

61-2f-407 Remedies and action for violations.

- (1)
 - (a) The director shall issue and serve upon a person an order directing that person to cease and desist from an act if:
 - (i) the director has reason to believe that the person has been engaging, is about to engage, or is engaging in the act constituting a violation of this chapter; and
 - (ii) it appears to the director that it would be in the public interest to stop the act.
 - (b) Within 10 days after receiving the order, the person upon whom the order is served may request a hearing.
 - (c) Pending a hearing requested under Subsection (1)(b), a cease and desist order shall remain in effect.
 - (d) If a request for a hearing is made, the division shall follow the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act.
- (2)
 - (a) After a hearing requested under Subsection (1), if the commission and the director agree that an act of the person violates this chapter, the director:
 - (i) shall issue an order making the order issued under Subsection (1) permanent; and
 - (ii) may impose another disciplinary action under Section 61-2f-404.
 - (b) The director shall file suit in the name of the Department of Commerce and the Division of Real Estate, in the district court in the county in which an act described in Subsection (1) occurs or where the person resides or carries on business, to enjoin and restrain the person from violating this chapter if:
 - (i)
 - (A) a hearing is not requested under Subsection (1); and
 - (B) the person fails to cease the act described in Subsection (1); or
 - (ii) after discontinuing the act described in Subsection (1), the person again commences the act.
 - (c) A district court of this state has jurisdiction of an action brought under this section.
 - (d) Upon a proper showing in an action brought under this section or upon a conviction under Section 76-6-1203, the court may:
 - (i) issue a permanent or temporary, prohibitory or mandatory injunction;
 - (ii) issue a restraining order or writ of mandamus;
 - (iii) enter a declaratory judgment;
 - (iv) appoint a receiver or conservator for the defendant or the defendant's assets;
 - (v) order disgorgement;
 - (vi) order rescission;
 - (vii) impose a civil penalty not to exceed the greater of:
 - (A) \$5,000 for each violation; or
 - (B) the amount of any gain or economic benefit derived from a violation; and
 - (viii) enter any other relief the court considers just.
 - (e) The court may not require the division to post a bond in an action brought under this Subsection (2).
- (3) A license, certificate, or registration issued by the division to any person convicted of a violation of Section 76-6-1203 is automatically revoked.
- (4) A remedy or action provided in this section does not limit, interfere with, or prevent the prosecution of another remedy or action, including a criminal proceeding.

Renumbered and Amended by Chapter 379, 2010 General Session

