

uments. And such court may issue an order requiring such person to appear before the Director or any officer designated by the Director, there to produce records, if so ordered, or to give testimony touching the matter under investigation or in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or wherever he may be found.

(Pub. L. 90-448, title XIV, §1415, Aug. 1, 1968, 82 Stat. 596; Pub. L. 91-452, title II, §220, Oct. 15, 1970, 84 Stat. 929; Pub. L. 111-203, title X, §1098A(1), July 21, 2010, 124 Stat. 2105.)

AMENDMENTS

2010—Pub. L. 111-203 substituted “Director” for “Secretary” wherever appearing.

1970—Subsec. (e). Pub. L. 91-452 struck out subsec. (e) which related to the immunity from prosecution of any individual compelled to testify or produce evidence, documentary or otherwise, after claiming his privilege against self-incrimination.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-203 effective on the designated transfer date, see section 1100H of Pub. L. 111-203, set out as a note under section 552a of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1970 AMENDMENT

For effective date of amendment by Pub. L. 91-452, and for amendment not to affect any immunity to which any individual is entitled under this section by reason of any testimony given before sixtieth day following Oct. 15, 1970, see section 260 of Pub. L. 91-452, set out as an Effective Date; Savings Provision note under section 6001 of Title 18, Crimes and Criminal Procedure.

§ 1715. Administration

(a) Delegation of functions, duties, and powers; scope of delegations; appointment, etc., of delegates; right of appeal

The authority and responsibility for administering this chapter shall be in the Director of the Bureau of Consumer Financial Protection who may delegate any of his functions, duties, and powers to employees of the Bureau of Consumer Financial Protection or to boards of such employees, including functions, duties, and powers with respect to investigating, hearing, determining, ordering, or otherwise acting as to any work, business, or matter under this chapter. The persons to whom such delegations are made with respect to hearing functions, duties, and powers shall be appointed and shall serve in the Bureau in compliance with sections 3105, 3344, 5372, and 7521 of title 5. The Director shall by rule prescribe such rights of appeal from the decisions of his administrative law judges to other administrative law judges or to other officers in the Bureau, to boards of officers or to himself, as shall be appropriate and in accordance with law.

(b) Hearings

All hearings shall be public and appropriate records thereof shall be kept, and any order issued after such hearing shall be based on the record made in such hearing which shall be conducted in accordance with the provisions of subchapter II of chapter 5, and chapter 7, of title 5.

(c) Procedures applicable

The Director shall conduct all actions with respect to rulemaking or adjudication under this chapter in accordance with the provisions of chapter 5 of title 5. Notice shall be given of any adverse action or final disposition and such notice and the entry of any order shall be accompanied by a written statement of supporting facts and legal authority.

(Pub. L. 90-448, title XIV, §1416, Aug. 1, 1968, 82 Stat. 597; Pub. L. 95-251, §2(a)(5), Mar. 27, 1978, 92 Stat. 183; Pub. L. 95-454, title VIII, §801(a)(3)(J), Oct. 13, 1978, 92 Stat. 1222; Pub. L. 96-153, title IV, §407, Dec. 21, 1979, 93 Stat. 1131; Pub. L. 98-479, title II, §202(d), Oct. 17, 1984, 98 Stat. 2228; Pub. L. 111-203, title X, §1098A(1)-(3), (5), July 21, 2010, 124 Stat. 2105.)

AMENDMENTS

2010—Pub. L. 111-203, §1098A(1), substituted “Director” for “Secretary” wherever appearing.

Subsec. (a). Pub. L. 111-203, §1098A(5), substituted “Director of the Bureau of Consumer Financial Protection” for “Secretary of Housing and Urban Development”.

Pub. L. 111-203, §1098A(3), substituted “in the Bureau” for “in the Department” in two places.

Pub. L. 111-203, §1098A(2), substituted “Bureau of Consumer Financial Protection or” for “Department of Housing and Urban Development or”.

1984—Subsec. (b). Pub. L. 98-479 substituted “subchapter II of chapter 5, and chapter 7, of title 5” for “the Administrative Procedure Act”.

1979—Subsec. (c). Pub. L. 96-153 added subsec. (c).

1978—Subsec. (a). Pub. L. 95-454 substituted “5372” for “5362”.

Pub. L. 95-251 substituted “administrative law judges” for “hearing examiners” wherever appearing.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-203 effective on the designated transfer date, see section 1100H of Pub. L. 111-203, set out as a note under section 552a of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-153 effective on effective date of regulations implementing such amendment, but in no case later than six months following Dec. 21, 1979, see section 410 of Pub. L. 96-153, set out as a note under section 1701 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-454 effective on first day of first applicable pay period beginning on or after 90th day after Oct. 13, 1978, see section 801(a)(4) of Pub. L. 95-454, set out as a note under section 5361 of Title 5, Government Organization and Employees.

§ 1716. Unlawful representations

The fact that a statement of record with respect to a subdivision has been filed or is in effect shall not be deemed a finding by the Director that the statement of record is true and accurate on its face, or be held to mean the Director has in any way passed upon the merits of, or given approval to, such subdivision. It shall be unlawful to make, or cause to be made, to any prospective purchaser any representation contrary to the foregoing.

(Pub. L. 90-448, title XIV, §1417, Aug. 1, 1968, 82 Stat. 598; Pub. L. 111-203, title X, §1098A(1), July 21, 2010, 124 Stat. 2105.)

AMENDMENTS

2010—Pub. L. 111-203 substituted “Director” for “Secretary” in two places.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-203 effective on the designated transfer date, see section 1100H of Pub. L. 111-203, set out as a note under section 552a of Title 5, Government Organization and Employees.

§ 1717. Penalties for violations

Any person who willfully violates any of the provisions of this chapter, or the rules and regulations prescribed pursuant thereto, or any person who willfully, in a statement of record filed under, or in a property report issued pursuant to, this chapter, makes any untrue statement of a material fact or omits to state any material fact required to be stated therein, shall upon conviction be fined not more than \$10,000 or imprisoned not more than five years, or both.

(Pub. L. 90-448, title XIV, §1418, Aug. 1, 1968, 82 Stat. 598; Pub. L. 96-153, title IV, §408, Dec. 21, 1979, 93 Stat. 1132.)

AMENDMENTS

1979—Pub. L. 96-153 substituted “\$10,000” for “\$5,000”.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-153 effective on effective date of regulations implementing such amendment, but in no case later than six months following Dec. 21, 1979, see section 410 of Pub. L. 96-153, set out as a note under section 1701 of this title.

§ 1717a. Civil money penalties**(a) In general****(1) Authority**

Whenever any person knowingly and materially violates any of the provisions of this chapter or any rule, regulation, or order issued under this chapter, the Director may impose a civil money penalty on such person in accordance with the provisions of this section. The penalty shall be in addition to any other available civil remedy or any available criminal penalty, and may be imposed whether or not the Director imposes other administrative sanctions.

(2) Amount of penalty

The amount of the penalty, as determined by the Director, may not exceed \$1,000 for each violation, except that the maximum penalty for all violations by a particular person during any 1-year period shall not exceed \$1,000,000. Each violation of this chapter, or any rule, regulation, or order issued under this chapter, shall constitute a separate violation with respect to each sale or lease or offer to sell or lease. In the case of a continuing violation, as determined by the Director, each day shall constitute a separate violation.

(b) Agency procedures**(1) Establishment**

The Director shall establish standards and procedures governing the imposition of civil money penalties under subsection (a) of this section. The standards and procedures—

(A) shall provide for the imposition of a penalty only after a person has been given

an opportunity for a hearing on the record; and

(B) may provide for review by the Director of any determination or order, or interlocutory ruling, arising from a hearing.

(2) Final orders

If no hearing is requested within 15 days of receipt of the notice of opportunity for hearing, the imposition of the penalty shall constitute a final and unappealable determination. If the Director reviews the determination or order, the Director may affirm, modify, or reverse that determination or order. If the Director does not review the determination or order within 90 days of the issuance of the determination or order, the determination or order shall be final.

(3) Factors in determining amount of penalty

In determining the amount of a penalty under subsection (a) of this section, consideration shall be given to such factors as the gravity of the offense, any history of prior offenses (including offenses occurring before December 15, 1989), ability to pay the penalty, injury to the public, benefits received, deterrence of future violations, and such other factors as the Director may determine in regulations to be appropriate.

(4) Reviewability of imposition of penalty

The Secretary’s¹ determination or order imposing a penalty under subsection (a) of this section shall not be subject to review, except as provided in subsection (c) of this section.

(c) Judicial review of agency determination**(1) In general**

After exhausting all administrative remedies established by the Director under subsection (b)(1) of this section, a person aggrieved by a final order of the Director assessing a penalty under this section may seek judicial review pursuant to section 1710 of this title.

(2) Order to pay penalty

Notwithstanding any other provision of law, in any such review, the court shall have the power to order payment of the penalty imposed by the Director.

(d) Action to collect penalty

If any person fails to comply with the determination or order of the Director imposing a civil money penalty under subsection (a) of this section, after the determination or order is no longer subject to review as provided by subsections (b) and (c) of this section, the Director may request the Attorney General of the United States to bring an action in any appropriate United States district court to obtain a monetary judgment against the person and such other relief as may be available. The monetary judgment may, in the discretion of the court, include any attorneys fees and other expenses incurred by the United States in connection with the action. In an action under this subsection, the validity and appropriateness of the Secretary’s¹ determination or order imposing the penalty shall not be subject to review.

¹ So in original. Probably should be “Director’s”.