

7-1-308 Suspension or removal of director or officer -- Grounds -- Procedure for issuance of order.

- (1)
 - (a) If the commissioner has determined that any officer or director of an institution or other person under the jurisdiction of the department has:
 - (i) violated any law, rule, regulation, or a cease and desist order which has become final;
 - (ii) engaged or participated in any unsafe or unsound practice in the conduct of the affairs of the institution or other person;
 - (iii) committed or engaged in any act, omission, or practice which constitutes a breach of his fiduciary duty as an officer or director;
 - (iv) been charged in any information, indictment, or complaint authorized by a county attorney, a district attorney, or the attorney general of the state relative to a violation of this title; or
 - (v) been charged with the commission of or participation in a crime involving dishonesty or breach of trust; and
 - (b) if the commissioner determines that:
 - (i) the institution or other person under the jurisdiction of the department has suffered or will suffer substantial financial loss or other damage due to such actions and that such action may impair the safety and soundness of the institution or other person or prejudice in any manner the interests of the depositors, members, creditors, or shareholders; or
 - (ii) the director or officer has received financial gain by reason of any breach of fiduciary duty; the commissioner may, after notice and opportunity for hearing, serve upon such director or officer a written notice of suspension or removal of the individual from office or prohibition from further participation in the conduct of the affairs of the institution or other person.
- (2) If the commissioner deems it necessary for the protection of an institution or other person under the jurisdiction of the department or the interests of its depositors, members, creditors, or shareholders, he may, by written notice served upon the officer or director, suspend that officer or director from office or prohibit him from further participation in any manner in the conduct of the affairs of the institution or other person. The suspension or prohibition is effective upon service of the notice and, unless stayed by a court, shall remain in effect until the commissioner dismisses the charges specified in the notice, or, if an order of removal or prohibition is issued against the officer or director, until the effective date of that order.

Amended by Chapter 38, 1993 General Session