

524.228 Emergency cease and desist order — final order — suspension.

1. If it appears to the superintendent that a state bank, or any director, officer, employee, or substantial shareholder of the state bank is engaging in or is about to engage in an unsafe or unsound practice or dishonest act in conducting the business of the state bank that is likely to cause insolvency or substantial dissipation of assets or earnings of the state bank, or is likely to seriously weaken the condition of the state bank or otherwise seriously prejudice the interests of its depositors prior to the completion of the proceedings conducted pursuant to [section 524.223](#), [524.606, subsection 2](#), or [524.707, subsection 2](#), the superintendent may issue an emergency order requiring the state bank, director, officer, employee, or substantial shareholder to cease and desist from any such practice or act, and to take affirmative action, including suspension of the director, officer, or employee to prevent such insolvency, dissipation, condition, or prejudice pending completion of the proceedings. The emergency order becomes effective upon service upon the state bank, or upon the director, officer, employee, or substantial shareholder of the state bank. Unless set aside, limited, or suspended by a court as provided in [this chapter](#), the emergency order remains effective and enforceable pending the completion of the administrative proceedings pursuant to the emergency order and until such time as the superintendent dismisses the charges specified in the emergency order. If a final cease and desist order is issued against the state bank or the director, officer, employee, or substantial shareholder, the emergency order remains in effect until the effective date of the final order.

2. Within ten days after the state bank concerned or any director, officer, employee, or substantial shareholder is served with an emergency order, the state bank or such director, officer, employee, or substantial shareholder may apply to the district court of Polk county for an injunction setting aside, limiting, or suspending the enforcement, operation, or effectiveness of such emergency order pending the completion of the administrative proceedings. If serious prejudice to the interests of the superintendent, the state bank, the officer, director, employee, or substantial shareholder would result from such hearing, the court may order the judicial proceeding to be conducted in camera.

3. The emergency 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 bank or any director, officer, employee, or substantial shareholder. The hearing shall be fixed for a date not later than thirty days after service of the emergency order unless a later date is set at the request of the party so served. If the state bank, or the director, officer, employee, or substantial shareholder fails to appear at the hearing, the state bank, or the director, officer, employee, or substantial shareholder is 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 the hearing the superintendent finds that any unsafe or unsound practice or dishonest act specified in the emergency order has been established, the superintendent may issue and serve upon the state bank, or the director, officer, employee, or substantial shareholder a final order to cease and desist from any such practice or act. The order may require the state bank, or the director, officer, employee, or substantial shareholder to cease and desist from any such practice or act and, further, to take affirmative action, including suspension of the director, officer, or employee.

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

5. Any final order issued by the superintendent pursuant to [subsection 3](#) becomes effective upon service of the final order on the state bank, director, officer, employee, or substantial shareholder and shall remain effective except to the extent that it is stayed,

modified, terminated, or set aside by action of the superintendent or of the district court of Polk county in accordance with the terms of [chapter 17A](#).

6. In the case of violation or threatened violation of, or failure to obey, an emergency order issued pursuant to [subsection 1](#) or a final order issued pursuant to [subsection 3](#), the superintendent may apply to the district court of Polk county for the enforcement of the order and such court shall have jurisdiction and power to order and require compliance with the emergency order or final order.

7. 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.

[91 Acts, ch 220, §2](#); [2022 Acts, ch 1062, §24](#); [2023 Acts, ch 66, §131](#)

Subsection 1 amended