

524.223 Power of superintendent to issue orders.

1. Whenever it shall appear to the superintendent that a state bank, or any director, officer, employee, or substantial shareholder of the state bank, is engaging or has engaged, or the superintendent has reasonable cause to believe that the state bank, director, officer, employee, or substantial shareholder is about to engage, in an unsafe or unsound practice in conducting the business of such state bank, or is violating or has violated, or the superintendent has reasonable cause to believe that the state bank, director, officer, employee, or substantial shareholder is about to violate, any provision of [this chapter](#) or of any regulation adopted pursuant to [this chapter](#), or any condition imposed in writing by the superintendent in connection with the approval of any matter required by [this chapter](#), or any written agreement entered into with the superintendent, or any provision of [chapter 12C](#) or any rules adopted pursuant to [chapter 12C](#), the superintendent may issue and serve upon the state bank, director, officer, employee, or substantial shareholder a notice containing a statement of the facts constituting the alleged violation or violations, or the unsafe or unsound practice or practices, and fixing a time and place at which a hearing will be held to determine whether an order to cease and desist should be issued to the state bank, director, officer, employee, or substantial shareholder.

2. If the state bank, director, officer, employee, or substantial shareholder fails to appear at the hearing it shall be deemed to have consented to the issuance of a cease and desist order. In the event of such consent, or if upon the record made at such hearing, the superintendent shall find that any violation or unsafe or unsound practice specified in the notice has been established, the superintendent may issue and serve upon the state bank, director, officer, employee, or substantial shareholder an order to cease and desist from any such violation or practice. Such order may require the state bank and its directors, officers, employees, and shareholders to cease and desist from any such violation or practice and, further, to take affirmative action to correct the conditions resulting from any such violation or practice. In addition, if the violation or practice involves a failure to comply with [chapter 12C](#) or any rules adopted pursuant to [chapter 12C](#), the superintendent may recommend to the committee established under [section 12C.6](#) that the bank be removed from the list of financial institutions eligible to accept public funds under [section 12C.6A](#) and may require that during the current calendar quarter and up to the next succeeding eight calendar quarters that the bank do any one or more of the following:

- a. Not accept public funds deposits.
- b. 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 deposits representing proceeds of such instruments or agreements.
- c. Pledge collateral to the treasurer of state having a value at all times up to one hundred ten percent of the public funds held by the bank.
- d. Comply with such other requirements as the superintendent may impose.

3. Any order issued pursuant to [this section](#) shall become effective upon service of the order on the state bank, director, officer, employee, or substantial shareholder and shall remain effective except to such extent that it is stayed, modified, terminated, or set aside by action of the superintendent or of the district court of Polk county.

4. The superintendent may apply to the district court of Polk county for the enforcement of any order pursuant to [this section](#) and such court shall have jurisdiction and power to order and require compliance.

5. For purposes of [this section](#), “*substantial shareholder*” means a shareholder exercising a controlling influence over the management or policies of a state bank as determined by the superintendent.

[C73, §1572; C97, §1877; C24, 27, 31, 35, 39, §9235; C46, 50, 54, 58, 62, 66, §528.29; C71, 73, 75, 77, 79, 81, §524.223]

[2002 Acts, ch 1096, §16, 17](#); [2022 Acts, ch 1062, §21](#)

Referred to in [§524.228](#)

Section amended