

Article - Insurance

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§8-320.

(a) To enforce this subtitle and any regulation adopted under it, the Commissioner may issue an order that requires the violator to:

- (1) cease and desist from the violation and further similar violations; and
- (2) take specific affirmative action to correct the violation, including:
 - (i) the restitution of money, property, or other assets to a person aggrieved by the violation;
 - (ii) the restoration to the plan of profits realized by the administrator that have been made through use of assets of the plan by the administrator; and
 - (iii) the removal of the administrator that committed the violation.

(b) (1) The Commissioner may file a petition in the circuit court of any county to enforce an order issued under this section.

(2) In an action brought by the Commissioner under this section, the Commissioner may recover for the use of the State reasonable attorney's fees and the costs of the action.

(c) (1) In addition to any other enforcement action taken by the Commissioner under this section, the Commissioner may impose a civil penalty of not more than \$10,000 for each violation of this subtitle.

(2) Notwithstanding paragraph (1) of this subsection, the Commissioner may impose a civil penalty of not more than \$1,000 per day for each day that a person is in violation of § 8-303(a) of this subtitle.

(3) In determining the amount of the civil penalty imposed under this subsection, the Commissioner shall consider:

- (i) the seriousness of the violation;
- (ii) the good faith of the violator;
- (iii) the violator's history of previous violations;
- (iv) the deleterious effect of the violation on the plan and its participants and beneficiaries;
- (v) the assets of the violator; and

(vi) any other factors that relate to the determination of a financial penalty.

(d) This section does not limit any regulatory power of the Commissioner under Title 2 of this article.

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