

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. 2222; 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.

EFFECTIVE DATE

Section effective upon the expiration of two hundred and seventy days after Aug. 1, 1968, see section 1423 of Pub. L. 90-448, set out as a note under section 1701 of this title.

§ 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.

EFFECTIVE DATE

Section effective upon the expiration of two hundred and seventy days after Aug. 1, 1968, see section 1423 of Pub. L. 90-448, set out as a note under section 1701 of this title.

§ 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.

EFFECTIVE DATE

Section effective upon the expiration of two hundred and seventy days after Aug. 1, 1968, see section 1423 of Pub. L. 90-448, 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 re-

spect 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). 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), 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) shall not be subject to review, except as provided in subsection (c).

(c) Judicial review of agency determination

(1) In general

After exhausting all administrative remedies established by the Director under subsection (b)(1), 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), after the determination or order is no longer subject to review as provided by subsections (b) and (c),

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.

(e) Settlement by Director

The Director may compromise, modify, or remit any civil money penalty which may be, or has been, imposed under this section.

(f) "Knowingly" defined

The term "knowingly" means having actual knowledge of or acting with deliberate ignorance of or reckless disregard for the prohibitions under this section.

(g) Regulations

The Director shall issue such regulations as the Director deems appropriate to implement this section.

(h) Use of penalties for administration

Civil money penalties collected under this section shall be paid to the Director and, upon approval in an appropriation Act, may be used by the Director to cover all or part of the cost of rendering services under this chapter.

(Pub. L. 90-448, title XIV, §1418a, as added Pub. L. 101-235, title I, §111(a), Dec. 15, 1989, 103 Stat. 2014; amended 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.

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

Pub. L. 101-235, title I, §111(b), Dec. 15, 1989, 103 Stat. 2016, provided that: "The amendment made by subsection (a) [enacting this section] shall apply only with respect to—

"(1) violations referred to in the amendment that occur on or after the effective date of this section [Dec. 15, 1989]; and

"(2) in the case of a continuing violation (as determined by the Secretary of Housing and Urban Development), any portion of violation referred to in the amendment that occurs on or after such date."

§ 1718. Rules, regulations, and orders

The Director shall have authority from time to time to make, issue, amend, and rescind such rules and regulations and such orders as are necessary or appropriate to the exercise of the functions and powers conferred upon him elsewhere in this chapter. For the purpose of his rules and regulations, the Director may classify persons and matters within his jurisdiction and prescribe different requirements for different classes of persons or matters.

¹ So in original. Probably should be "Director's".