

Superseded 5/12/2015

32B-3-201 Nature of adjudicative proceedings under title.

- (1) An adjudicative proceeding under this title, including a disciplinary proceeding, is a civil action, notwithstanding whether at issue in the adjudicative proceeding is a violation of statute that can be prosecuted criminally.
- (2) Unless specifically adopted in this title, a procedure or principal that is applicable to a criminal proceeding does not apply to an adjudicative proceeding permitted under this title including:
 - (a) Title 76, Chapter 1, General Provisions;
 - (b) Title 76, Chapter 2, Principles of Criminal Responsibility;
 - (c) Title 76, Chapter 3, Punishments; and
 - (d) Title 76, Chapter 4, Inchoate Offenses.
- (3)
 - (a) The burden of proof in an adjudicative proceeding under this title is by a preponderance of the evidence.
 - (b) If the subject of an adjudicative proceeding under this title asserts an affirmative defense, the subject has the burden of proof to establish the affirmative defense by the preponderance of the evidence.
- (4) In an adjudicative proceeding under this title, to find a violation of this title the commission:
 - (a) is required to determine whether the conduct that constitutes the violation occurred; and
 - (b) is not required to make a finding of knowledge or intent unless knowledge or intent is expressly made an element of the violation by statute.