

Effective 7/1/2024

13-22-3 Investigative and enforcement powers -- Education.

- (1) The division shall administer and enforce the provisions of this chapter in accordance with Chapter 2, Division of Consumer Protection.
- (2) Upon request, the attorney general shall give legal advice to, and act as counsel for, the division in the exercise of the division's responsibilities under this chapter.
- (3) The division may audit or investigate as necessary to determine whether a person is violating, has violated, or is about to violate a provision of this chapter or a rule made or order issued under this chapter. As part of the investigation, the division may:
 - (a) require a person to file a statement in writing;
 - (b) administer oaths, subpoena witnesses and compel a witness to attend, compel sworn responses to written questions, take evidence, and examine under oath a person in connection with an investigation; and
 - (c) require the production of books, papers, documents, merchandise, or other material relevant to the investigation.
- (4) In addition to the division's enforcement powers under Chapter 2, Division of Consumer Protection:
 - (a) the director may impose an administrative fine of up to \$2,500 for each violation of this chapter; or
 - (b) the division may bring an action in a court with jurisdiction to enjoin the acts or practices constituting the violation or to enforce compliance with this chapter or a rule made or order issued under this chapter.
- (5) Upon a proper showing, the court hearing an action brought under Subsection (4)(b) may:
 - (a) issue an injunction;
 - (b) enter a declaratory judgment;
 - (c) appoint a receiver for the defendant or the defendant's assets;
 - (d) order disgorgement of any money received in violation of this chapter;
 - (e) order rescission of agreements violating this chapter;
 - (f) impose fines for each violation of this chapter; and
 - (g) impose a civil penalty or any other relief the court determines reasonable and necessary.
- (6) If a court with jurisdiction grants judgment or injunctive relief to the division, the court shall award the division:
 - (a) reasonable attorney fees;
 - (b) court costs; and
 - (c) investigative fees.
- (7) In assessing the amount of a fine or penalty under Subsection (4)(a), (5)(f), or (5)(g), the director or court imposing the fine or penalty may consider the gravity of the violation.
- (8)
 - (a) A person who violates an administrative or court order issued for a violation of this chapter is subject to a civil penalty of up to \$5,000 for each violation.
 - (b) A court may impose a civil penalty authorized under this section in a civil action brought by the attorney general on behalf of the division.
- (9) The division may provide or contract to provide public education and voluntary education for applicants and registrants under this chapter. The education may be in the form of publications, advertisements, seminars, courses, or other appropriate means. The scope of the education may include:
 - (a) the requirements, prohibitions, and regulated practices under this chapter;
 - (b) suggestions for effective financial and organizational practices for charitable organizations;

- (c) charitable giving and solicitation;
 - (d) potential problems with solicitations and fraudulent or deceptive practices; and
 - (e) any other matter relevant to the subject of this chapter.
- (10) Nothing in this chapter limits other available rights or remedies authorized under the laws of this state or the United States.

Amended by Chapter 158, 2024 General Session