

533.501 Supervisory action.**1. Cease and desist order.**

a. (1) If the superintendent has reason to believe that an officer, director, employee, or committee member of a state credit union has violated any law, rule, or cease and desist order relating to a state credit union, or has engaged in an unsafe or unsound practice in conducting the business of a state credit union, the superintendent may cause notice to be served upon the officer, director, employee, or committee member to appear before the superintendent to show cause why the person should not be removed from office or employment. A copy of such notice shall be sent by certified mail or restricted certified mail to each director of the state credit union affected.

(2) If the superintendent finds that the accused has violated a law, rule, or cease and desist order relating to a state credit union, or has engaged in an unsafe or unsound practice in conducting the business of a state credit union, after granting the accused a hearing before an independent administrative law judge, the superintendent in the superintendent's discretion may order that the accused be removed from office and from any position of employment with the state credit union. The superintendent may further order that the accused not accept employment in any state credit union under the superintendent's jurisdiction without the superintendent's prior approval.

(3) A copy of the order shall be served upon the accused and upon the state credit union affected, at which time the accused shall cease to be an officer, director, employee, or committee member of the state credit union.

b. (1) If the superintendent determines that a state credit union has violated any of the provisions of this chapter, after notice and opportunity for hearing, the superintendent shall order the state credit union to correct the violation, except when the state credit union is insolvent.

(2) The superintendent may specify the manner in which the violation is to be corrected and grant the state credit union not more than sixty days within which to comply with the order.

(3) The superintendent may revoke a state credit union's certificate of approval for failure to comply with the order.

(4) If the certificate of approval has been revoked, the superintendent may apply to the district court of the county in which the state credit union is located for the appointment of a receiver for the state credit union.

2. Summary cease and desist order.

a. (1) If it appears to the superintendent that a state credit union, or any director, officer, employee, or committee member of a state credit union, is engaging in or is about to engage in an unsafe or unsound practice or dishonest act in conducting the business of the state credit union that is likely to cause insolvency or substantial dissipation of assets or earnings of the state credit union, or is likely to seriously weaken the condition of the state credit union or otherwise seriously prejudice the interests of its members, the superintendent may issue an interim summary cease and desist order requiring the state credit union, or any director, officer, employee, or committee member, to cease and desist from any such practice or act, and may take affirmative action, including suspension of the director, officer, employee, or committee member to prevent such insolvency, dissipation, condition, or prejudice.

(2) The interim order shall become effective upon personal service upon the state credit union, or upon the director, officer, employee, or committee member of the state credit union, and remain effective and enforceable pending the completion of administrative proceedings conducted pursuant to this section and issuance of a final order.

b. (1) The interim order shall contain a concise statement of the facts constituting the alleged unsafe or unsound practice or alleged dishonest act, and shall fix a time and place at which a hearing will be held to determine whether a final order to cease and desist should issue against the state credit union, or any director, officer, employee, or committee member.

(2) The hearing shall be fixed for a date not later than thirty days after service of the interim order unless a later date is set at the request of the party served.

(3) If the state credit union, or the director, officer, employee, or committee member, fails

to appear at the hearing, the state credit union, or the director, officer, employee, or committee member, is deemed to have consented to the issuance of a final cease and desist order.

(4) In the event of such consent, or if upon the record made at the hearing the superintendent finds that any unsafe or unsound practice or dishonest act specified in the interim order has been established, the superintendent may issue and serve upon the state credit union, or the director, officer, employee, or committee member, a final order to cease and desist from any such practice or act. The order may require the state credit union, or the director, officer, employee, or committee member, to cease and desist from any such practice or act and direct affirmative action, including suspension of the director, officer, employee, or committee member.

c. (1) A hearing provided for in this section shall be presided over by an administrative law judge appointed in accordance with section 17A.11.

(2) The hearing shall be private, unless the superintendent determines after full consideration of the views of the party afforded the hearing, that a public hearing is necessary to protect the public interest.

(3) After the hearing, and within thirty days after the case has been submitted for decision, the superintendent shall review the proposed order of the administrative law judge and render a final decision, including findings of fact upon which the decision is predicated, and issue and serve upon each party to the proceeding an order consistent with this section.

(4) Records and information relating to the hearing shall be confidential and not subject to subpoena. Such records and information shall not constitute a public record subject to examination or copying under chapter 22.

d. Any final order issued by the superintendent shall become effective upon service upon the state credit union, director, officer, employee, or committee member.

e. In the case of violation or threatened violation of, or failure to obey, an order, the superintendent may apply to the district court of the county in which the state credit union has its principal place of business for the enforcement of the order and such court shall have jurisdiction and power to order and require compliance with the order.

f. (1) Within ten days after a state credit union or any director, officer, employee, or committee member is served with a summary cease and desist order, the state credit union or director, officer, employee, or committee member affected may apply to the district court in the county in which the state credit union has its principal place of business for an injunction setting aside, limiting, or suspending the enforcement, operation, or effectiveness of the interim order pending the completion of administrative proceedings.

(2) If serious prejudice to the interests of the superintendent, the state credit union, or the officer, director, employee, or committee member would result from a court hearing, the court may order the judicial proceeding to be conducted in camera.

3. *Complaint response process.* The superintendent shall adopt rules establishing a complaint response process that shall include provisions relating to but not limited to complaint intake, preliminary informal and formal investigation procedures, complaint dismissal procedures, and imposition of remedial sanctions through an administrative resolution procedure or a contested case hearing.

a. Notwithstanding chapter 22, the superintendent shall keep confidential any social security number, residence address, or residence telephone number obtained in connection with a complaint intake, investigation, dismissal, or imposition of remedial sanctions, and may keep confidential the name of the complainant, the name of the subject of the complaint, and any other information obtained in connection with a complaint intake, investigation, dismissal, or imposition of remedial sanctions, if disclosure is not required in the performance of the duties of the superintendent, or in order to accomplish the provisions of this chapter, or otherwise required by law. At the discretion of the superintendent, the name of the complainant, residence address of the complainant, and residence telephone number of the complainant may be provided to the subject of the complaint, or to an authorized agent of such person, without waiving the confidentiality afforded by this subsection, provided that the superintendent has notified the complainant in advance of such disclosure. Disclosure or release of information by the superintendent in the course of an administrative or judicial proceeding shall not constitute a violation of this subsection.

b. Notwithstanding chapter 22, or paragraph “*a*” of this subsection, if the superintendent determines it is necessary or appropriate in the public interest or for the protection of the public, the superintendent may share information with other regulatory authorities or government agencies and may publish information concerning a complaint if it is determined that there is or has been a violation of this chapter, the laws of this state or the United States, or a rule promulgated or order issued pursuant to this chapter. Such information as the superintendent deems appropriate may be redacted so that the sharing, releasing, or publishing of the information in accordance with this subsection does not make available personally identifiable information.

2007 Acts, ch 174, §68; 2009 Acts, ch 48, §2

Referred to in §22.7