

§16602. Investigations and subpoenas

1. Authority to investigate. The administrator may:

A. Conduct public or private investigations within or outside of this State that the administrator considers necessary or appropriate to determine whether a person has violated, is violating or is about to violate this chapter or a rule adopted or order issued under this chapter or to aid in the enforcement of this chapter or in the adoption of rules and forms under this chapter; [PL 2005, c. 65, Pt. A, §2 (NEW).]

B. Require or permit a person to testify, file a statement or produce a record, under oath or otherwise as the administrator determines, as to all the facts and circumstances concerning a matter to be investigated or about which an action or proceeding is to be instituted; and [PL 2005, c. 65, Pt. A, §2 (NEW).]

C. Publish a record concerning an action, proceeding or investigation under, or a violation of, this chapter or a rule adopted or order issued under this chapter if the administrator determines it is necessary or appropriate in the public interest and for the protection of investors. [PL 2005, c. 65, Pt. A, §2 (NEW).]

[PL 2005, c. 65, Pt. A, §2 (NEW).]

2. Administrator powers to investigate. For the purpose of an investigation under this chapter, the administrator or the administrator's designated officer may administer oaths and affirmations, subpoena witnesses, seek compulsion of attendance, take evidence, require the filing of statements and require the production of any records that the administrator considers relevant or material to the investigation. It is unlawful to fail to provide any statement or record if requested.

[PL 2005, c. 65, Pt. A, §2 (NEW).]

3. Procedure and remedies for noncompliance. If a person does not appear or refuses to testify, file a statement or produce records or otherwise does not obey a subpoena as required by the administrator under this chapter, the administrator may request that the Attorney General apply to either the Superior Court located in Kennebec County or the Superior Court where service may be obtained on the person refusing to testify or produce or a court of another state to enforce compliance. The court may:

A. Hold the person in contempt; [PL 2005, c. 65, Pt. A, §2 (NEW).]

B. Order the person to appear before the administrator; [PL 2005, c. 65, Pt. A, §2 (NEW).]

C. Order the person to testify about the matter under investigation or in question; [PL 2005, c. 65, Pt. A, §2 (NEW).]

D. Order the production of records; [PL 2005, c. 65, Pt. A, §2 (NEW).]

E. Grant injunctive relief, including restricting or prohibiting the offer or sale of securities or the providing of investment advice; [PL 2005, c. 65, Pt. A, §2 (NEW).]

F. Impose a civil fine not to exceed \$10,000 per violation; and [PL 2005, c. 65, Pt. A, §2 (NEW).]

G. Grant any other necessary or appropriate relief. [PL 2005, c. 65, Pt. A, §2 (NEW).]

[PL 2005, c. 65, Pt. A, §2 (NEW).]

4. Application for relief. This section does not preclude a person from applying to the Superior Court located in Kennebec County or a court of another state for relief from a request to appear, testify, file a statement, produce records or obey a subpoena.

[PL 2005, c. 65, Pt. A, §2 (NEW).]

5. Assistance to securities regulator of another jurisdiction. At the request of the securities regulator of another state or a foreign jurisdiction, the administrator may provide assistance if the requesting regulator states that it is conducting an investigation to determine whether a person has violated, is violating or is about to violate a law or rule of the other state or foreign jurisdiction relating to securities matters that the requesting regulator administers or enforces. The administrator may provide the assistance by using the authority to investigate and the powers conferred by this section as the administrator determines is necessary or appropriate. The assistance may be provided without regard to whether the conduct described in the request would also constitute a violation of this chapter or other law of this State if occurring in this State. In deciding whether to provide the assistance, the administrator may consider whether the requesting regulator is permitted and has agreed to provide assistance reciprocally within its state or foreign jurisdiction to the administrator on securities matters when requested, whether compliance with the request would violate or prejudice the public policy of this State and the availability of resources and employees of the administrator to carry out the request for assistance.

[PL 2005, c. 65, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2005, c. 65, §A2 (NEW).

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