

12C.29 Authority of superintendent to issue orders.

1. If it appears to the superintendent that a bank is violating or has violated, or the superintendent has reasonable cause to believe that a bank is about to violate, any provision of this chapter or any rules adopted pursuant thereto, or if a bank is less than well capitalized as defined in 12 U.S.C. § 1831o(b)(1)(A), or if a bank is subject to a final order or written agreement subject to the public disclosure requirements of 12 U.S.C. § 1818(u), the superintendent may issue an order requiring the bank to do one or more of the following:

- a. Not accept uninsured public funds deposits.
- b. Reduce the amount of uninsured public funds accepted.
- c. Return to the depositors some or all uninsured public funds held in demand deposits and, when deposit instruments or agreements mature, return to the depositors some or all uninsured deposits representing proceeds of such instruments or agreements.
- d. Pledge collateral to the treasurer of state, with such collateral having a value at all times up to one hundred ten percent of the public funds held by the bank.
- e. Comply with such other requirements as the superintendent may impose.

2. An order issued pursuant to this section shall become effective upon service of the order on the bank and shall remain effective except to such extent modified, terminated, or set aside by action of the superintendent or of the district court of Polk county as provided in subsection 3.

3. An order issued pursuant to this section shall contain a concise statement of the facts forming the basis for issuing the order and shall provide the bank an opportunity to appeal the order by requesting a hearing. If the bank requests a hearing, the hearing shall be fixed for a date not later than thirty days after the service of the order unless a later date is set at the request of the bank. If upon the record made at the hearing, the superintendent finds that the grounds for the order have been established, the superintendent may issue and serve upon the bank an order upholding the original order. If the superintendent finds the grounds for the order have not been established, the superintendent shall set aside the original order or modify the order, as the superintendent deems appropriate. An administrative law judge may assist the superintendent at the hearing or, at the superintendent's request, preside over the hearing. The hearing shall not be open to the public. The superintendent's decision shall be subject to judicial review in Polk county district court in accordance with the provisions of chapter 17A.

4. An order issued pursuant to this section shall be confidential, and the Polk county district court shall review the record in camera and shall maintain filings of any judicial review filed pursuant to subsection 3 under seal.

5. This section is intended to provide the superintendent additional authority and regulatory flexibility in regulating a bank that accepts public funds deposits and whose financial condition, level of public funds, or level of collateral may pose a greater than normal risk of loss coverage from the state sinking fund applicable for uninsured and unsecured public funds.

6. An act or omission by the superintendent pursuant to this section shall not subject the state to liability.

2010 Acts, ch 1028, §5, 14

Referred to in §12C.23A