

DEBT MANAGEMENT ACT (EXCERPT)
Act 148 of 1975

451.418a Fraud; notice of intent to prohibit licensure; hearing; order; judicial review; enforcement; violation of final order as misdemeanor; penalty; definitions.

Sec. 8a.

(1) If in the opinion of the director an individual has engaged in fraud, the director may serve on that individual a written notice of intention to prohibit that individual from being licensed under this act, licensed or registered under any of the financial licensing acts, or employed by, an agent of, or a control person of a licensee.

(2) A notice issued under subsection (1) shall contain a statement of the facts supporting the prohibition and shall set a hearing on a date within 60 days after the date of the notice. If the individual does not appear at the hearing, he or she is considered to have consented to the issuance of an order in accordance with the notice.

(3) If the director finds after a hearing held under subsection (2) that any of the grounds specified in the notice have been established, the director may issue an order of suspension or prohibition from being licensed under this act or employed by, an agent of, or a control person of a licensee.

(4) An order issued under subsection (2) or (3) is effective when served on an individual. The director shall also serve a copy of the order on the licensee of which the individual is an employee or agent. An order issued under subsection (2) or (3) remains in effect until it is stayed, modified, terminated, or set aside by the director or a reviewing court.

(5) After 5 years from the date of an order issued under subsection (2) or (3), the individual subject to the order may apply to the director to terminate the order.

(6) If the director considers that an individual served a notice under subsection (1) poses an imminent threat of financial loss to customers, the director may serve on that individual an order of suspension from being employed by, an agent of, or a control person of a licensee. A suspension is effective on the date the order is issued and, unless stayed by a court, remains in effect until the director completes the review required under this section and the director has dismissed the charges specified in the order.

(7) Unless otherwise agreed to by the director and the individual served with an order issued under subsection (6), the director shall hold a hearing required under subsection (2) to review a suspension not earlier than 5 days or later than 20 days after the date of the notice.

(8) If an individual is convicted of a felony involving fraud, dishonesty, or breach of trust, the director may issue an order suspending or prohibiting him or her from being licensed under this act or employed by, an agent of, or a control person of a licensee. After 5 years from the date of the order, the individual subject to the order may apply to the director to terminate the order.

(9) The director shall mail a copy of any notice or order issued under this section to the employer or principal of the individual who is subject to the notice or order.

(10) Within 30 days after the director has notified the parties that a matter described in this section has been submitted to him or her, the director shall render a decision that includes findings of fact supporting the decision and serve on each party to the proceeding a copy of the decision and an order consistent with the decision.

(11) Except for a consent order, a party to the proceeding or a person affected by an order issued under this section may obtain a judicial review of the order. A consent order may be reviewed as provided under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. Except for an order under judicial review, the director may terminate or set aside any order. The director may terminate or set aside an order under judicial review with the permission of the court.

(12) Unless ordered by the court, the commencement of proceedings for judicial review under subsection (11) does not stay the director's order.

(13) The director may apply to the circuit court of Ingham county for the enforcement of any outstanding order issued under this section.

(14) Any individual who violates a final order issued under this section is guilty of a misdemeanor punishable by a fine of not more than \$5,000.00 or imprisonment for not more than 1 year, or both.

(15) as used in this section:

(a) "Financial licensing act" means the consumer financial services act, 1988 PA 161, MCL 487.2051 to 487.2072; any of the acts listed in section 2 of the consumer financial services act, 1988 PA 161, MCL 487.2052; the deferred presentment service transactions act, 2005 PA 244, MCL 487.2121 to 487.2173; and the mortgage loan originator licensing act, 2009 PA 75, MCL 493.131 to 493.171.

(b) "Fraud" includes actionable fraud, actual or constructive fraud, criminal fraud, or extrinsic or intrinsic fraud, or fraud in the execution, in the inducement, in fact, or in law, or any other form of fraud.

History: Add. 2014, Act 362, Eff. Mar. 16, 2015

