

CHAPTER 45

DEPARTMENT OF COMMERCE; GENERAL POWERS

45.011 Definitions.

45.025 Advertisement of interest rates.

45.027 Investigations and subpoenas.

45.011 DEFINITIONS.

Subdivision 1. **Scope.** As used in chapters 45 to 83, 155A, 309, 332, and 359, and sections 326.83 to 326.98, unless the context indicates otherwise, the terms defined in this section have the meanings given them.

[For text of subs 2 and 3, see M.S.1992]

Subd. 4. **Duties and responsibilities entrusted to the commissioner.** "Duties and responsibilities entrusted to the commissioner" includes the administration of those chapters referred to in subdivision 1, as well as rules adopted or orders issued under those chapters.

History: 1993 c 204 s 1,2

45.025 ADVERTISEMENT OF INTEREST RATES.

[For text of subs 1 to 9, see M.S.1992]

Subd. 10. **Alternative compliance.** In lieu of complying with the provisions of this section with respect to any deposit or certificate of deposit, a depository institution defined in section 19(b)(1)(A)(i)-(vi) of the Federal Reserve Act, United States Code, title 12, section 461, or a deposit broker defined in section 29(g) of the Federal Deposit Insurance Act, United States Code, title 12, section 1831f(g), may comply with the requirements of the Federal Truth in Savings Act and regulations, notwithstanding whether or not that act or those regulations apply to the deposit or certificate of deposit.

History: 1993 c 257 s 1

45.027 INVESTIGATIONS AND SUBPOENAS.

Subdivision 1. **General powers.** In connection with the duties and responsibilities entrusted to the commissioner, and Laws 1993, chapter 361, section 2, the commissioner of commerce may:

(1) make public or private investigations within or without this state as the commissioner considers necessary to determine whether any person has violated or is about to violate any law, rule, or order related to the duties and responsibilities entrusted to the commissioner;

(2) require or permit any person to file a statement in writing, under oath or otherwise as the commissioner determines, as to all the facts and circumstances concerning the matter being investigated;

(3) hold hearings, upon reasonable notice, in respect to any matter arising out of the duties and responsibilities entrusted to the commissioner;

(4) conduct investigations and hold hearings for the purpose of compiling information with a view to recommending changes to the legislature in the laws related to the duties and responsibilities entrusted to the commissioner;

(5) examine the books, accounts, records, and files of every licensee, and of every person who is engaged in any activity regulated; the commissioner or a designated representative shall have free access during normal business hours to the offices and places of business of the person, and to all books, accounts, papers, records, files, safes, and vaults maintained in the place of business;

(6) publish information which is contained in any order issued by the commissioner; and

(7) require any person subject to duties and responsibilities entrusted to the commissioner, to report all sales or transactions that are regulated. The reports must be made within ten days after the commissioner has ordered the report. The report is accessible only to the respondent and other governmental agencies unless otherwise ordered by a court of competent jurisdiction.

[For text of subd 1a, see M.S.1992]

Subd. 2. Power to compel production of evidence. For the purpose of any investigation, hearing, proceeding, or inquiry related to the duties and responsibilities entrusted to the commissioner, the commissioner or a designated representative may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of books, papers, correspondence, memoranda, agreements, or other documents or records that the commissioner considers relevant or material to the inquiry.

[For text of subds 3 and 4, see M.S.1992]

Subd. 5. Legal actions; injunctions; cease and desist orders. Whenever it appears to the commissioner that any person has engaged or is about to engage in any act or practice constituting a violation of any law, rule, or order related to the duties and responsibilities entrusted to the commissioner, the commissioner has the following powers: (1) the commissioner may bring an action in the name of the state in the district court of the appropriate county to enjoin the acts or practices and to enforce compliance, or the commissioner may refer the matter to the attorney general or the county attorney of the appropriate county. Upon a proper showing, a permanent or temporary injunction, restraining order, or other appropriate relief must be granted; (2) the commissioner may issue and cause to be served upon the person an order requiring the person to cease and desist from violations. The order must be calculated to give reasonable notice of the rights of the person to request a hearing and must state the reasons for the entry of the order. A hearing must be held not later than seven days after the request for the hearing is received by the commissioner, unless the person requesting the hearing and the department of commerce agree the hearing be scheduled after the seven-day period. After the hearing and within 20 days after receiving the administrative law judge's report, the commissioner shall issue a further order vacating the cease and desist order or making it permanent as the facts require. If no hearing is requested within 30 days of service of the order, the order will become final and will remain in effect until it is modified or vacated by the commissioner. Unless otherwise provided, all hearings must be conducted in accordance with chapter 14. If the person to whom a cease and desist order is issued fails to appear at the hearing after being duly notified, the person is in default, and the proceeding may be determined against that person upon consideration of the cease and desist order, the allegations of which may be considered to be true. The commissioner may adopt rules of procedure concerning all proceedings conducted under this subdivision.

Subd. 6. Violations and penalties. The commissioner may impose a civil penalty not to exceed \$2,000 per violation upon a person who violates any law, rule, or order related to the duties and responsibilities entrusted to the commissioner unless a different penalty is specified.

[For text of subd 7, see M.S.1992]

Subd. 8. Stop order. In addition to any other actions authorized by this section, the commissioner may issue a stop order denying effectiveness to or suspending or revoking any registration.

[For text of subds 9 and 10, see M.S.1992]

Subd. 11. Actions against lapsed license. If a license lapses, is surrendered, withdrawn, terminated, or otherwise becomes ineffective, the commissioner may institute a proceeding under this subdivision within two years after the license was last effective

and enter a revocation or suspension order as of the last date on which the license was in effect, or impose a civil penalty as provided for in subdivision 6.

History: *1993 c 145 s 1; 1993 c 204 s 3-7; 1993 c 361 s 3*