

28 ruling, order, or decision of the director and the commission.

29 (b) If the applicant, certificate holder, or licensee prevails in the appeal and the court finds
30 that the state action was undertaken without substantial justification, the court may award
31 reasonable litigation expenses to the applicant, certificate holder, or licensee as provided under
32 Title 78, Chapter 27a, Small Business Equal Access to Justice Act.

33 (c) (i) ~~[No]~~ An order, rule, or decision of the director and the commission ~~[may]~~ shall take
34 effect ~~[until the time for appeal to the court has expired]~~ and become operative 30 days after the
35 service thereof unless otherwise provided in the order.

36 (ii) If an appeal is taken by a licensee, the division ~~[shall]~~ may stay enforcement of the
37 commission's action in accordance with the provisions of Section 63-46b-18.

38 (iii) The appeal shall be governed by the Utah Rules of Appellate Procedure.

39 (3) The commission and the director shall comply with the procedures and requirements
40 of Title 63, Chapter 46b, Administrative Procedures Act, in their adjudicative proceedings.

41 Section 2. Section **61-2-21** is amended to read:

42 **61-2-21. Remedies and action for violations.**

43 (1) (a) If the director has reason to believe that any person has been or is engaging in acts
44 constituting violations of this chapter, and if it appears to the director that it would be in the public
45 interest to stop such acts, he shall issue and serve upon the person an order directing that person
46 to cease and desist from those acts.

47 (b) Within ten days after receiving the order, the person upon whom the order is served
48 may request an adjudicative proceeding.

49 (c) Pending the hearing, the cease and desist order shall remain in effect.

50 (d) If a request for a hearing is made, the division shall follow the procedures and
51 requirements of Title 63, Chapter 46b, Administrative Procedures Act.

52 (2) (a) After the hearing, if the commission and the ~~[executive]~~ director agree that the acts
53 of the person violate this chapter, the ~~[executive]~~ director shall issue an order making the cease and
54 desist order permanent.

55 (b) If no hearing is requested and if the person fails to cease the acts, or after discontinuing
56 the acts, again commences the acts, the ~~[executive]~~ director shall file suit in the name of the
57 Department of Commerce and the Division of Real Estate, in the district court in the county in
58 which the acts occurred or where the person resides or carries on business, to enjoin and restrain

59 the person from violating this chapter.

60 (c) The district courts of this state shall have jurisdiction of these suits.

61 (3) The remedies and action provided in this section may not interfere with, or prevent the
62 prosecution of, any other remedies or actions including criminal proceedings.

Legislative Review Note
as of 1-26-99 8:30 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel