

Part 5 Enforcement

70D-3-501 Disciplinary action.

- (1) The commissioner may through an adjudicative proceeding subject to Title 63G, Chapter 4, Administrative Procedures Act, impose a sanction described in Subsection (2) against an individual if the individual:
 - (a) is licensed or required to be licensed under this chapter; and
 - (b) violates this chapter.
- (2) The commissioner may against an individual described in Subsection (1) who violates this chapter:
 - (a) impose an educational requirement;
 - (b) impose a civil penalty against the individual in an amount not to exceed the greater of:
 - (i) \$2,500 for each violation; or
 - (ii) the amount equal to any gain or economic benefit derived from each violation;
 - (c) deny an application for an initial license;
 - (d) do any of the following to a license under this chapter:
 - (i) suspend;
 - (ii) revoke;
 - (iii) place on probation;
 - (iv) deny renewal;
 - (v) deny reinstatement;
 - (vi) in the case of a denial of a license, set a waiting period for an individual to apply for a license under this chapter; or
 - (vii) issue a cease and desist order; or
 - (e) impose a combination of sanctions described in this Subsection (2).
- (3)
 - (a) If the commissioner determines that a practice that the commissioner alleges is unlawful should be enjoined during the pendency of a proceeding incident to an allegation, the commissioner may issue a temporary order in accordance with Section 63G-4-502:
 - (i) at the commencement of the proceedings; or
 - (ii) at any time after the proceeding commences.
 - (b) For purposes of Section 63G-4-502, an immediate and significant danger to the public health, safety, or welfare exists if the commissioner finds from specific facts supported by sworn statement or the records of a person subject to the order that loan applicants or mortgagors are otherwise likely to suffer immediate and irreparable injury, loss, or damage before a proceeding incident to a final order can be completed.

Enacted by Chapter 72, 2009 General Session

70D-3-502 Investigations.

- (1) The commissioner may investigate the actions of:
 - (a) a licensee; or
 - (b) an individual required to be licensed under this chapter.
- (2) In conducting an investigation or adjudicative proceeding, the commissioner may:
 - (a) administer an oath or affirmation under penalty of perjury;
 - (b) subpoena a witness;

- (c) compel the attendance of a witness;
 - (d) take evidence;
 - (e) require the production of a record or information relevant to an investigation from any person including:
 - (i) the existence, description, nature, custody, condition, and location of a record or other tangible thing of any kind or nature; and
 - (ii) the identity and location of a person having knowledge of a relevant fact or any other matter reasonably calculated to lead to the discovery of admissible evidence; and
 - (f) serve a subpoena.
- (3) A failure to respond to a request by the commissioner in an investigation authorized under this chapter is considered as a separate violation of this chapter, including:
- (a) failing to respond to a subpoena;
 - (b) withholding evidence; or
 - (c) failing to produce a record or other information.
- (4) In conducting an investigation, the commissioner may inspect and copy a record related to the business of a loan originator, regardless of whether the record is maintained at a business location in Utah.
- (5) Regardless of whether the commissioner takes action pursuant to an investigation under this chapter, an individual investigated under this section shall pay to the commissioner the amounts that would be assessed to a financial institution for an examination under Subsection 7-1-401(7) including:
- (a) a per diem assessment at the rate calculated under Subsection 7-1-401(7); and
 - (b) if the investigation requires one or more representatives of the commissioner to travel out of state, the reasonable travel, lodging, and other expenses incurred by each representative while conducting the investigation.

Enacted by Chapter 72, 2009 General Session