

1 IN THE HOUSE

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

2 HOUSE BILL NO. 143

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the assessment of civil penalties  
7 under the Alaska Securities Act; and providing for an  
8 effective date."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 \* Section 1. AS 45.55.200 is amended to read:

11 Sec. 45.55.200. ORDERS, [AND] INJUNCTIONS, AND CIVIL PENALTIES.

12 (a) If [WHENEVER] it appears to the administrator that a person has  
13 engaged or is about to engage in an act or practice in violation of  
14 any provision of this chapter or rule or order under this chapter, the  
15 administrator may

16 (1) in the public interest or for the protection of inves-  
17 tors, issue an order (A) directing the person to cease and desist from  
18 continuing the act or practice, (B) directing the person, for a period  
19 not to exceed three years, to file the annual reports, proxies, con-  
20 sents or authorizations, proxy statements, or other materials relating  
21 to proxy solicitations required under AS 45.55.139 with the adminis-  
22 trator for examination and review 10 working days before a distribu-  
23 tion to shareholders, and (C) voiding any proxies obtained by a person  
24 required to file under AS 45.55.139, including their future exercise  
25 or actions resulting from their past exercise, if the proxies were  
26 solicited by means of an untrue or misleading statement prohibited  
27 under AS 45.55.160; or

28 (2) bring an action in the superior court to enjoin the  
29 acts or practices and to enforce compliance with this chapter or rule

1 or order under this chapter, and upon a proper showing, the appropri-  
2 ate remedy must [SHALL] be granted and a receiver or conservator may  
3 be appointed for the defendant or the defendant's assets; the court  
4 may not require the administrator to post a bond.

5 (b) The administrator may issue an order against an applicant,  
6 licensed person, or other person who knowingly or intentionally vio-  
7 lates this chapter or a rule or order of the administrator under this  
8 chapter, imposing a civil penalty of not more than \$2,500 for a single  
9 violation, or not more than \$25,000 for multiple violations, in a  
10 single proceeding or a series of related proceedings.

11 (c) For violations not covered by (b) of this section, the  
12 administrator may issue an order against an applicant, licensed per-  
13 son, or other person who violates this chapter or a rule or order of  
14 the administrator under this chapter, imposing a civil penalty of not  
15 more than \$500 for a single violation, or not more than \$5,000 for  
16 multiple violations, in a single proceeding or a series of related  
17 proceedings.

18 (d) Before issuing an order under (a)(1), (b), or (c) of this  
19 section, the administrator shall give reasonable notice of and an  
20 opportunity for a hearing. However, the administrator may issue a  
21 temporary order under (a)(1) of this section pending the hearing,  
22 which remains [ORDER SHALL REMAIN] in effect until 10 days after the  
23 hearing is held and which becomes [SHALL BECOME] final if the person  
24 to whom notice is addressed does not request a hearing within 15 days  
25 after the receipt of notice.

26 \* Sec. 2. AS 45.55.210(a) is amended to read:

27 (a) In addition to any civil penalties assessed under AS 45.55.-  
28 200, a [A] person who wilfully violates a provision of this chapter  
29 except AS 45.55.160, or who wilfully violates a rule or order under

1        this chapter, or who wilfully violates AS 45.55.160 knowing the state-  
2        ment made to be false or misleading in a material respect or the  
3        omission to be misleading by any material respect, upon conviction, is  
4        punishable by a fine of not more than \$5,000, or by imprisonment for  
5        not less than one year nor more than five years, or both. Upon con-  
6        viction of an individual for a felony under this chapter, imprisonment  
7        for not less than one year is mandatory. However, no individual may  
8        be imprisoned for the violation of a rule or order if he proves that  
9        he had no knowledge of the rule or order. No indictment or informa-  
10       tion may be returned under this chapter more than five years after the  
11       alleged violation.

12       \* Sec. 3. This Act takes effect immediately under AS 01.10.070(c).