82A.12 ENFORCEMENT; POWERS OF COMMISSIONER.

Subdivision 1. **Generally.** The commissioner may issue a cease and desist order and may issue an order denying, suspending, or revoking any registration, amendment renewal, or exemption if the commissioner finds any of the following:

(1) that the membership camping operator or registrant or any controlling person thereof has materially or intentionally violated or failed to comply with any provision of this chapter or any rule or order of the commissioner;

(2) that the offer or sale of the membership camping contract has constituted or would constitute a material misrepresentation to purchasers, or has operated or would operate as a fraud or deceit upon purchasers;

(3) that the membership camping operator or registrant or any controlling person, agent, or employee thereof, is engaging or about to engage in false, fraudulent, or deceptive practices in connection with the offer and sale of a membership camping contract;

(4) that the membership camping operator or registrant or any controlling person or employee thereof, has engaged in any fraudulent or deceptive practice, whether or not in connection with the offer and sale of membership camping contracts, and the involvement of the person in the business of the membership camping operator or registrant creates a substantial risk of harm to prospective purchasers;

(5) that the financial condition of the membership camping operator materially adversely affects, or would materially adversely affect, the ability of the membership camping operator such that there is a reasonable likelihood that the membership camping operator will not be able to substantially fulfill its obligations under the membership camping contract, and no other financial security or assurance is provided by the membership camping operator to fulfill the obligations;

(6) that the membership camping operator's or registrant's enterprise or method of business with respect to the operation of a campground in this state includes or would include activities which are illegal or not in conformance with applicable statutes, ordinances, or regulations of any governmental entity; and

(7) that the membership camping operator or controlling person, agent, or employee thereof, has failed faithfully to perform any stipulation or agreement made with the commissioner.

Subd. 2. **Hearing on order.** If the commissioner finds that there are reasonable grounds to believe that, unless an order is issued promptly, there is an immediate and significant risk of harm to purchasers, the commissioner may issue an order under subdivision 1 without a prior hearing. Upon the entry of such an order, the commissioner shall promptly serve a copy of the order upon the subject membership camping operator or other person. The order shall state the reasons for its issuance and shall either order a hearing, which shall be set for no later than 20 days from the date of the order, or specify that upon the written request of the membership camping operator, or other person, the matter will be set for hearing within 15 days after receipt of the request; provided that with the consent of the membership camping operator, or other person, a hearing may be held subsequent to the expiration of either period specified herein. If no hearing is requested within 30 days of service of the order and none is ordered by the commissioner, the order will remain in effect until it is modified or vacated by the commissioner. If a hearing is requested or ordered, the commissioner, after notice and hearing in accordance with the provisions of chapter 14, shall affirm, modify, or vacate the order.

Subd. 3. **Order to show cause.** If there are not grounds to employ the procedure prescribed in subdivision 2, the commissioner may issue an order to show cause setting a hearing on a date not later than ten days

after its entry and requiring a membership camping operator or other person to appear and show cause why a cease and desist order should not be issued, or why an order denying, suspending, or revoking a registration, amendment, or exemption should not be issued. The order to show cause shall give reasonable notice of the time and place for hearing thereon, which shall be within ten days after entry of the order, unless the respondent agrees otherwise, and shall state the reasons for the entry of the order. The hearing shall be conducted in accordance with the provisions of chapter 14. After the hearing, the commissioner shall enter an order making such disposition of the matter as the facts require.

Subd. 4. **Burden of proof.** In any proceeding under this chapter, the burden of proving an exemption or an exception from a definition is upon the person claiming it.

Subd. 5. **Investigations.** The commissioner may make necessary public or private investigations within or outside of this state to determine whether any person has violated or is about to violate this chapter or any rule or order hereunder or to aid in the enforcement of this chapter or in the prescribing of rules and forms hereunder. For purposes of any investigation or proceeding under this chapter, the commissioner or any person designated by the commissioner may require or permit any person to file a statement in writing, under oath or otherwise as the commissioner determines, setting forth the facts and circumstances concerning the matter to be investigated; administer oaths or affirmations, and upon the commissioner's own motion or upon request of any party may subpoena witnesses, compel their attendance, take evidence, and require the production of any matter which is relevant to the investigation, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of relevant facts, or any other matter reasonably calculated to lead to the discovery of material evidence. Upon failure to obey a subpoena or to answer questions propounded by the investigating officer and upon reasonable notice to all persons affected thereby, the commissioner may apply to the district court for an order to compel compliance.

History: *1985 c 129 s 12; 1986 c 444; 2014 c 222 art 1 s 21*