

§ 53C-8-12. Enforcement of the banking laws.

(a) When the Commissioner believes that a violation of the banking laws has occurred or is continuing, the Commissioner may order an examination or investigation of the facts and circumstances relating to the suspected violation.

(b) Every bank failing to make and transmit any report that the Commissioner is authorized to require by this Chapter, and in and according to the form prescribed by the Commissioner, within 10 business days after the receipt of a request or requisition therefor, or within the extension of time granted by the Commissioner, shall be notified by the Commissioner, and if the failure continues for five business days after the receipt of the notice, the delinquent bank shall be subject to a penalty of up to one thousand dollars (\$1,000). The penalty provided by this section shall be recovered in a civil action in any court of competent jurisdiction, and it shall be the duty of the Attorney General to prosecute all such actions.

(c) In addition to any other powers conferred by this Chapter, the Commissioner shall have the power to do the following:

- (1) Order any bank, trust company, or subsidiary thereof, or any director, officer, or employee, or any other person the Commissioner is authorized to regulate, to cease and desist violating any provision of this Chapter or any lawful rule issued thereunder.
- (2) Order any bank, trust company, or subsidiary thereof, or any director, officer, or employee, or any other person the Commissioner is authorized to regulate, to cease and desist from a course of conduct that is unsafe or unsound and that is likely to cause insolvency or dissipation of assets or is likely to jeopardize or otherwise seriously prejudice the interests of a depositor.

(d) Consistent with Article 3A of Chapter 150B of the General Statutes, notice and opportunity for hearing shall be provided before any of the actions authorized by this section shall be undertaken by the Commissioner. In cases involving extraordinary circumstances requiring immediate action, the Commissioner may take such action but shall promptly afford a subsequent hearing upon application to rescind the action taken.

(e) The Commissioner shall have the power to subpoena witnesses, compel their attendance, require the production of evidence, administer oaths, and examine any person under oath in connection with any subject related to a duty imposed or a power vested in the Commissioner.

(f) The Commissioner may impose a civil money penalty of not more than one thousand dollars (\$1,000) for each violation by any bank, trust company, or subsidiary thereof, or any director, officer, or employee, or any other person the Commissioner is authorized to regulate, of an order issued under subdivision (1) of subsection (c) of this section. The Commissioner may impose a civil money penalty of not more than five hundred dollars (\$500.00) per day for each day that a bank, trust company, or subsidiary thereof, or any director, officer, or employee, or any other person the Commissioner is authorized to regulate, violates a cease and desist order issued under subdivision (2) of subsection (c) of this section. The proceeds of civil money penalties imposed pursuant to this subsection, net of documented expenses of examination and enforcement, shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(g) Administrative orders issued by the Commissioner and civil money penalties imposed for violation of such orders shall be subject to review by the Commission, which shall have power to amend, modify, or disapprove the same at any regular or special meeting.

(h) Notwithstanding any penalty imposed by the Commissioner, the Commission may, after notice of and opportunity for hearing, impose, enter judgment for, and enforce, by appropriate process, a penalty of not more than ten thousand dollars (\$10,000) against any

bank, trust company, or subsidiary thereof, or against any of its directors, officers, or employees, or any other person the Commissioner is authorized to regulate, for violating any lawful order of the Commission or Commissioner. The proceeds of civil money penalties imposed pursuant to this subsection, net of documented expenses of examination and enforcement, shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(i) If the Commissioner believes that a violation of a criminal statute has occurred, the Commissioner may refer the matter to the appropriate prosecutorial agency. (2012-56, s. 4.)