

## CHAPTER 257

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**FINANCIAL INSTITUTIONS**

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**HOUSE BILL 99-1198**

BY REPRESENTATIVES Sinclair, May, and Scott;  
also SENATOR Tebedo.

**AN ACT**

CONCERNING THE STRENGTHENING OF THE SUPERVISORY POWERS OF THE DIVISION OF FINANCIAL SERVICES IN THE DEPARTMENT OF REGULATORY AGENCIES.

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** 11-30-106.5, Colorado Revised Statutes, is amended to read:

**11-30-106.5. Assessment of civil money penalties.** (1) (a) After notice and a hearing as provided in article 4 of title 24, C.R.S., and after making a determination that no other appropriate governmental agency has taken similar action against such person for the same act or practice, the commissioner may assess and collect a civil money penalty from any person who has violated any final cease and desist order issued by the commissioner pursuant to section 11-30-106 (7) or any suspension order issued pursuant to section 11-30-120.

(b) For the purposes of this section, a violation includes, but is not limited to, any action, by any person alone or with another person, which causes, brings about, or results in the participation in, counseling of, or aiding or abetting of a violation.

(c) In extraordinary circumstances, upon order of the commissioner, any hearing conducted pursuant to this section shall be exempt from any provision of law requiring that proceedings of the commissioner be conducted publicly. Such extraordinary circumstances occur when specific concern arises about prompt withdrawal of moneys from the institution.

(2) Civil money penalties shall be assessed by written notice of assessment of a civil money penalty served upon the person to be assessed. The notice of assessment of a civil money penalty shall state the amount of the penalty, the period for payment, the legal authority for the assessment, and the matters of fact or law constituting the

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

grounds for assessment. The notice of assessment of a civil money penalty may be appealed to the financial services board pursuant to section 11-44-101.8. ON APPEAL, THE BOARD MAY CONSIDER, AMONG OTHER MATTERS, WHETHER THE CIVIL MONEY PENALTY ASSESSED BY THE COMMISSIONER IS APPROPRIATE CONSIDERING THE FINANCIAL RESOURCES OF THE PERSON ASSESSED.

(3) In determining the amount of the civil money penalty to be assessed, the commissioner shall consider the good faith of the person assessed, the gravity of the violation, any previous violations by the person assessed, ~~the financial resources of the person assessed,~~ and such other matters as the commissioner may deem appropriate; except that the civil money penalty shall be not more than one thousand dollars per day for each day the person assessed is determined by the commissioner to be in violation of a cease and desist order or an order of suspension or removal. ALTERNATIVELY, THE COMMISSIONER MAY ASSESS A CIVIL MONEY PENALTY FOR SUCH VIOLATION IN A LUMP-SUM AMOUNT NOT TO EXCEED FIFTY THOUSAND DOLLARS.

(4) Civil money penalties assessed pursuant to this section shall be due and payable and collected within thirty days after the notice of assessment of a civil money penalty is issued by the commissioner; except that the commissioner may, in ~~his~~ THE COMMISSIONER'S discretion, compromise, modify, or set aside any civil money penalty. If any person fails to pay an assessment after it has become due and payable, the commissioner may refer the matter to the attorney general, who shall recover the amount assessed by action in the district court for the city and county of Denver. Any civil money penalty collected pursuant to this section shall be transmitted to the state treasurer, who shall credit it to the general fund.

**SECTION 2.** 11-30-117.5 (4), Colorado Revised Statutes, is amended to read:

**11-30-117.5. Share insurance required.** (4) Neither the commissioner, nor ~~his~~ THE COMMISSIONER'S deputy, nor any other person appointed by the commissioner, shall divulge any information acquired ~~by him~~ in the discharge of ~~his~~ THE PERSON'S duties, except insofar as the same may be rendered necessary by law or under order of court in an action involving the division or in criminal actions; except that any party entitled to appear in a hearing on an application for a community credit union charter shall have access to the applicant's proposed articles or amended articles of incorporation, application for charter, and proposed bylaws. The commissioner may make available reports of condition and examination findings to the national credit union administration board, to any qualified insuring organization, to any liquidating agent appointed by the commissioner, or to any department or division of any other state having supervisory authority over credit unions, and may accept any report of examination made on behalf of such board, organization, liquidating agent, department, or division. IN ADDITION, THE BOARD, THE COMMISSIONER, AND THEIR RESPECTIVE DESIGNEES MAY EXCHANGE INFORMATION OBTAINED BY THE DIVISION AS TO POSSIBLE CRIMINAL VIOLATIONS OF LAW RELATING TO THE ACTIVITIES OF A CREDIT UNION WITH THE APPROPRIATE LAW ENFORCEMENT AGENCIES. Notwithstanding any provision of this article to the contrary, the commissioner may disclose any information in the records of the division or acquired by ~~him~~ THE COMMISSIONER in the discharge of ~~his~~ THE COMMISSIONER'S duties ~~which~~ THAT is available from the national credit union administration board or the disclosure of which has been specifically authorized by the board of directors of the credit union to which such information relates. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO AUTHORIZE

THE BOARD OF DIRECTORS OF A CREDIT UNION TO WAIVE ANY PRIVILEGES THAT BELONG SOLELY TO THE FINANCIAL SERVICES BOARD, THE DIVISION, OR ITS EMPLOYEES.

**SECTION 3.** 11-30-120, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**11-30-120. Suspension - liquidation - procedures.** (1.5) (a) THE COMMISSIONER MAY APPOINT HIMSELF OR HERSELF OR A THIRD PARTY AS CONSERVATOR OF ANY CREDIT UNION AND IMMEDIATELY TAKE POSSESSION AND CONTROL OF THE BUSINESS AND ASSETS OF THE CREDIT UNION IF THE COMMISSIONER DETERMINES THAT:

(I) SUCH ACTION IS NECESSARY TO CONSERVE THE ASSETS OF THE CREDIT UNION OR TO PROTECT THE INTERESTS OF ITS MEMBERS FROM ACTS OR OMISSIONS OF THE EXISTING MANAGEMENT;

(II) THE CREDIT UNION, BY A RESOLUTION OF ITS BOARD OF DIRECTORS, CONSENTS TO SUCH ACTION;

(III) THERE IS A WILLFUL VIOLATION OF A CEASE AND DESIST ORDER THAT RESULTS IN THE CREDIT UNION BEING OPERATED IN AN UNSAFE OR UNSOUND MANNER; OR

(IV) THE CREDIT UNION IS SIGNIFICANTLY UNDERCAPITALIZED AND HAS NO REASONABLE PROSPECT OF BECOMING ADEQUATELY CAPITALIZED.

(b) THE COMMISSIONER MAY APPOINT A CONSERVATOR AND TAKE IMMEDIATE POSSESSION OF THE CREDIT UNION WITHOUT PRIOR NOTICE OR A HEARING; EXCEPT THAT, WITHIN TEN DAYS AFTER THE CONSERVATOR IS APPOINTED, THE CREDIT UNION MAY FILE AN APPEAL WITH THE BOARD REQUESTING THE BOARD TO RESCIND THE COMMISSIONER'S APPOINTMENT OF A CONSERVATOR. UPON RECEIPT OF A TIMELY APPEAL, THE BOARD SHALL SET A DATE FOR A HEARING AND DETERMINE WHETHER THE COMMISSIONER'S APPOINTMENT SHOULD BE RESCINDED; EXCEPT THAT SUCH APPEAL SHALL NOT ACT AS A STAY OF THE COMMISSIONER'S ACTION. IF THE BOARD FINDS THE COMMISSIONER'S ACTION WAS UNAUTHORIZED, THE BOARD SHALL RESTORE CONTROL OF THE CREDIT UNION TO ITS BOARD OF DIRECTORS. IF NO APPEAL IS FILED WITHIN TEN DAYS AFTER THE COMMISSIONER'S APPOINTMENT OF A CONSERVATOR, ANY ACTION TAKEN BY THE COMMISSIONER SHALL BE FINAL.

(c) IN EXTRAORDINARY CIRCUMSTANCES, UPON ORDER OF THE BOARD, ANY HEARING CONDUCTED PURSUANT TO THIS SUBSECTION (1.5) SHALL BE EXEMPT FROM ANY PROVISION OF LAW REQUIRING THAT PROCEEDINGS OF THE BOARD BE CONDUCTED PUBLICLY. SUCH EXTRAORDINARY CIRCUMSTANCES OCCUR WHEN SPECIFIC CONCERN ARISES ABOUT PROMPT WITHDRAWAL OF MONEYS FROM THE CREDIT UNION.

(d) THE CONSERVATOR SHALL HAVE ALL THE POWERS OF THE MEMBERS, DIRECTORS, OFFICERS, AND COMMITTEES OF THE CREDIT UNION AND SHALL BE AUTHORIZED TO OPERATE THE CREDIT UNION IN ITS OWN NAME OR TO CONSERVE ITS ASSETS AS DIRECTED BY THE COMMISSIONER. THE CONSERVATOR SHALL CONDUCT THE BUSINESS OF THE CREDIT UNION AND MAKE REGULAR REPORTS TO THE COMMISSIONER UNTIL SUCH TIME AS THE COMMISSIONER HAS DETERMINED THAT THE PURPOSES OF CONSERVATORSHIP HAVE BEEN ACCOMPLISHED AND THE CREDIT UNION

SHOULD BE RETURNED TO THE CONTROL OF ITS BOARD OF DIRECTORS. ALL COSTS INCIDENT TO THE CONSERVATORSHIP SHALL BE PAID OUT OF THE ASSETS OF THE CREDIT UNION. IF THE COMMISSIONER DETERMINES THAT THE PURPOSES OF THE CONSERVATORSHIP WILL NOT BE ACCOMPLISHED, THE COMMISSIONER MAY PROCEED WITH THE INVOLUNTARY LIQUIDATION OF THE CREDIT UNION IN THE MANNER DESCRIBED IN SUBSECTION (1) OF THIS SECTION.

(e) IF A CONSERVATOR IS APPOINTED, AND IS OTHER THAN THE NATIONAL CREDIT UNION ADMINISTRATION, ANOTHER APPROVED INSURER, OR AN EMPLOYEE OF THE DIVISION OF FINANCIAL SERVICES, THE CONSERVATOR AND ANY ASSISTANTS SHALL PROVIDE A BOND, PAYABLE TO THE CREDIT UNION AND EXECUTED BY A SURETY COMPANY AUTHORIZED TO DO BUSINESS IN THIS STATE, WHICH MEETS WITH THE APPROVAL OF THE FINANCIAL SERVICES BOARD, FOR THE FAITHFUL DISCHARGE OF THEIR DUTIES IN CONNECTION WITH SUCH CONSERVATORSHIP AND THE ACCOUNTING FOR ALL MONEYS COMING INTO THEIR HANDS. THE COST OF SUCH BOND SHALL BE PAID FROM THE ASSETS OF THE CREDIT UNION. SUIT MAY BE MAINTAINED ON SUCH BOND BY ANY PERSON INJURED BY A BREACH OF THE CONDITIONS THEREOF. THIS REQUIREMENT MAY BE DEEMED MET IF THE FINANCIAL SERVICES BOARD DETERMINES THAT THE CREDIT UNION'S FIDELITY BOND COVERS THE CONSERVATOR AND ANY ASSISTANTS.

**SECTION 4.** 11-44-101.7 (1), Colorado Revised Statutes, is amended to read:

**11-44-101.7. Powers of the financial services board.** (1) The board is the policy-making and rule-making authority for the division and has the power to:

(a) Regulate its own procedure and practice; and

(b) Make, modify, reverse, and vacate rules ~~and regulations~~ for the proper enforcement and administration of articles 30 and 40 to 46 of this title AND ARTICLE 13 OF TITLE 12, C.R.S.

**SECTION 5.** 11-44-101.8 (1), Colorado Revised Statutes, is amended to read:

**11-44-101.8. Review of commissioner actions by financial services board - judicial review.** (1) (a) Any credit union, savings and loan association, small business development credit corporation, or life care institution or provider, or any officer, director, employee, agent, advisor, or volunteer thereof, may appeal to the board any actions taken pursuant to authority delegated by the board pursuant to section 11-44-101.7 (5) or as otherwise specifically provided by statute. Notice of such appeal shall be filed with the commissioner within thirty days after such findings, ruling, order, decision, or other action. Such notice shall contain a brief statement of the pertinent facts upon which such appeal is based. Within sixty days after the appeal is filed, the board shall fix a date, time, and place for hearing the appeal and shall notify the credit union, savings and loan association, small business development credit corporation, or life care institution or provider at least thirty days prior to the date of said hearing. Any such action of the commissioner may be stayed by the board pending the appeal to the board. The findings, order, decision, ruling, or other action of the board shall be deemed final agency action.

(b) IN EXTRAORDINARY CIRCUMSTANCES, UPON ORDER OF THE BOARD, ANY

HEARING CONDUCTED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (1) SHALL BE EXEMPT FROM ANY PROVISION OF LAW REQUIRING THAT PROCEEDINGS OF THE BOARD BE CONDUCTED PUBLICLY. SUCH EXTRAORDINARY CIRCUMSTANCES OCCUR WHEN SPECIFIC CONCERN ARISES ABOUT PROMPT WITHDRAWAL OF MONEYS FROM AN INSTITUTION.

**SECTION 6.** 11-44-107, Colorado Revised Statutes, is amended to read:

**11-44-107. Not to divulge information.** Neither the commissioner, nor ~~his~~ THE COMMISSIONER'S deputy, nor any other person appointed by the commissioner shall divulge any information acquired ~~by him~~ in the discharge of ~~his~~ THE PERSON'S duties, except insofar as the same may be rendered necessary by law or under order of court in an action involving the division or in criminal actions; except that any party entitled to appear in a hearing on an application for a savings and loan association charter or approval of a merger of savings and loan associations shall have access to the applicant's proposed articles or amended articles of incorporation, application for charter, and proposed bylaws. The commissioner may furnish information as to the condition of the savings and loan associations to the ~~federal home loan bank board; or to the~~ OFFICE OF THRIFT SUPERVISION OR ITS SUCCESSORS, A federal home loan bank, ~~or any of its agencies, or to the~~ savings and loan departments of other states, ~~or to an insurer authorized to insure obligations or accounts pursuant to articles 40 to 47.5~~ TO 47 of this title, ~~or to the~~ executive director of the department of regulatory agencies, ~~and;~~ OR the division of banking. IN ADDITION, THE BOARD, THE COMMISSIONER, AND THEIR RESPECTIVE DESIGNEES MAY EXCHANGE INFORMATION OBTAINED BY THE DIVISION OF FINANCIAL SERVICES AS TO POSSIBLE CRIMINAL VIOLATIONS OF LAW RELATING TO THE ACTIVITIES OF A SAVINGS AND LOAN ASSOCIATION WITH THE APPROPRIATE LAW ENFORCEMENT AGENCIES. Notwithstanding any provision contained in this article to the contrary, the commissioner, ~~his~~ THE COMMISSIONER'S deputies, or other persons appointed by the commissioner may disclose any information in the record of the division of financial services or acquired ~~by them~~ in the discharge of their duties ~~which~~ THAT is available from the ~~home loan bank board~~ OFFICE OF THRIFT SUPERVISION OR ITS SUCCESSORS or the disclosure of which has been specifically authorized by the board of directors of the association to which such information relates. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO AUTHORIZE THE BOARD OF DIRECTORS OF AN ASSOCIATION TO WAIVE ANY PRIVILEGES THAT BELONG SOLELY TO THE FINANCIAL SERVICES BOARD, THE DIVISION OF FINANCIAL SERVICES, OR ITS EMPLOYEES.

**SECTION 7.** 11-44-110 (3), Colorado Revised Statutes, is amended, and the said 11-44-110 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

**11-44-110. Power to take possession of association.** (3) The commissioner may, ~~demand and;~~ with the written approval of the ~~governor of the state of Colorado~~ BOARD, take possession of the property, business, and assets of such an association and retain such possession until such association, with the consent of the commissioner, resumes business or until its affairs are liquidated. Such association, with the consent of the commissioner, may resume business upon such conditions as may be prescribed by the commissioner, but such savings and loan association shall pay all the expenses of the commissioner and ~~his~~ THE COMMISSIONER'S deputy and employees in so taking possession of its property and assets.

(4) (a) IN ADDITION TO ALL OTHER POWERS TO TAKE POSSESSION OF ANY ASSOCIATION, THE COMMISSIONER MAY APPOINT HIMSELF OR HERSELF OR A THIRD PARTY AS CONSERVATOR OF ANY ASSOCIATION AND IMMEDIATELY TAKE POSSESSION AND CONTROL OF THE BUSINESS AND ASSETS OF THE ASSOCIATION IF THE COMMISSIONER DETERMINES THAT:

(I) SUCH ACTION IS NECESSARY TO CONSERVE THE ASSETS OF THE ASSOCIATION OR TO PROTECT THE INTERESTS OF ITS SHAREHOLDERS FROM ACTS OR OMISSIONS OF THE EXISTING MANAGEMENT;

(II) THE ASSOCIATION, BY A RESOLUTION OF ITS BOARD OF DIRECTORS, CONSENTS TO SUCH ACTION;

(III) THERE IS A WILLFUL VIOLATION OF A CEASE AND DESIST ORDER THAT RESULTS IN THE ASSOCIATION BEING OPERATED IN AN UNSAFE OR UNSOUND MANNER; OR

(IV) THE ASSOCIATION IS SIGNIFICANTLY UNDERCAPITALIZED AND HAS NO REASONABLE PROSPECT OF BECOMING ADEQUATELY CAPITALIZED.

(b) THE COMMISSIONER MAY APPOINT A CONSERVATOR AND TAKE IMMEDIATE POSSESSION OF THE ASSOCIATION WITHOUT PRIOR NOTICE OR A HEARING; EXCEPT THAT, WITHIN TEN DAYS AFTER THE CONSERVATOR IS APPOINTED, THE ASSOCIATION MAY FILE AN APPEAL WITH THE BOARD REQUESTING THE BOARD TO RESCIND THE COMMISSIONER'S APPOINTMENT OF A CONSERVATOR. UPON RECEIPT OF A TIMELY APPEAL, THE BOARD SHALL SET A DATE FOR HEARING AND DETERMINE WHETHER THE COMMISSIONER'S APPOINTMENT SHOULD BE RESCINDED; EXCEPT THAT SUCH APPEAL SHALL NOT ACT AS A STAY OF THE COMMISSIONER'S ACTION. IF THE BOARD FINDS THE COMMISSIONER'S ACTION WAS UNAUTHORIZED THE BOARD SHALL RESTORE CONTROL OF THE ASSOCIATION TO ITS BOARD OF DIRECTORS. IF NO APPEAL IS FILED WITHIN TEN DAYS AFTER THE COMMISSIONER'S APPOINTMENT OF A CONSERVATOR, ALL ACTION TAKEN BY THE COMMISSIONER SHALL BE FINAL.

(c) IN EXTRAORDINARY CIRCUMSTANCES, UPON ORDER OF THE BOARD, ANY HEARING CONDUCTED PURSUANT TO THIS SUBSECTION (4) SHALL BE EXEMPT FROM ANY PROVISION OF LAW REQUIRING THAT PROCEEDINGS OF THE BOARD BE CONDUCTED PUBLICLY. SUCH EXTRAORDINARY CIRCUMSTANCES OCCUR ONLY WHEN SPECIFIC CONCERN ARISES ABOUT PROMPT WITHDRAWAL OF MONEYS FROM THE ASSOCIATION.

(d) THE CONSERVATOR SHALL HAVE ALL THE POWERS OF THE SHAREHOLDERS, DIRECTORS, AND OFFICERS OF THE ASSOCIATION AND SHALL BE AUTHORIZED TO OPERATE THE ASSOCIATION IN ITS OWN NAME OR TO CONSERVE ITS ASSETS AS DIRECTED BY THE COMMISSIONER. THE CONSERVATOR SHALL CONDUCT THE BUSINESS OF THE ASSOCIATION AND MAKE REGULAR REPORTS TO THE COMMISSIONER UNTIL SUCH TIME AS THE COMMISSIONER HAS DETERMINED THAT THE PURPOSES OF CONSERVATORSHIP HAVE BEEN ACCOMPLISHED AND THE ASSOCIATION SHOULD BE RETURNED TO THE CONTROL OF ITS BOARD OF DIRECTORS. ALL COSTS INCIDENT TO THE CONSERVATORSHIP SHALL BE PAID OUT OF THE ASSETS OF THE ASSOCIATION. IF THE COMMISSIONER DETERMINES THAT THE PURPOSES OF THE CONSERVATORSHIP WILL NOT BE ACCOMPLISHED, THE COMMISSIONER MAY PROCEED WITH THE INVOLUNTARY LIQUIDATION OF THE ASSOCIATION IN THE MANNER DESCRIBED IN SUBSECTIONS (2) AND (3) OF THIS SECTION.

(e) IF A CONSERVATOR IS APPOINTED, AND IS OTHER THAN THE FEDERAL DEPOSIT INSURANCE CORPORATION, THE OFFICE OF THRIFT SUPERVISION OR ITS SUCCESSORS, OR AN EMPLOYEE OF THE DIVISION OF FINANCIAL SERVICES, THE CONSERVATOR AND ANY ASSISTANTS SHALL PROVIDE A BOND, PAYABLE TO THE ASSOCIATION AND EXECUTED BY A SURETY COMPANY AUTHORIZED TO DO BUSINESS IN THIS STATE, WHICH MEETS WITH THE APPROVAL OF THE FINANCIAL SERVICES BOARD, FOR THE FAITHFUL DISCHARGE OF THEIR DUTIES IN CONNECTION WITH SUCH CONSERVATORSHIP AND THE ACCOUNTING FOR ALL MONEYS COMING INTO THEIR HANDS. THE COST OF SUCH BOND SHALL BE PAID FROM THE ASSETS OF THE ASSOCIATION. SUIT MAY BE MAINTAINED ON SUCH BOND BY ANY PERSON INJURED BY A BREACH OF THE CONDITIONS THEREOF. THIS REQUIREMENT MAY BE DEEMED MET IF THE FINANCIAL SERVICES BOARD DETERMINES THAT THE ASSOCIATION'S FIDELITY BOND COVERS THE CONSERVATOR AND ANY ASSISTANTS.

**SECTION 8.** 11-44-123, Colorado Revised Statutes, is amended to read:

**11-44-123. Assessment of civil money penalties.** (1) (a) After notice and a hearing as provided in article 4 of title 24, C.R.S., and after making a determination that no other appropriate governmental agency has taken similar action against such person for the same act or practice, the commissioner may assess and collect a civil money penalty from any person who has violated any final order issued by the commissioner pursuant to section 11-44-110 (1) or any suspension or removal order issued pursuant to section 11-44-106.5, or who has violated section 11-41-133.

(b) For the purposes of this section, a violation includes, but is not limited to, any action, by any person alone or with another person, which causes, brings about, or results in the participation in, counseling of, or aiding or abetting of a violation.

(c) In extraordinary circumstances, upon order of the commissioner, any hearing conducted pursuant to this section shall be exempt from any provision of law requiring that proceedings of the commissioner be conducted publicly. Such extraordinary circumstances occur when specific concern arises about prompt withdrawal of moneys from the institution.

(2) Civil money penalties shall be assessed by written notice of assessment of a civil money penalty served upon the person to be assessed. The notice of assessment of a civil money penalty shall state the amount of the penalty, the period for payment, the legal authority for the assessment, and the matters of fact or law constituting the grounds for assessment. The notice of assessment of a civil money penalty may be appealed to the financial services board pursuant to section 11-44-101.8. ON APPEAL, THE BOARD MAY CONSIDER, AMONG OTHER MATTERS, WHETHER THE CIVIL MONEY PENALTY ASSESSED BY THE COMMISSIONER IS APPROPRIATE CONSIDERING THE FINANCIAL RESOURCES OF THE PERSON ASSESSED.

(3) In determining the amount of the civil money penalty to be assessed, the commissioner shall consider the good faith of the person assessed, the gravity of the violation, any previous violations by the person assessed, ~~the financial resources of the person assessed;~~ and such other matters as the commissioner may deem appropriate; except that the civil money penalty shall be not more than one thousand dollars per day for each day the person assessed ~~was found~~ IS DETERMINED BY THE COMMISSIONER to be in violation OF A CEASE AND DESIST ORDER OR AN ORDER OF

SUSPENSION OR REMOVAL. ALTERNATIVELY, THE COMMISSIONER MAY ASSESS A CIVIL MONEY PENALTY FOR SUCH VIOLATION IN A LUMP-SUM AMOUNT NOT TO EXCEED FIFTY THOUSAND DOLLARS.

(4) Civil money penalties assessed pursuant to this section shall be due and payable and collected within thirty days after the notice of assessment of a civil money penalty is issued by the commissioner; except that the commissioner, in ~~his~~ THE COMMISSIONER'S discretion, may compromise, modify, or set aside any civil money penalty. If any person fails to pay an assessment after it has become due and payable, the commissioner may refer the matter to the attorney general, who shall recover the amount assessed by action in the district court for the city and county of Denver. Any civil money penalty collected pursuant to this section shall be transmitted to the state treasurer, who shall credit it to the general fund.

**SECTION 9.** 12-13-101, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**12-13-101. Definitions.** As used in this article, unless the context otherwise requires:

(1.5) "BOARD" MEANS THE FINANCIAL SERVICES BOARD CREATED IN SECTION 11-44-101.6, C.R.S.

**SECTION 10.** 12-13-111, Colorado Revised Statutes, is amended to read:

**12-13-111. Rules.** ~~The commissioner~~ BOARD may promulgate reasonable rules ~~and regulations~~ in accordance with article 4 of title 24, C.R.S., for effectuating any provision of this article.

**SECTION 11. Effective date - applicability.** (1) This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

(2) The provisions of this act shall apply to actions occurring on or after the applicable effective date of this act.

Approved: May 29, 1999