515I.12 Cease and desist orders — civil and criminal penalties.

1. Upon a determination by the commissioner, after a hearing conducted pursuant to chapter 17A, that a surplus lines insurance producer, an eligible surplus lines insurer, or a nonadmitted insurer has violated a provision of this chapter, the commissioner shall reduce the findings of the hearing to writing and deliver a copy of the findings to the producer or insurer. The commissioner may issue an order requiring the producer or insurer to cease and desist from engaging in the conduct resulting in the violation and may assess a civil penalty of not more than fifty thousand dollars against the producer or insurer.

2. *a.* Upon a determination by the commissioner that a surplus lines insurance producer, an eligible surplus lines insurer, or a nonadmitted insurer has engaged, is engaging, or is about to engage in any act or practice constituting a violation of this chapter or a rule adopted or order issued under this chapter, the commissioner may issue a summary order, including a brief statement of findings of fact, conclusions of law, and policy reasons for the decision, and directing the producer or insurer to cease and desist from engaging in the act or practice or to take other affirmative action as is in the judgment of the commissioner necessary to comply with the requirements of this chapter.

b. A surplus lines insurance producer, an eligible surplus lines insurer, or a nonadmitted insurer to whom a summary order has been issued under this subsection may contest the order by filing a request for a contested case proceeding and hearing as provided in chapter 17A and in accordance with rules adopted by the commissioner. However, the producer or insurer shall have at least thirty days from the date that the order is issued in order to file the request. Section 17A.18A is inapplicable to a summary order issued under this subsection. If a hearing is not timely requested, the summary order becomes final by operation of law. The order shall remain effective from the date of issuance until the date the order becomes final by operation of law or is overturned by a presiding officer or court following a request for hearing.

c. A surplus lines insurance producer, an eligible surplus lines insurer, or a nonadmitted insurer violating a summary order issued under this subsection shall be deemed in contempt of that order. The commissioner may petition the district court to enforce the order as certified by the commissioner. The district court shall find the producer or insurer in contempt of the order if the court finds after hearing that the producer or insurer is not in compliance with the order. The court may assess a civil penalty against the producer or insurer and may issue further orders as it deems appropriate.

3. A person acting as a surplus lines insurance producer, an eligible surplus lines insurer, or nonadmitted insurer who willfully violates any provision of this chapter, or any rule adopted or order issued under this chapter, is guilty of a class "D" felony.

4. A person acting as a surplus lines insurance producer, an eligible surplus lines insurer, or nonadmitted insurer who willfully violates any provision of this chapter, or any rule adopted or order issued under this chapter, when such violation results in a loss of more than ten thousand dollars, is guilty of a class "C" felony.

5. The commissioner may refer such evidence as is available concerning violations of this chapter or of any rule adopted or order issued under this chapter, or of the failure of a person to comply with the licensing requirements of chapter 522B, to the attorney general or the proper county attorney who may, with or without such reference, institute the appropriate criminal proceedings under this chapter.

6. This chapter does not limit the power of the state to punish any person for any conduct that constitutes a crime under any other statute.

2012 Acts, ch 1025, §12, 22