



## Ohio Revised Code

### Section 1315.152 Civil penalties for violation or breach.

Effective: April 6, 2007

Legislation: House Bill 454 - 126th General Assembly

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(A) The superintendent of financial institutions may assess civil penalties against a licensee or other person for each day a violation, unsafe or unsound practice, or breach continues as follows:

(1) The superintendent may assess a civil penalty of not more than five hundred dollars per day if the licensee or other person violates any of the following:

(a) Any law or rule;

(b) Any order issued pursuant to section 1315.15 or 1315.151 of the Revised Code;

(c) Any condition imposed in writing by the superintendent in connection with granting any application by the licensee or other person;

(d) A written agreement between the licensee or other person and the superintendent.

(2) The superintendent may assess a civil penalty of not more than one thousand dollars per day if both of the following apply:

(a) The licensee or other person does any of the following:

(i) Commits any violation listed in division (A)(1) of this section;

(ii) Recklessly engages in an unsafe or unsound practice;

(iii) Breaches any fiduciary duty.

(b) The violation, unsafe or unsound practice, or breach is part of a pattern of misconduct or causes or is likely to cause more than a minimal loss to the licensee or other person.



(B) A notice of assessment of a civil penalty shall include all of the following:

(1) A statement of the violation or violations or unsafe or unsound practice or practices or breach or breaches alleged;

(2) A statement of the facts supporting the assessment of the civil penalty;

(3) Notice that the licensee or other person is entitled to a hearing, in accordance with section 1315.17 of the Revised Code to determine whether a civil penalty should be assessed against the licensee or other person, if the licensee or other person requests the hearing within thirty days of service of the notice of assessment of a civil penalty;

(4) Notice that, if the licensee or other person makes a timely request for a hearing, the licensee or other person may appear at the hearing in person, by attorney, or by presenting positions, arguments, and contentions in writing, and at the hearing may present evidence and examine witnesses for and against the licensee or other person;

(5) Notice that failure of the licensee or other person to make a timely request for a hearing to determine whether a civil penalty should be assessed against the licensee or other person, or to appear at the hearing, in person, by attorney, or by writing, is consent by the licensee or other person to the assessment of the civil penalty.

(C) The superintendent may assess a civil penalty if either of the following applies:

(1) The licensee or other person consents to the assessment of the civil penalty.

(2) Upon the record of the hearing described in division (B) of this section the superintendent finds a violation, unsafe or unsound practice, or breach has been established.

(D) In determining the amount of the civil penalty to be assessed pursuant to this section, the superintendent shall consider all of the following:



- (1) The seriousness of and the risk posed by the violation, unsafe or unsound practice, or breach;
  - (2) The licensee's or other person's good faith efforts to prevent the violation, unsafe or unsound practice, or breach;
  - (3) The licensee's or other person's history regarding violations, unsafe or unsound practices, and breaches;
  - (4) The licensee's or other person's financial resources;
  - (5) Any other matters justice may require.
- (E) Any licensee's or other person assessed a civil penalty pursuant to this section shall pay the civil penalty to the superintendent, and the superintendent shall deposit any civil penalty paid into the state treasury to the credit of the general revenue fund.