

Article - Commercial Law

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§12–916.

(a) If a written complaint for violation of any provision of this subtitle, including the disclosure requirements of this subtitle and the federal Truth in Lending Act and regulations promulgated thereunder, or any other law of this State that regulates loans or other extensions of credit is filed with the Commissioner of Financial Regulation, the Commissioner may investigate the complaint and hold a hearing on it in accordance with § 11-413 of the Financial Institutions Article.

(b) (1) The Commissioner shall give to the credit grantor against whom a complaint is filed at least 10 days' written notice of the complaint and the time and place of any hearing. The notice shall be in writing and sent by registered or certified mail to the credit grantor's principal place of business.

(2) Before a hearing under this section may be scheduled, the Commissioner shall:

(i) Send a written notice to the complaining party that describes the provisions in paragraph (3) of this subsection concerning preclusion; and

(ii) Obtain from the complaining party a written:

1. Election to proceed with a hearing in accordance with this section; and

2. Waiver of any right to pursue any cause of action or remedy as to the matters addressed in the complaint or the hearing.

(3) (i) If a complaining party provides a written election and waiver as described in paragraph (2)(ii) of this subsection, the complaining party shall be precluded from raising or asserting against the credit grantor in any subsequent forum any claim, defense, setoff, recoupment, penalty for violation, or right of any kind based on the matters addressed in the complaint or the hearing.

(ii) The preclusion in subparagraph (i) of this paragraph does not apply to an appeal from the order of the Commissioner resulting from the hearing.

(4) If a complaining party fails to provide a written election and waiver as described in paragraph (2) (ii) of this subsection, the Commissioner shall not schedule a hearing on the complaint.

(c) (1) If, after the hearing, the Commissioner finds that the credit grantor has engaged or is engaging in any act or practice prohibited by this subtitle, the Commissioner shall order the credit grantor to cease and desist from the act or practice.

(2) (i) If the Commissioner finds that the act or practice described in paragraph (1) of this subsection resulted in the credit grantor collecting an amount from the complaining party not permitted under this subtitle, the Commissioner may direct the credit grantor to make a refund to the complaining party.

(ii) The Commissioner may direct a refund only up to the amount collected by the credit grantor from the complaining party that:

1. Exceeds the amount expressly permitted under this subtitle; or

2. The credit grantor is expressly not permitted to collect.

(3) (i) If an order issued under this section directs the credit grantor to make a refund as authorized in paragraph (2) of this subsection, the credit grantor may make the refund before the order becomes final.

(ii) If a credit grantor makes the refund directed by the Commissioner's order, the order for the refund shall not become final and shall be withdrawn by the Commissioner.

(iii) Any order withdrawn by the Commissioner may not be considered evidence of the Commissioner's interpretation of this subtitle.

(4) The order of the Commissioner shall comply with the Administrative Procedure Act.

(d) (1) If no appeal is filed, the order becomes final after expiration of the time allowed by the Administrative Procedure Act for appeals from the Commissioner's orders.

(2) If an appeal is filed, the order becomes final after final decision of the court affirming the order or dismissing the appeal.

(e) For purposes of this section, "complaining party" means an individual who files a written complaint with the Commissioner of Financial Regulation pursuant to this section.

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