



Ohio Revised Code

Section 1321.54 Rules - investigations.

Effective: December 28, 2009

Legislation: Senate Bill 124 - 128th General Assembly

(A) The division of financial institutions may adopt, in accordance with Chapter 119. of the Revised Code, rules that are necessary for the enforcement or administration of sections 1321.51 to 1321.60 of the Revised Code and that are consistent with those sections and rules to carry out the purposes of those sections.

(B)(1) The division may, upon written notice to the registrant or licensee stating the contemplated action, the grounds for the action, and the registrant's or licensee's reasonable opportunity to be heard on the action in accordance with Chapter 119. of the Revised Code, revoke, suspend, or refuse to renew any certificate or license issued under sections 1321.51 to 1321.60 of the Revised Code if it finds any of the following:

(a) A violation of or failure to comply with any provision of sections 1321.51 to 1321.60 of the Revised Code or the rules adopted thereunder, any federal lending law, or any other law applicable to the business conducted under a certificate of registration or license;

(b) The person has been convicted of or pleaded guilty or nolo contendere to any criminal felony offense in a domestic, foreign, or military court;

(c) The person has been convicted of or pleaded guilty or nolo contendere to any criminal offense involving theft, receiving stolen property, embezzlement, forgery, fraud, passing bad checks, money laundering, breach of trust, dishonesty, or drug trafficking, or any criminal offense involving money or securities, in a domestic, foreign, or military court;

(d) The person's mortgage lender certificate of registration or mortgage loan originator license, or comparable authority, has been revoked in any governmental jurisdiction.

(2) In addition to, or in lieu of, any revocation, suspension, or denial, the division may impose a monetary fine after administrative hearing or in settlement of matters subject to claims under



division (B)(1)(a) of this section.

(3) Subject to division (D)(3) of section 1321.52 of the Revised Code, the revocation, suspension, or refusal to renew shall not impair the obligation of any pre-existing lawful contract made under sections 1321.51 to 1321.60 of the Revised Code; provided, however, that a prior registrant shall make good faith efforts to promptly transfer the registrant's collection rights to another registrant or person exempt from registration, or be subject to additional monetary fines and legal or administrative action by the division. Nothing in division (B)(3) of this section shall limit a court's ability to impose a cease and desist order preventing any further business or servicing activity.

(C)(1) The superintendent of financial institutions may impose a fine for a violation of sections 1321.51 to 1321.60 of the Revised Code or any rule adopted thereunder. All fines collected pursuant to this section shall be paid to the treasurer of state to the credit of the consumer finance fund created in section 1321.21 of the Revised Code. In determining the amount of a fine to be imposed pursuant to this section, the superintendent may consider all of the following to the extent it is known to the division of financial institutions:

(a) The seriousness of the violation;

(b) The registrant's or licensee's good faith efforts to prevent the violation;

(c) The registrant's or licensee's history regarding violations and compliance with division orders;

(d) The registrant's or licensee's financial resources;

(e) Any other matters the superintendent considers appropriate in enforcing sections 1321.51 to 1321.60 of the Revised Code.

(2) Monetary fines imposed under this division shall not exceed twenty-five thousand dollars and do not preclude any criminal fine imposed pursuant to section 1321.99 of the Revised Code.

(D) The superintendent may investigate alleged violations of sections 1321.51 to 1321.60 of the Revised Code, or the rules adopted thereunder, or complaints concerning any such violation. The



superintendent may make application to the court of common pleas for an order enjoining any violation and, upon a showing by the superintendent that a person has committed, or is about to commit, a violation, the court shall grant an injunction, restraining order, or other appropriate relief. The superintendent, in making application to the court of common pleas for an order enjoining a person from acting as a registrant or mortgage loan originator in violation of division (A) or (E) of section 1321.52 of the Revised Code, may also seek and obtain civil penalties for that unregistered or unlicensed conduct in an amount not to exceed five thousand dollars per violation.

(E) In conducting an investigation pursuant to this section, the superintendent may compel, by subpoena, witnesses to testify in relation to any matter over which the superintendent has jurisdiction, and may require the production or photocopying of any book, record, or other document pertaining to such matter. If a person fails to file any statement or report, obey any subpoena, give testimony, produce any book, record, or other document as required by such a subpoena, or permit photocopying of any book, record, or other document subpoenaed, the court of common pleas of any county in this state, upon application made to it by the superintendent, shall compel obedience by attachment proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from the court, or a refusal to testify therein.

(F) If the superintendent determines that a person is engaged in, or is believed to be engaged in, activities that may constitute a violation of sections 1321.51 to 1321.60 of the Revised Code or the rules adopted thereunder, the superintendent may, after notice and a hearing conducted in accordance with Chapter 119. of the Revised Code, issue a cease and desist order. The superintendent, in taking administrative action to enjoin a person from acting as a registrant or mortgage loan originator in violation of division (A) or (E) of section 1321.52 of the Revised Code, may also seek and impose fines for those violations in an amount not to exceed five thousand dollars per violation. Such an order shall be enforceable in the court of common pleas.

(G) The superintendent shall regularly report violations of sections 1321.51 to 1321.60 of the Revised Code, as well as enforcement actions and other relevant information, to the nationwide mortgage licensing system and registry pursuant to division (E) of section 1321.55 of the Revised Code.

(H)(1) To protect the public interest, the superintendent may, without a prior hearing, do any of the



following:

- (a) Suspend the certificate of registration or license of a person who is convicted of or pleads guilty or nolo contendere to a criminal violation of sections 1321.51 to 1321.60 of the Revised Code or any criminal offense described in division (B)(1)(b) or (c) of this section;
 - (b) Suspend the certificate of registration or license of a person who violates division (F) of section 1321.533 of the Revised Code;
 - (c) Suspend the certificate of registration or license of a person who fails to comply with a request made by the superintendent under this section or section 1321.55 of the Revised Code to inspect qualifying education transcripts located at the registrant's or licensee's place of business.
- (2) The superintendent may, in accordance with Chapter 119. of the Revised Code, subsequently revoke any registration or license suspended under division (H)(1) of this section.
 - (3) The superintendent shall, in accordance with Chapter 119. of the Revised Code, adopt rules establishing the maximum amount of time a suspension under division (H)(1) of this section may continue before a hearing is conducted.