



Ohio Revised Code

Section 1121.34 Issuing order suspending regulated person or temporarily prohibiting further participation.

Effective: January 1, 1997

Legislation: House Bill 538 - 121st General Assembly

(A)(1) The superintendent of financial institutions may issue an order suspending a regulated person from office or temporarily prohibiting a regulated person from further participation in the conduct of the affairs of a bank or trust company, or both, if both of the following apply:

(a) The superintendent serves, or has served, the regulated person with a notice of charges and intent to remove the regulated person or prohibit the regulated person from further participation in the conduct of the affairs of a bank or trust company pursuant to section 1121.33 of the Revised Code.

(b) The superintendent determines the suspension or temporary prohibition is necessary for the protection of a bank or trust company or the interests of a bank's depositors or a trust company's beneficiaries.

(2) An order issued pursuant to division (A)(1) of this section is effective immediately upon service on the regulated person, and remains effective and enforceable as provided in the order except to the extent it is stayed, modified, terminated, or set aside by action of the superintendent or a reviewing court. If, upon the record of a hearing, the superintendent determines not to issue an order removing a regulated person from office or prohibiting a regulated person's further participation in the conduct of the affairs of a bank or trust company pursuant to section 1121.33 of the Revised Code, the order issued pursuant to division (A)(1) of this section is terminated.

(3) Within ten days after being served a suspension or temporary prohibition order pursuant to division (A)(1) of this section, a regulated person may apply to the court of common pleas of the county in which the residence of the regulated person is located, or the court of common pleas of Franklin county, for an injunction setting aside, limiting, or suspending the enforcement, operation, or effectiveness of the suspension or temporary prohibition order pending completion of the hearing on the notice of charges served on the regulated person pursuant to section 1121.33 of the Revised Code, and the court has jurisdiction to issue the injunction.



(B)(1) Whenever a regulated person is charged in any information, indictment, or complaint, authorized by a prosecuting attorney or a United States attorney, with the commission of or participation in a felony involving dishonesty or breach of trust or involving a depository institution, the superintendent may suspend the regulated person from office or temporarily prohibit the regulated person's further participation in the conduct of the affairs of a bank or trust company, or both. A suspension or temporary prohibition order issued pursuant to division (B)(1) of this section is effective immediately upon service on the regulated person, and remains effective and enforceable until the information, indictment, or complaint is finally disposed of or the superintendent terminates the order.

(2) If a judgment of conviction or an agreement to enter a pretrial diversion or other similar program is entered against a regulated person with respect to the information, indictment, or complaint and, in the case of a judgment of conviction, is not subject to further appellate review, the superintendent may remove the regulated person from office, prohibit the regulated person from further participation in the conduct of the affairs of a bank or trust company, or both. A removal or prohibition order issued pursuant to division (B)(2) of this section is effective immediately upon service on the regulated person, and remains effective and enforceable as provided in the removal or prohibition order except to the extent it is stayed, modified, terminated, or set aside by action of the superintendent.

(3) A finding of not guilty or other disposition of the information, indictment, or complaint does not preclude the superintendent from subsequently instituting proceedings pursuant to section 1121.33 of the Revised Code to remove the regulated person from office or to prohibit the regulated person from further participation in the conduct of the affairs of a bank or trust company, or both.

(C) The superintendent shall serve a certified copy of a suspension or temporary prohibition order issued pursuant to division (A) or (B)(1) of this section or a removal or prohibition order issued pursuant to division (B)(2) of this section on any bank or trust company in relation to which the object of the suspension, removal, or prohibition order is a regulated person.

(D) A regulated person who has been suspended, removed from office, or temporarily or otherwise prohibited from further participation in the conduct of the affairs of a bank or trust company pursuant



to this section shall not, while the suspension, removal, or prohibition order is in effect, continue or commence to hold any office of or participate in any manner in the conduct of the affairs of a bank or trust company in this state, except as specifically permitted by the superintendent pursuant to modification of the suspension, removal, or prohibition order. Participation in the conduct of the affairs of a bank or trust company includes doing any of the following:

- (1) Soliciting, procuring, transferring, attempting to transfer, voting, or attempting to vote any proxy, consent, or authorization with respect to any voting rights in any bank or trust company;
- (2) Violating any voting agreement previously approved by the superintendent;
- (3) Voting for a director of any bank or trust company.

(E) If at any time, because of the suspension of one or more directors pursuant to this section, there are on the board of directors of a bank less than a quorum of directors not suspended, all powers and functions vested in or exercisable by the board shall be vested in and be exercisable by the director or directors on the board not suspended, until the time there is a quorum of the board of directors. If all the directors of a bank are suspended pursuant to this section, the superintendent shall appoint persons to serve temporarily as directors in their place, pending termination of the suspensions or until those who have been suspended cease to be directors of the bank and their successors take office.