

SENATE BILL NO. 283

INTRODUCED BY M. NOLAND, K. REGIER, C. GLIMM

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATING TO CIVIL PENALTIES APPLYING TO CREDIT UNIONS; ALLOWING THE COMMISSIONER OF BANKING TO ASSESS A CIVIL MONEY PENALTY; PROVIDING FOR PENALTY AMOUNT DETERMINATIONS BY THE COMMISSIONER; AND PROVIDING A DEFINITION."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Civil money penalties. (1) After providing a notice and an opportunity for a public hearing pursuant to the Montana Administrative Procedure Act, the commissioner may assess against, and collect a civil money penalty from, any credit union or from any director, officer, supervisory committee member, employee, agent, or other person participating in the conduct of the affairs of a credit union who:

(a) engages or participates in any unsafe or unsound practice in connection with a credit union; or
(b) violates or knowingly permits any person to violate any of the provisions of this chapter, any rule promulgated pursuant to this chapter, or any lawful order of the director issued pursuant to this chapter.

(2) A civil money penalty assessed pursuant to subsection (1) may not exceed \$10,000 a day for each day the violation continues. A civil money penalty may not be assessed for the same act or practice if another government agency has taken similar action against the credit union or person to be assessed a civil money penalty.

(3) In determining the amount of the civil money penalty to be assessed, the commissioner shall consider:

(a) the good faith of the credit union or person to be assessed with a civil money penalty;
(b) the gravity of the violation;
(c) any previous violations by the credit union or person to be assessed with a civil money penalty;
(d) the nature and extent of any previous violations; and

1 (e) any other matters as the commissioner may consider appropriate.

(4) Following a waiver by the respondent of the right to a public hearing concerning an assessment of a civil money penalty, the public hearing or portions of the public hearing may be closed to the public when concerns arise about the prompt withdrawal of money from or the safety and soundness of the credit union.

5 (5) The commissioner may modify or set aside any order assessing a civil money penalty.

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

10 NEW SECTION. Section 2. Codification instruction. [Section 1] is intended to be codified as an
11 integral part of Title 32, chapter 3, part 10, and the provisions of Title 32, chapter 3, part 10, apply to [section 1].

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