grounds set forth in subparagraphs (A) to (F), inclusive, of this subdivision exist with respect to such related person, the commissioner shall order the removal of such related person from office and from any participation in the management of the Connecticut bank, Connecticut holding company, Connecticut credit union or Connecticut credit union service organization. If such related person fails to appear at the hearing, the commissioner shall order the removal of such related person from office and from any participation in the

management of the Connecticut bank, Connecticut holding company, Connecticut credit union or Connecticut credit union service organization. If the commissioner finds that the protection of the Connecticut bank, Connecticut holding company or its subsidiary that is a Connecticut bank, Connecticut credit union or Connecticut credit union service organization, or the interest of its depositors, depositors of its subsidiary that is a Connecticut bank or members requires immediate action, the commissioner may suspend any such related person from office and from further participation in the management of the Connecticut bank, Connecticut holding company, Connecticut credit union or Connecticut credit union service organization and require such related person to take or refrain from taking such action as in the opinion of the commissioner will effectuate the purposes of this subsection, by incorporating a finding to that effect in such notice. The suspension or prohibition shall become effective upon receipt of such notice and, unless stayed by a court, shall remain in effect until the entry of a permanent order or the dismissal of the matters asserted.

(2) Any related person who has been removed or suspended from office pursuant to an order issued under this subsection may not continue to hold or commence holding office as a related person of any bank, Connecticut credit union, federal credit union, licensee or registrant under this title and title 36b or holding company that holds a subsidiary that is a bank, while such order is in effect, without the written consent of the commissioner.

(c) Whenever it appears to the commissioner that any Connecticut bank, Connecticut holding company, Connecticut credit union, Connecticut credit union service organization or any related person of any such entity (1) is violating, has violated or is about to violate any provision of the general statutes within the jurisdiction of the commissioner, or any regulation, rule or order adopted or issued thereunder, or any condition imposed in writing by the commissioner, (2) is breaching, has breached or is about to breach any written agreement with the commissioner, (3) is engaging, has engaged or is about to engage, in an unsafe or unsound practice, or (4) is using, has used or is about to use such related person's position in a manner contrary to the interest of any bank, Connecticut holding company, Connecticut credit union, federal credit union or credit union service organization, the commissioner may send notice and take action against the Connecticut bank, Connecticut holding company, Connecticut credit union, Connecticut credit union service organization or related person in accordance with section 36a-52. If the commissioner finds that the actual or threatened violation, breach, unsafe or unsound practice or practices or use specified in such notice is likely to cause insolvency or substantial dissipation of assets or earnings of the Connecticut bank, Connecticut holding company, Connecticut credit union or Connecticut credit union service organization, or is likely to otherwise seriously prejudice the interests of its depositors or members, the commissioner may incorporate a finding to that effect in such notice and issue a temporary order requiring the Connecticut bank, Connecticut holding company, Connecticut credit union, Connecticut credit union service organization or related person to cease and desist from any such violation, breach, practice or use and to take or refrain from taking such action as in the opinion of the commissioner will effectuate the purposes of this subsection. The temporary order shall become effective upon receipt and, unless set aside or modified by a court, shall remain in effect until the effective date of a permanent order or the dismissal of the matters asserted.

(d) (1) Whenever the commissioner finds as the result of an investigation that any

Connecticut bank, Connecticut holding company, Connecticut credit union, Connecticut credit union service organization or any related person of any such entity has (A) violated any provision of the general statutes within the jurisdiction of the commissioner, or any regulation, rule or order adopted or issued thereunder, or any condition imposed in writing by the commissioner, (B) breached any written agreement with the commissioner, (C) engaged or participated in any unsafe or unsound practice, or (D) used such related person's position in a manner contrary to the interest of any bank, Connecticut holding company, Connecticut credit union, federal credit union or credit union service organization, or its depositors or members, the commissioner may send notice to and take action against such Connecticut bank, Connecticut holding company, Connecticut credit union, Connecticut credit union service organization or related person regarding the violation, breach, unsafe or unsound practice, or misuse of position in accordance with section 36a-50. Any finding made by the commissioner pursuant to this subdivision shall be considered a violation of this subsection for purposes of section 36a-50.

(2) Notwithstanding the provisions of section 36a-50, unless the violation, breach, unsafe or unsound practice, or misuse of position found to have occurred pursuant to this subsection and section 36a-50 is such that it (A) is part of a pattern of misconduct, (B) has caused or is likely to cause a loss other than a de minimis loss to any bank, Connecticut holding company, Connecticut credit union, federal credit union or credit union service organization, (C) will result or has resulted in a pecuniary gain to a related person of any Connecticut bank, Connecticut holding company, Connecticut credit union or Connecticut credit union service organization, or (D) is a violation of sections 36a-53a to 36a-56, inclusive, or sections 36a-746b to 36a-746g, inclusive, the civil penalty the commissioner may impose under this subsection and section 36a-50 shall not exceed ten thousand dollars.

(3) In determining the amount of any penalty imposed under this subsection and section 36a-50, the commissioner shall take into account (A) the size of the financial resources and good faith of the Connecticut bank, Connecticut holding company, Connecticut credit union, Connecticut credit union service organization, or related person, (B) the gravity of the violation, breach, unsafe or unsound practice or misuse of position, (C) the history of previous violations, breaches, unsafe or unsound practices, or misuse of position, and (D) such other matters as justice may require, except that this subdivision does not apply to any violation of section 36a-53a and sections 36a-746b to 36a-746g, inclusive.

(e) In connection with any investigation or proceeding under this section and section 36a-50, the commissioner shall make reasonable efforts to obtain from a federal banking or credit union agency any relevant information that the commissioner knows to be in the possession of such agency.

(f) The resignation, termination of employment or separation, including a separation caused by the closing of the institution, of any related person against whom the commissioner may issue an order under this section, shall not affect the authority of the commissioner to issue any notice and proceed under this section against such related person if such notice is sent before the end of the six-year period beginning on the date of such resignation, termination of employment or separation.

Florida**BANKS AND
BANKING****Chapter 655
FINANCIAL INSTITUTIONS
GENERALLY****[View Entire
Chapter](#)****655.041****Administrative fines; enforcement.**

(1) The office may, by complaint, initiate a proceeding pursuant to chapter 120 to impose an administrative fine against any person found to have violated any provision of the financial institutions codes or a cease and desist order of the office or any written agreement with the office. No such proceeding shall be initiated and no fine shall accrue pursuant to this section until after such person has been notified in writing of the nature of the violation and has been afforded a reasonable period of time, as set forth in the notice, to correct the violation and has failed to do so.

(2) Any such fine may not exceed \$2,500 a day for each violation except as provided in this section.

(a) If the office determines that any such person has recklessly violated any provision of the financial institutions codes or a cease and desist order of the office or any written agreement with the office, which violation results in more than a minimal loss to a financial institution, subsidiary, or service corporation, or a pecuniary benefit to such person, the office may impose a fine not exceeding \$10,000 a day for each day the violation continues.

(b) If the office determines that any such person has knowingly violated any provision of the financial institutions codes or a cease and desist order of the office or any written agreement with the office, which violation results in more than a minimal loss to a financial institution, subsidiary, or service corporation, or a pecuniary benefit to such a person, the office may impose a fine not exceeding the lesser of \$500,000 per day or 1 percent of the total assets in the case of a financial institution, or \$50,000 per day in any other case for each day the violation continues.

(c) The office may by complaint impose an administrative fine, not exceeding \$10,000 a day, upon any financial institution-affiliated party, and upon a state financial institution, subsidiary, service corporation, or affiliate, who refuses to permit an examiner to examine a state financial institution, subsidiary, or service corporation, who refuses to permit an examiner to review the books and records of an affiliate, or who refuses to give an examiner any information required in the course of any examination or review of the books and records.

(3) Any administrative fine levied by the office may be enforced by the office by appropriate proceedings in the circuit court of the county in which such person resides or in which the principal office of a state financial institution is located. In any administrative or judicial

proceeding arising under this section, a party may elect to correct the violation asserted by the office and, upon doing so, any fine ceases to accrue; however, an election to correct the violation does not render any administrative or judicial proceeding moot.

Hawaii

§412:2-609 Imposition of administrative fines; assessment. (a) Any Hawaii financial institution which, and any institution-affiliated party who:

- (1) Commits a material violation of any law or rule for which a penalty or fine is not expressly provided herein;
- (2) Commits a material violation of any order issued by the commissioner which has become effective;
- (3) Commits a material violation of any condition imposed in writing by the commissioner in connection with the grant of any application or other request by the financial institution; or
- (4) Commits a material violation of any written agreement between the financial institution and the commissioner;

may be ordered by the commissioner to forfeit and pay an administrative fine of not more than \$1,000 for each day during which the violation continues.

(b) Notwithstanding subsection (a), any Hawaii financial institution which, and any institution-affiliated party who:

- (1) Commits any violation described in any clause of subsection (a);
- (2) Recklessly engages in an unsafe or unsound practice in conducting the affairs of the Hawaii financial institution; or
- (3) Breaches any fiduciary duty owed to the financial institution;

which violation, practice or breach is:

- (1) Part of a pattern of misconduct;
- (2) Causes or is likely to cause more than a minimal loss to the Hawaii financial institution; or
- (3) Results in pecuniary gain or other benefit to such party;

may be ordered by the commissioner to forfeit and pay an administrative fine of not more than \$5,000 for each day during which the violation, practice, or breach continues.

(c) Notwithstanding subsections (a) and (b), any Hawaii financial institution which, and any institution-affiliated party who:

- (1) Knowingly commits any violation described in any clause of subsection (a); knowingly engages in any unsafe or unsound practice in conducting the affairs of the Hawaii financial institution; or knowingly breaches any fiduciary duty owed to the financial institution; and
- (2) Knowingly or recklessly causes a substantial loss to the Hawaii financial institution or a substantial pecuniary gain or other benefit to such party by reason of such violation, practice, or breach;

may be ordered by the commissioner to forfeit and pay an administrative fine of not more than \$100,000 for each day during which the violation, practice, or breach continues. The maximum administrative fine shall not exceed in the case of any person other than a Hawaii financial institution, the amount of \$500,000 and in the case of any Hawaii financial institution, the lesser of \$1,000,000 or one per cent of the total assets of the Hawaii financial institution.

(d) Any administrative fine imposed under subsection (a), (b), or (c) may be assessed and collected by the commissioner by service of written notice and order upon the Hawaii financial institution or institution-affiliated party by means of certified mail, return receipt requested. If, with respect to any such assessment, a hearing is not requested pursuant to section 412:2-610(c)

within the period of time allowed under section 412:2-610(c), the assessment shall constitute a final and unappealable order.

§412:2-609.5 Imposition of administrative fines on persons who are not Hawaii financial institutions; assessment. (a) Any person, other than a Hawaii financial institution or an institution-affiliated party, who:

- (1) Commits a violation of any law or rule for which a penalty or fine is not expressly provided in this chapter;
- (2) Commits a violation of any order issued by the commissioner;
- (3) Commits a violation of any condition imposed in writing by the commissioner in connection with the grant of any application or other request by the person; or
- (4) Commits a violation of any written agreement between the commissioner and the person;

may be ordered by the commissioner to pay an administrative fine of not more than \$100,000 for each day during which the violation continues.

(b) Any administrative fine imposed under subsection (a) may be assessed and collected by the commissioner by service of written notice and order upon that person at the person's last known home or office address by means of certified mail, return receipt requested. If, with respect to any such assessment, a hearing is not requested pursuant to section 412:2-610(c) within the period of time allowed under section 412:2-610(c), the assessment shall constitute a final and unappealable order.

§412:2-610 Compromise or modification of administrative fines; determining amount of fine; hearing. (a) The commissioner may compromise, modify, or suspend any administrative fine which may be assessed or which has been assessed under this chapter. The commissioner may also exempt violations of informal enforcement actions from the administrative fines and penalties set forth in this chapter.

(b) In determining the amount of any administrative fine imposed under this chapter, the commissioner shall take into account the appropriateness of the fine with respect to all of the following:

- (1) The size of financial resources and good faith of the financial institution or the person charged;
- (2) The gravity of the violation, practice, or breach;
- (3) The history of previous violations, unsafe or unsound practices, or breaches of fiduciary duty owed to the financial institution;
- (4) The extent to which a federal agency has, by imposing a fine for similar conduct, mitigated the need for imposition of a particular level of administrative fine under this chapter; and
- (5) Such other matters as justice may require.

(c) The Hawaii financial institution or other person against whom any administrative fine is assessed under this chapter shall be afforded a hearing in accordance with chapter 91 if the financial institution or person submits a written request for a hearing within twenty days after the service of the notice of assessment.

§412:2-611 Action to recover administrative fines; deposit to compliance resolution fund. (a) If any Hawaii financial institution, institution-affiliated party, or other person fails to pay an assessment after any administrative fine assessed under this chapter has become final, the commissioner shall recover the amount assessed by action in circuit court, in which case the commissioner may request the court to award reasonable attorney's fees and costs.

(b) All administrative fines collected under authority of this chapter shall be deposited in the compliance resolution fund established under section 26-9(o).

Idaho

§ 26-2133. Reports

Credit unions organized under this chapter shall file a year-end post closing financial statement with the director annually on or before the first day of February on forms supplied by the department of finance. A penalty of ten dollars (\$ 10.00) per day may be collected from each **credit union** which fails to comply with this section. If such report is not filed with the director of finance within fifteen (15) days of the due date, the director shall give the **credit union** notice of his intention to suspend or revoke its charter and take possession of the business and property of such **credit union**, and order its dissolution in accordance with this chapter. Additional reports may be required by the director as he shall deem necessary. If any **credit union** fails to furnish the office of the director with any such requested special report within thirty (30) days of the date it is requested, he shall give the **credit union** notice of his intention to suspend or revoke its charter and take possession of the business and property of such **credit union**, and order its dissolution in accordance with this chapter.

Louisiana**6: §121.1.** Enforcement powers of commissioner (under the entire title)

A. The commissioner may, in his discretion, conduct such investigations and hearings as he deems necessary to ascertain possible violations of this Title or any rule, regulation, or order promulgated or issued thereunder. Such hearings shall be private unless the commissioner, in his sole discretion and after considering the views of the person afforded the hearing, determines that a public hearing is necessary to protect the public interest. If the commissioner determines that a public hearing is necessary to protect the public interest, the confidentiality provisions of this Title and the Administrative Procedure Act, R.S. 49:950 et seq., shall not apply.

B. Any person who is engaged in or is engaging in or is about to engage in any act or practice which is prohibited by this Title or any rule, regulation, or order promulgated or issued thereunder, or any person who has failed to act or is failing to act or is about to fail to act under any affirmative duty imposed by this Title or any rule, regulation, or order promulgated or issued thereunder shall be subject to appropriate action by the commissioner. Such action shall include but shall not be limited to the issuance of orders assessing civil money penalties, entering into compliance agreements, seeking injunctive relief from a court of competent jurisdiction, or any combination thereof.

C. The commissioner may report egregious violations to the attorney general or to the district attorney of the appropriate parish, who may institute the proper proceedings to enjoin the violation and enforce the penalties provided herein.

D. In addition to the enforcement powers of the commissioner authorized in this Title and any other Title of the Louisiana Revised Statutes of 1950, he shall also have those enforcement powers authorized by Subsections A, B and C of this Section with respect to any person subject to licensing, registration, or regulation by the commissioner.

Acts 1990, No. 266, §1, eff. July 4, 1990; Acts 2006, No. 460, §1, eff. June 15, 2006

§646. Supervision by commissioner; suspension or revocation of charter; liquidation; reports; examination fees

A.(1)(a) Credit unions are under the supervision of the commissioner. The commissioner may prescribe rules and regulations for the administration of this Chapter and for the administration of a state share insurance corporation, including but not by way of limitation the merger, consolidation, or dissolution of corporations organized under this Chapter.

(b) Any central or corporate credit union chartered under this Chapter shall be subject to such rules, regulations, and orders as the commissioner deems appropriate and, except as otherwise specifically provided in such rules, regulations, or orders, shall be vested with or subject to the same rights, privileges, duties and restrictions, penalties, liabilities, conditions, and limitations that would apply to all credit unions organized under this Chapter. The commissioner may approve bylaws that he deems appropriate to a corporate or central credit union.

(2)(a) The Commissioner shall approve the merger or consolidation of credit unions organized under this Chapter or converted from federal credit unions to a credit union under this Chapter if in conformity with this Chapter, and if satisfied that the proposed field of membership for the merging or consolidating credit unions is favorable to the success of the proposed merger or consolidation. The commissioner shall thereupon issue to the proposed merging or consolidating credit unions a certificate of approval.

(b) The commissioner in granting approval to mergers, consolidations, or expansion of the field of membership shall give consideration to the following: locale of domicile, access to credit union facilities, and whether the proposed merger, consolidation, or expansion of the field of membership is favorable to the success of the credit union.

(3) Repealed by Acts 2003, No. 362, §2, eff. June 18, 2003.

(4)(a) Mergers must be approved by an affirmative vote of a majority of the members of the merging credit union who vote on the proposal and by the board of directors of the continuing credit union. Such membership vote on the merger may be conducted by mail balloting.

(b) Written notice of any annual or special meeting of the members of the merging credit union shall be sent to each member at the address reflected in the credit union's records at least ten days prior to such meeting.

(5) Notwithstanding the provisions of Paragraphs (2) and (3) of this Subsection, the commissioner may approve a merger or consolidation of credit unions without membership approval when the merging credit union is insolvent, or in danger of insolvency, as determined by the commissioner.

B.(1) The commissioner may suspend or revoke the charter of any credit union under his supervision, or place the same in involuntary liquidation and appoint a liquidating agent therefor, upon his finding that the organization is bankrupt or insolvent or has violated any provisions of its charter, its bylaws, or of this Chapter, or of any regulations issued thereunder.

(2) Each credit union shall file quarterly financial reports with the commissioner in a manner and form prescribed by the commissioner. Any credit union failing to file such financial reports postmarked by the required due dates may be fined not more than fifty dollars for each day the report remains unfiled.

(3) Each credit union shall be subject to examination by the commissioner or his authorized deputy on a recurring schedule consonant with the resources of the office and in accordance with good examination practice. The commissioner may order other examinations as necessary, and shall at all times be given free access to all the books, papers, securities, and other sources of information with respect to the credit union. For that purpose he may, personally or through his duly authorized deputies, subpoena and examine witnesses under oath about documents pertaining to the business of credit unions.

(4) Repealed by Acts 1993, No. 278, §1, eff. Jan. 1, 1994.

(5) The commissioner may, by rule, establish a fee schedule for the examination of a corporate credit union.

C. If a credit union neglects for fifteen days to make the required reports or to pay the charges required, including penalties for delay in filing reports, the commissioner shall notify the credit union of his intention to revoke the certificate of approval. If the neglect or failure continues for another fifteen days or if the credit union violates any of the provisions of this Chapter, the commissioner may revoke the certificate of approval and personally or through one of his deputies, shall take possession of the business of the credit union and retain possession until such time as he may permit it to resume business or until its affairs are finally liquidated.

D. If it appears to the commissioner that a credit union has violated any of the provisions of this Chapter, he may by an order made over his hand and official seal after a hearing or an opportunity for hearing has been given the credit union, direct the credit union to discontinue its illegal methods and practices. If a credit union is insolvent or has within a reasonable time failed to comply with any order mailed to the last address filed by the credit union with the

commissioner, he shall immediately or within a reasonable time thereafter take possession of the business and property of the credit union and retain possession until such time as he may permit it to resume business or until its affairs are finally liquidated.

E. The commissioner shall prescribe rules and regulations specifying the period of time a credit union must retain its records and permitting a credit union to destroy records after the time required by such regulations has expired.

Acts 1993, No. 278, §1, eff. Jan. 1, 1994; Acts 1993, No. 583, §1; Acts 1997, No. 234, §1; Acts 1999, No. 703, §1, eff. July 1, 1999; Acts 2001, No. 887, §1, eff. June 26, 2001; Acts 2003, No. 362, §§1 and 2, eff. June 18, 2003.

Maine**§164. Penalties**

1. Violation. Any officer or employee of a financial institution authorized to do business in this State, credit union authorized to do business in this State, affiliate or consumer reporting agency who intentionally or knowingly furnishes financial records in violation of this chapter commits a civil violation for which the superintendent may assess a civil penalty of not more than \$5,000 per violation. Any financial institution authorized to do business in this State or credit union authorized to do business in this State that intentionally or knowingly furnishes financial records in violation of this chapter or intentionally or knowingly allows an affiliate to furnish financial records in violation of this chapter commits a civil violation for which the superintendent may assess a civil penalty of not more than \$10,000 per violation. Any financial institution authorized to do business in this State or credit union authorized to do business in this State or any agent or employee of a financial institution or credit union making a disclosure of financial records in good-faith reliance upon the certificate of agency or person requesting the disclosure, that the provisions of section 163 requiring prior notice to the customer have been complied with, is not liable to the customer for the disclosures and is not liable for any civil penalties under this section.

[2001, c. 262, Pt. B, §6 (AMD) .]

2. Inducing violation. Any person who intentionally or knowingly induces or attempts to induce any officer or employee of a financial institution authorized to do business in this State, credit union authorized to do business in this State or consumer reporting agency to disclose financial records in violation of this chapter commits a civil violation for which the superintendent may assess a civil penalty of not more than \$10,000 per violation.

[2001, c. 262, Pt. B, §6 (AMD) .]

3. Immunity. A financial institution authorized to do business in the State or its affiliate or a credit union authorized to do business in the State or its affiliate that in good faith discloses financial records to the Department of Health and Human Services pursuant to section 162, subsection 5 or the Department of Administrative and Financial Services, Bureau of Revenue Services pursuant to section 162, subsection 6 is immune from civil or criminal liability that might otherwise arise from the disclosure. In a proceeding regarding immunity from liability, there is a rebuttable presumption of good faith.

§222. Reports and other information from supervised institutions

1. General requirement. In addition to the reports required pursuant to this section, the superintendent may require, from a financial institution organized under the laws of this State and from an out-of-state financial institution authorized to do business in this State, reports and other information from those institutions at those times and in such form as the superintendent considers appropriate for the proper supervision and regulation of those institutions.

...

5. Penalties. Any financial institution which shall fail to furnish reports and information required pursuant to this section, within the time specified, shall be subject to a penalty of not

more than \$100 for each day it is in violation of this section, which penalty may be recovered in a civil action brought in the name of the State.

§228. Report of violations

1. Requirement. If, in the opinion of the superintendent, any financial institution authorized to do business in this State or credit union authorized to do business in this State, or the officers, corporators, directors, employees or agents of any financial institution authorized to do business in this State or credit union authorized to do business in this State, has persistently violated any provision of this Title or rule adopted under this Title, the superintendent shall report the violation, with any remarks the superintendent determines appropriate, to the Attorney General who may institute a prosecution of the violation on behalf of the State.
[2003, c. 322, §11 (AMD) .]

2. Penalty. The penalty for such violation, unless otherwise prescribed, shall be not less than \$500 nor more than \$1000.

§241. Anticompetitive or unfair practices

...

15. Deceptive use of names. A person may not use in an unauthorized or deceptive manner the name, abbreviated name or title of any financial institution authorized to do business in this State, credit union authorized to do business in this State, financial institution holding company or their affiliates or subsidiaries in any written or oral advertisement or solicitation. Use of a name, abbreviated name or title is not unauthorized or deceptive if the person using the name, abbreviated name or title has obtained written authorization for such use from the financial institution, credit union, holding company, affiliate or subsidiary or if the use is limited solely to a truthful written advertisement or solicitation comparing the relative attributes of similar products or services offered by the financial institution, credit union, holding company, affiliate or subsidiary and the person using the name, abbreviated name or title.

The superintendent may, through the Attorney General, bring a civil action against any person who willfully violates any provision of this subsection. The penalty for violation of this subsection may not exceed \$5,000 for each violation.

Any financial institution, credit union, holding company, affiliate or subsidiary whose name, abbreviated name or title is used by any person in violation of this subsection may, in addition to any other remedy available under the laws of this State, bring an action to enjoin such use and recover damages. The court shall award actual damages or \$5,000 for each violation, whichever is greater, plus attorney's fees and costs, upon a finding that a violation has occurred.

§882. Use of term "credit union"

1. Use of term authorized. A person, if duly authorized under the laws of this State, another state or the United States to conduct the business of banking as a credit union, may use as a part of the name or title under which it conducts business in this State the term "credit

union." The superintendent may require the filing of supporting documentation relating to this paragraph in the form and manner and containing any information the superintendent may prescribe.

[2005, c. 82, §12 (NEW) .]

2. Use of term prohibited. Except as provided in subsection 1, a person may not use the term "credit union" as part of the name or title under which business is conducted or as a designation of such a business without prior written approval of the superintendent. In determining whether to grant written permission, the superintendent shall consider whether the business to be conducted is similar to the business of banking and whether using those terms or any derivatives of those terms could be deceptive or otherwise injurious to public interest.

[2005, c. 82, §12 (NEW) .]

3. Violation; penalty. A person who violates any provision of this section is subject to a civil penalty of not more than \$10,000 for each violation.

[2005, c. 82, §12 (NEW) .]

4. Exception. This section does not prohibit the use of any name by a person who received written permission from the superintendent to use the name prior to the effective date of this section.

Michigan**490.220 Civil fine; assessment; limitation; commencement of action by attorney general; determination of amount of fine; conduct of administrative hearing.**

Sec. 220.

(1) Subject to subsection (2), if the commissioner finds that a credit union has violated this act or a rule promulgated under this act, the commissioner may assess a civil fine against the credit union or an official of the credit union of not more than \$1,000.00 for each violation, plus the costs of investigation. Each injury to an individual or other person by a violation of this act or a rule is a separate violation.

(2) The commissioner may not assess civil fines under subsection (1) against a credit union or an official of the credit union that in the aggregate are more than \$10,000.00, plus the costs of investigation, for multiple violations of this act or rules promulgated under this act that arise from the same transaction.

(3) The attorney general may commence an action to recover a civil fine assessed under subsection (1) or (2) by and in the name of the commissioner. The attorney general shall collect and enforce a civil fine and may utilize summary proceedings.

(4) In determining the amount of a fine under subsection (1) or (2), the commissioner shall consider the extent to which the violation was a knowing and willful violation and the extent of the injury suffered because of the violation. If the violation was committed by a credit union, the commissioner shall also consider any corrective action taken by the credit union to ensure that the violation will not be repeated and the record of the credit union in complying with this act.

(5) The commissioner shall conduct a proceeding under this section in accordance with the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

History: 2003, Act 215, Eff. June 1, 2004

Mississippi**§ 81-1-123. Director, officer or employee violation; civil penalty [covers only banks]**

(1) Any person, whether a director, officer or employee, who is found to have violated any provision of Chapters 1 through 9, Title 81, Mississippi Code of 1972, whether willfully, or as a result of gross negligence, gross incompetency or recklessness, may be ordered to pay a civil penalty not to exceed Five Thousand Dollars (\$5,000.00) per violation. Any person who is found to have violated or failed to comply with any cease and desist order issued under the authority of this chapter may be ordered to pay a civil penalty not to exceed Five Thousand Dollars (\$5,000.00) per violation for each day that the violation or failure to comply continues.

(2) To enforce the provisions of this section, the commissioner is authorized to assess such penalty, to appear in a court of competent jurisdiction and to move the court to order payment of the penalty. Prior to the assessment of the penalty, a hearing shall be held by the commissioner.

(3) Nothing in this section shall prevent anyone damaged by a director, officer or employee of a state bank from bringing a separate cause of action in a court of competent jurisdiction.

§ 81-13-15. Supervision by Department of Banking and Consumer Finance; rules and regulations; reports by credit unions.

Credit unions shall be subject to the supervision of the Department of Banking and Consumer Finance. The Commissioner of Banking and Consumer Finance is empowered with authority to promulgate from time to time rules and regulations concerning the operation of credit unions; provided that such rules and regulations shall be consistent with and in conformity with the laws of the State of Mississippi. Credit unions shall make a report of condition thereto at least annually on blank forms to be supplied by said department. Credit unions shall transmit to the department such call reports within a time limitation established by the commissioner; however, such time limitation cannot exceed that set by the National Credit Union Administration. For any failure or delay in furnishing this report, the credit union shall be subject to an administrative fine, which may be imposed by the commissioner, of Fifty Dollars (\$50.00) a day for each day while in such default. Reports shall be verified by both the chief elected official and the treasurer and additional reports may be required by the said department.

§ 81-1-131. Fines and penalties; reimbursement.

No person who is fined or penalized for a violation of any criminal provision of this chapter shall be reimbursed or indemnified in any fashion by the bank for such fine or penalty.

§ 81-1-133. Cumulative penalties, fines and remedies.

All penalties, fines and remedies provided by this chapter shall be cumulative.

Nebraska**8-1,134. Violations; director; powers; fines; notice; hearing; closure; emergency powers; service; procedures.**

(1) Whenever the Director of Banking and Finance has reason to believe that a violation of any provision of Chapter 8 or of the Credit Union Act or any rule, regulation, or order of the Department of Banking and Finance has occurred, he or she may cause a written complaint to be served upon the alleged violator. The complaint shall specify the statutory provision or rule, regulation, or order alleged to have been violated and the facts alleged to constitute a violation thereof and shall order that necessary corrective action be taken within a reasonable time to be prescribed in such order. Any such order shall become final as to any person named in the order unless such person requests, in writing, a hearing before the director no later than ten days after the date such order is served. In lieu of such order, the director may require that the alleged violator appear before the director at a time and place specified in the notice and answer the charge complained of. The notice shall be delivered to the alleged violator or violators in accordance with subsection (4) of this section not less than ten days before the time set for the hearing.

(2) The director shall provide an opportunity for a fair hearing to the alleged violator at the time and place specified in the notice or any modification of the notice. On the basis of the evidence produced at the hearing, the director shall make findings of fact and conclusions of law and enter such order as in his or her opinion will best further the purposes of Chapter 8 or the Credit Union Act and the rules, regulations, and orders of the department. Written notice of such order shall be given to the alleged violator and to any other person who appeared at the hearing and made written request for notice of the order. If the hearing is held before any person other than the director, such person shall transmit a record of the hearing together with findings of fact and conclusions of law to the director. The director, prior to entering his or her order on the basis of such record, shall provide opportunity to the parties to submit for his or her consideration exceptions to the findings or conclusions and supporting reasons for such exceptions. The order of the director shall become final and binding on all parties unless appealed to the district court of Lancaster County as provided in section [8-1,135](#). As part of such order, the director may impose a fine, in addition to the costs of the investigation, upon a person found to have violated any provision of Chapter 8, the Credit Union Act, or the rules, regulations, or orders of the department. The fine shall not exceed ten thousand dollars per violation for the first offense and twenty-five thousand dollars per violation for a second or subsequent offense involving a violation of the same provision of Chapter 8, the Credit Union Act, the rules and regulations of the department, or the same order of the department. The fines and costs shall be in addition to all other penalties imposed by the laws of this state, shall be collected by the director, and shall be remitted to the State Treasurer. Costs shall be credited to the Financial Institution Assessment Cash Fund, and fines shall be credited to the permanent school fund. If a person fails to pay the fine or costs of the investigation, a lien in the amount of the fine and costs shall be imposed upon all of the assets and property of such person in this state and may be recovered by suit by the director. The lien shall attach to the real property of such person when notice of the lien is filed and indexed against the real property in the office of the register of deeds in the county where the

real property is located. The lien shall attach to any other property of such person when notice of the lien is filed against the property in the manner prescribed by law.

(3) Whenever the director finds that an emergency exists requiring immediate action to protect the safety and soundness of the institutions under the supervision and control of the department, the director may, without notice or hearing, issue an order reciting the existence of an emergency and requiring that such action be taken as the director deems necessary to meet the emergency. Notwithstanding the provisions of subsection (2) of this section, the order shall be effective immediately. Any person to whom such order is directed shall comply immediately, but on application to the director shall be afforded a hearing as soon as possible and not later than ten days after such application by the affected person. On the basis of the hearing, the director shall continue the order in effect, revoke it, or modify it. This subsection shall not apply to a determination of necessary acquisition made by the department pursuant to sections [8-1506](#) to [8-1510](#).

(4) Except as otherwise expressly provided, any notice, order, or other instrument issued by or under authority of the director shall be served on any person affected thereby either personally or by certified mail, return receipt requested. Proof of service shall be filed in the office of the director.

Every certificate or affidavit of service made and filed as provided in this subsection shall be prima facie evidence of the facts stated in the certificate or affidavit, and a certified copy shall have the same force and effect as the original.

(5) Any hearing provided for in this section may be conducted by the director, or by any member of the department acting in his or her behalf, or the director may designate hearing officers who shall have the power and authority to conduct such hearings in the name of the director at any time and place. A verbatim record of the proceedings of such hearings shall be taken and filed with the director, together with findings of fact and conclusions of law made by the director or hearing officer. The director may subpoena witnesses, and any witness who is subpoenaed shall receive the same fees as in civil actions in the district court and mileage as provided in section [81-1176](#). In case of contumacy or refusal to obey a notice of hearing or subpoena issued under this section, the district court of Lancaster County shall have jurisdiction, upon application of the director, to issue an order requiring such person to appear and testify or produce evidence as the case may require. Failure to obey such order of the court may be punished by such court as contempt.

If requested to do so by any party concerned with such hearing, the full stenographic notes, or tapes of an electronic transcribing device, of the testimony presented at such hearing shall be taken and filed. The stenographer shall, upon the payment of the stenographer's fee allowed by the court, furnish a certified transcript of all or any part of the stenographer's notes to any party to the action requiring and requesting such notes.

(6) The director may close to the public the hearing, or any portion of the hearing, provided for in this section when he or she finds that the closure is (a) necessary to protect any person, or any financial institution or entity under the department's jurisdiction, against unwarranted injury

or (b) in the public interest. The director shall close no more of the public hearing than is necessary to attain the objectives of this subsection.

New York**New York Banking Law § 44. Violations; penalties.**

1. (a) Without limiting any power granted to the superintendent under any other provision of this chapter, the superintendent may, in a proceeding after notice and a hearing, require any safe deposit company, licensed lender, licensed cashier of checks, licensed sales finance company, licensed insurance premium finance agency, licensed transmitter of money, licensed mortgage banker, registered mortgage broker, licensed mortgage loan originator, registered mortgage loan servicer or licensed budget planner to pay to the people of this state a penalty for any violation of this chapter, any regulation promulgated thereunder, any final or temporary order issued pursuant to section thirty-nine of this article, any condition imposed in writing by the superintendent or banking board in connection with the grant of any application or request, or any written agreement entered into with the superintendent.

(b) The penalty for each violation prescribed in paragraph (a) of this subdivision shall not exceed two thousand five hundred dollars for each day during which such violation continues.

(c) Notwithstanding paragraph (b) of this subdivision, if the superintendent determines (i) that any such licensee, registrant or safe deposit company has committed a violation as described in paragraph (a) of this subdivision, or has recklessly engaged in any unsafe and unsound practice and (ii) that such violation or practice is part of a pattern of misconduct, results or is likely to result in more than minimal loss to such licensee, registrant or safe deposit company, or results in pecuniary gain or other benefit to such licensee, registrant or safe deposit company, then the penalty shall not exceed fifteen thousand dollars for each day during which such violation or practice continues.

(d) Notwithstanding paragraphs (b) or (c) of this subdivision, if the superintendent determines (i) that any such licensee, registrant or safe deposit company has knowingly and willfully committed any violation as described in paragraph (a) of this subdivision, or has knowingly and willfully engaged in any unsafe and unsound practice, or (ii) that any licensee, registrant or safe deposit company has knowingly committed any violation described in paragraph (a) of this subdivision which substantially undermines public confidence in any such licensee, registrant or safe deposit company or in such licensees, registrants or safe deposit companies generally, and, in either case, (iii) that such licensee, registrant or safe deposit company has knowingly or recklessly incurred so substantial a loss as a result of such violation or practice as to threaten the safety and soundness of such licensee, registrant or safe deposit company, then the penalty shall not exceed seventy-five thousand dollars for each day during which such violation continues.

(e) The superintendent, in determining the amount of any penalty assessed pursuant to this subdivision, shall take into consideration the net worth and annual business volume of such licensees, registrants or safe deposit companies.

2. (a) Without limiting any power granted to the superintendent under any other provision of this chapter, the superintendent may, in a proceeding after notice and hearing, require any banking organization, bank holding company out-of-state state bank that maintains a branch or branches or representative or other offices in this state, or foreign banking corporation licensed by the superintendent to maintain a branch, agency or representative office in this state to pay to the people of this state a penalty for any violation of this chapter, any

regulation promulgated thereunder, any final or temporary order issued pursuant to section thirty-nine of this article, any condition imposed in writing by the superintendent or banking board in connection with the grant of any application or request, or any written agreement entered into with the superintendent. For purposes of this section, any reference to a "banking organization" shall be deemed to exclude a safe deposit company and any reference to a "foreign bank licensee" shall be deemed to include an out-of-state state bank that maintains a branch or branches or representative or other offices in this state and a foreign banking corporation licensed to maintain a branch, agency or representative office in this state. (b) The penalty for each violation prescribed in paragraph (a) of this subdivision shall not exceed five thousand dollars for each day during which such violation continues.

3. Notwithstanding paragraph (b) of subdivision two of this section, if the superintendent determines: (a) that any banking organization, bank holding company, or foreign bank licensee has committed any violation described in subdivision two of this section or has recklessly engaged in any unsafe and unsound practice, and

(b) that such violation or practice is part of a pattern of misconduct, results or is likely to result in more than minimal loss to the banking organization, bank holding company, or foreign bank licensee, or results in pecuniary gain or other benefit to the banking organization, bank holding company, or foreign bank licensee, then the penalty shall not exceed twenty-five thousand dollars for each day during which such violation or practice continues.

4. Notwithstanding paragraph (b) of subdivision two and subdivision three of this section, if the superintendent determines: (a) (i) that any banking organization, bank holding company, or foreign bank licensee has knowingly and willfully committed any violation described in subdivision two of this section or has knowingly and willfully engaged in any unsafe and unsound practice, or (ii) that any banking organization, bank holding company, or foreign bank licensee has knowingly committed any violation described in subdivision two of this section which substantially undermines public confidence in any such banking organization, bank holding company, or foreign bank licensee or in banking organizations, bank holding companies, or foreign bank licensees generally, and, in either case, (b) that the banking organization, bank holding company, or foreign bank licensee has knowingly or recklessly incurred so substantial a loss as a result of such violation or practice as to threaten the safety and soundness of such banking organization, bank holding company, or foreign bank licensee, then the penalty shall not exceed the lesser of (i) two hundred fifty thousand dollars or (ii) one percent of the total assets of such banking organization, or one percent of the total assets of the banking subsidiaries, as such term is defined pursuant to section one hundred forty-one of this chapter, of such bank holding company, or one percent of the total assets in this state of such foreign bank licensee, as applicable, for each day during which such violation or practice continues.

5. In assessing any penalty against any entity listed in paragraph (a) of subdivision one or paragraph (a) of subdivision two of this section, the superintendent shall take into account, without limitation, factors including: (a) the extent, if any, to which senior management or board directors or trustees participated therein, (b) the extent to which the entity has cooperated with the superintendent in the investigation of such conduct, (c) any sanction imposed by any other regulatory agency, (d) the financial resources and good faith of the entity, (e) the gravity of the violation, (f) any history of prior violations, and (g) such other matters as justice and the public interest may require.

6. Whenever the superintendent shall require the payment of such penalty by any such entity, he shall forthwith execute in duplicate a written order to that effect. On the date such order is executed, the superintendent shall file one copy of such order in the office of the department and serve the second copy upon such entity either personally or by registered or certified mail, return receipt requested, directed to the entity's principal place of business or, in the case of a licensee or registrant, its last known address of record. Such order may be reviewed in the manner provided by article seventy-eight of the civil practice law and rules. Such special proceeding for review as authorized by this section must be commenced within thirty days from the service of such order.

7. The superintendent may compromise, modify, or remit any penalty which he or she may assess or had already assessed under this section.

8. The superintendent may prescribe regulations to carry out the provisions and purposes of this section.

9. As used in this section, "bank holding company" shall have the same meaning as that term is defined in subdivision six of section thirty-nine of this article.

North Dakota**6-01-04.3. Assessment of civil money penalties.**

1. The commissioner or the board may assess a civil money penalty against a financial institution or financial corporation, including state-chartered banks, credit unions, trust companies, and savings and loan associations, or an officer, director, employee, agent, or person participating in the conduct of the affairs of the financial institution or corporation, upon finding one or more of the following:

- a. Failure to comply with a permanent or temporary cease and desist order that has been voluntarily consented to or issued pursuant to section 6-01-04.2;
- b. Failure to comply with a final order that has been voluntarily consented to or issued following formal proceedings under chapter 28-32;
- c. Payment of dividends in violation of section 6-03-36;
- d. Loans and leases to one borrower or concern which exceed the limitations set forth in sections 6-03-59 and 6-03-59.1;
- e. Loans to directors, officers, and employees in violation of section 6-03-60;
- f. The intentional filing of inaccurate or misleading call reports required by section 6-03-70;
- g. Violations of loan limitations under subsection 1 of section 6-06-12;
- h. Loans in violation of section 6-06-14; or
- i. Failure to file notice of change of control under section 6-08-08.1.

2. The commissioner or the board commences administrative proceedings to assess civil money penalties by serving a complaint on the respondent stating the factual basis for the commissioner's or board's belief that a violation has occurred and the amount of civil penalties that the complaint seeks to impose. The complaint must contain a notice of an opportunity for an administrative hearing conducted under chapter 8-32. The date for the hearing must be set not less than thirty days after the date the complaint is served upon the respondent. If assessment of civil money penalties are proposed based on conditions described in subdivisions c through i of subsection 1, a complaint may not be filed unless the respondent has been provided with prior orders, examination reports, or other written communications, and has willfully refused to take corrective action that the respondent was capable of taking at the time.

3. If the respondent fails to answer the complaint within twenty days of its service, the commissioner or board may enter an order imposing civil money penalties upon the respondent. If a hearing is held and the board concludes that the record so warrants, the board may enter an order imposing civil money penalties upon the respondent. The assessment order is effective and enforceable immediately upon service or upon a date specified in the order, and remains effective and enforceable until it is stayed, modified, terminated, or set aside by action of the board or a reviewing court.

4. In determining the amount of civil penalty imposed, the commissioner or board shall consider the good faith of the financial institution or the person being assessed, the gravity of the violation and any previous violations. The commissioner or board may not impose a civil money penalty in excess of five thousand dollars for each occurrence and one hundred dollars per day for each day that the violation continues after service of an order. Any civil money penalties collected under this section must be paid to the state treasurer and deposited in the financial institutions regulatory fund.

Pennsylvania

§ 503. Regulation by department.

(a) **General rule.**--Credit unions shall be under the supervision of the department. The department is hereby authorized and empowered to issue general rules and regulations and specific orders for the protection of members of credit unions, for insuring the conduct of the business of credit unions on a safe and sound basis and for the effective enforcement of this title. Credit unions shall report to the department as often as may be required by it and at least annually on forms supplied by the department for that purpose. Supplementary reports may be required by the department from time to time. Credit unions shall be examined as often as may be required by the department and at least annually, and the department may use such other methods of assuring itself of the condition of the credit unions as it shall deem advisable. The cost of all such examinations and inspections shall be paid by the credit union. A credit union shall also pay annually its proportionate share of the overhead expense of the department determined by regulation of the department. The department shall give written notice to each credit union of the costs of examinations, investigations and the credit union's proportionate share of the overhead expenses of the department. The credit union shall pay the amount of such costs within 30 days of the notice. If payment is not made within 30 days of the notice, the department may assess a penalty fee of \$150 for that 30-day period and each successive 30-day period of delinquency. For failure to file reports when due, unless excused for cause, a credit union shall pay to the department \$100 for each day of its delinquency.

(a.1) **Fines, removals, prohibition, suspension.**--For any violation of this title or regulation issued pursuant to this title or any final order issued by the department under this title or any unsafe or unsound practice or breach of fiduciary duty involving a credit union, the department may take any one or more of the following actions:

(1) The department may impose a civil penalty of up to \$10,000 for each violation of this title against a credit union or any director, officer, committee member, employee, volunteer or agent of a credit union.

(2) The department may immediately suspend any director, officer, committee member, employee, volunteer or agent of a credit union from his or her position at a credit union and from any further participation in the conduct of the affairs of the credit union, if in the opinion of the department the credit union or its members have suffered or may suffer any significant financial harm or other prejudice. To suspend a person pursuant to this paragraph, the department shall provide a notice containing a statement of the facts constituting grounds for removal and shall indicate a time and place for a hearing. The hearing shall be fixed for a date between 30 days and 60 days from the date of service of notice unless an earlier or later date is set by the department at the request of the person.

(3) The department may remove any director, officer, committee member, employee, volunteer or agent of a credit union from his or her position at a credit union and prohibit him or her from participating in the conduct of the affairs of the credit union in any manner for such time as the department deems appropriate.

(4) The department may prohibit any director, officer, committee member, employee, volunteer or agent of a credit union under the jurisdiction of the department from working in any capacity in any and all credit unions for such time as the department determines to be appropriate.

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Tennessee**45-4-1001. Supervision of credit unions — Financial report — Failure to file — Promulgation of rules and regulations. —**

(a) Credit unions shall be subject to the supervision of the commissioner and shall make a report of conditions to the commissioner at least semiannually, on blank forms to be supplied by the commissioner, on the dates of the second and fifth calls made to national banks, notice of which calls shall be sent out by the commissioner; returns shall be verified under oath of the president and treasurer, and additional reports may be required by the commissioner. Any credit union that neglects to make the reports shall forfeit to the state treasury fifty dollars (\$50.00) for each day of neglect unless excused.

(b) The commissioner may promulgate rules for the implementation of the credit union laws of this state and the sound operation of state chartered credit unions pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

45-1-108. Review of commissioner's orders — Enforcement. —

(a) A person who is aggrieved by an order of the commissioner issued pursuant to § 45-1-107 is entitled to judicial review as provided in the Uniform Administrative Procedures Act. A person who is aggrieved and directly affected by an order of the commissioner issued pursuant to other provisions of this title may seek judicial review as provided in title 27, chapter 9, except that judicial review of orders issued pursuant to chapter 5 of this title shall be governed by the Uniform Administrative Procedures Act.

(b) In the event a person does not comply with an order issued pursuant to § 45-1-107, the commissioner may petition a chancery court having jurisdiction to seek injunctive relief to compel compliance with the order. The power is conferred and the duty is imposed upon the several chancery courts, in all proper cases, to award injunctive relief; provided, that the order issued by the commissioner shall not be reviewable in a proceeding initiated under this subsection (b).

(c) In lieu of the procedure set forth in subsection (b), the commissioner may assess a civil penalty of not more than five hundred dollars (\$500) per day against any bank or other person who violates an order issued pursuant to § 45-1-107 for each day during which the violation has occurred and continues. The maximum aggregate civil penalty assessed against a bank and any other person participating in the violation, however, shall not exceed five hundred dollars (\$500) per day for each proceeding. In determining the amount of the penalty, the commissioner shall consider the appropriateness of the penalty with respect to the size of the financial resources and good faith of the person charged, the gravity of the violation, and other matters that justice may require. The person shall be afforded an opportunity for hearing upon request made within ten (10) days of the issuance of the notice of assessment. The commissioner's decision after a hearing or otherwise shall constitute a final order and may be reviewed in accordance with subsection (a); provided, that the original order shall not be reviewable in a proceeding initiated under this subsection (c).

Texas**ADMINISTRATIVE PENALTY; INJUNCTION.**

(a) If a credit union or other person designated in a final order under this subchapter does not comply with the order, the commissioner, after giving notice, may assess an administrative penalty against the credit union, the designated person, or both, in an amount of not less than \$100 or more than \$10,000 each for each day of the violation of the order.

(b) The credit union may not reimburse or indemnify a person for any part of the administrative penalty.

(c) The commissioner may bring suit for injunction or to collect the administrative penalty in a district court of Travis County. In the suit, a certificate by the commissioner showing a failure to pay an administrative penalty is prima facie evidence of:

(1) the imposition of the penalty or the delinquency of the stated penalty amount; and
(2) compliance by the department with the law relating to the computation and imposition of the penalty.

(d) The attorney general is entitled to recover reasonable attorney's fees from the credit union or the designated person, or both, if the attorney general prevails in a judicial action necessary for collection of the administrative penalty.

Vermont**§ 13. Powers and penalties**

(a) In addition to any other penalties, and in order to enforce this title, chapters 131 and 150 of Title 9, Title 9A, and chapter 221 of Title 18, the commissioner may issue subpoenas, examine persons, administer oaths and require production of papers and records. Any subpoena or notice to produce may be served by registered or certified mail or in person by an agent of the commissioner. Service by registered or certified mail shall be effective three business days after mailing. Any subpoena or notice to produce shall provide at least six business days' time from service within which to comply, except that the commissioner may shorten the time for compliance for good cause shown. Any subpoena or notice to produce sent by registered or certified mail, postage prepaid, shall constitute service on the person to whom it is addressed. Each witness who appears before the commissioner under subpoena shall receive a fee and mileage as provided for witnesses in civil cases in superior courts; provided, however, any person subject to regulation under this title shall not be eligible to receive fees or mileage under this section.

(b) A person who fails or refuses to appear, to testify or to produce papers or records for examination before the commissioner, upon properly being ordered to do so, may be assessed an administrative penalty by the commissioner of banking, insurance, securities, and health care administration of not more than \$ 2,000.00 for each day of noncompliance and proceeded against as provided in the Administrative Procedure Act, and that person's authority to do business may be suspended for not more than six months.

(c) If an appeal or other petition for judicial review of a final order is not filed in connection with an order of the commissioner under this title, or chapter 221 of Title 18, the commissioner may file a certified copy of the final order with the clerk of a court of competent jurisdiction. The order so filed has the same effect as a judgment of the court and may be recorded, enforced, or satisfied in the same manner as a judgment of the court.

§ 30701. Enforcement powers of commissioner

(a) The commissioner may:

(1) Restrict the withdrawal of share or deposit accounts from a Vermont credit union or a Vermont office of a state-chartered credit union when the commissioner finds that extraordinary circumstances make the restriction necessary for the proper protection of members in the affected credit union.

(2) Order any person to cease violating this title, a lawful regulation, or order of the commissioner issued under it, or to cease engaging in any unsafe or unsound practice.

(3) Except as provided in subdivision (4) of this subsection, impose an administrative penalty of not more than \$ 15,000.00 upon any credit union or any person who, for each violation of this title, a lawful regulation, or order of the commissioner issued under it:

(A) knowingly violates this title or a lawful regulation or order issued under it;

(B) has knowingly engaged or participated in any materially unsafe or unsound practice in connection with a credit union; or

(C) has knowingly committed or engaged in any act, omission, or practice which constitutes a breach of fiduciary duty to the credit union, including, but not limited to, violations of section 31313 of this title.

(4) Impose an administrative penalty of not more than \$ 100.00 per day on any person who fails without good cause to file any report or other filing under this title when due.

(5) Remove from a Vermont credit union or state credit union regulated under this title any director, officer, committee member, employee, agent of the credit union, or other person who:

(A) knowingly violates this title or a lawful regulation or order issued under it;

(B) is convicted of a crime involving dishonesty;

(C) has knowingly engaged or participated in any materially unsafe or unsound practice in connection with the credit union;

(D) has knowingly committed or engaged in any act, omission, or practice which constitutes a breach of fiduciary duty to the credit union; or

(E) is not eligible for bond coverage or who loses his or her ability to be covered by a bond.

(b) In determining the amount of any administrative penalty assessed pursuant to this section, the commissioner shall consider the following factors:

(1) the appropriateness of the administrative penalty with respect to the financial resources and good faith of the person or credit union charged;

(2) the gravity of the violation or practice;

(3) the history of previous violations or practices of a similar nature;

(4) the economic benefit, if any, derived by any person from the violation or practice;

(5) whether the credit union has suffered or probably will suffer financial loss or other damage;

(6) whether the interest of members could be seriously prejudiced by such violation, practice, or breach of fiduciary duty; or

(7) other factors as justice may require.

(c) The commissioner shall provide notice of any enforcement order proposed pursuant to this section and the grounds therefore by mail to the credit union and to any person named as a party to the enforcement proceeding. The credit union or any person so served may, within 30 days of service on the credit union, request that the commissioner hold a hearing. If no hearing is requested, the proposed order shall become final 30 days after service on the credit union or such person. The provisions of chapter 25 of Title 3 and any applicable department regulations shall govern any hearing held by the commissioner under this section. An appeal under this section shall be filed within 30 days of the date of the commissioner's decision, and shall be to the Washington superior court.

(d) The hearing on a removal order shall be private unless the commissioner determines that a public hearing is necessary to protect the public interest. If the commissioner deems it necessary to assure the continued safety and soundness of the credit union, the commissioner may, in his or her discretion, order an immediate suspension of any person pending completion of further administrative proceedings on his or her removal.

Virginia

§ 6.2-1311. (Effective October 1, 2010) Reports to Commission; penalty for failure to make reports.

A. No later than March 31 of each year, each credit union shall report to the Commission regarding its condition as of the close of business on the preceding December 31. These reports shall be signed by the president or the chairman and the treasurer or secretary, or by the majority of the members of the supervisory committee. A credit union shall make such other reports as the Commissioner shall at any time demand.

B. The Commission may allow a credit union to make the reports required by this section electronically, in accordance with procedures established by the Commission. A credit union that submits a report electronically shall maintain a copy of the report with the required certified signatures affixed.

C. If any credit union (i) neglects or refuses to make its reports as provided in this chapter for more than 15 days or (ii) fails to pay such charges as are required under this chapter, including any charges for delay in filing reports, the Commission may impose a civil penalty not exceeding \$100 per day upon the credit union, to a maximum of \$5,000, or the Commission may give notice to such credit union of its intention to revoke the certificate of authority of the credit union for such neglect or failure. If such neglect or failure continues for 15 days after such notice, then the Commission may revoke or suspend the certificate of authority of the credit union. In such event, the Commission may, in its discretion, (a) close such credit union and take possession of its property and business until such time as it may see fit to allow the credit union to resume business or (b) proceed to finally liquidate such business.

§ 6.2-1314. (Effective October 1, 2010) Penalties for violation of orders of Commission.

The Commission may impose a civil penalty not exceeding \$10,000 upon any credit union or against any of its directors, officers, or employees for knowingly or willfully violating any lawful order of the Commission.

West Virginia

§31C-12-3. Civil penalties.

Any person who violates this chapter, the rules issued pursuant thereto, or any orders lawfully entered by the commissioner or board of banking and financial institutions may be subject to civil penalties in an action brought by the commissioner or board in an amount not less than fifty dollars nor more than five thousand dollars for each violation.