CHAPTER 2

Penalties

**SECTION 38‑2‑10.** Administrative penalties.

Unless otherwise specifically provided by law, the following administrative penalties apply for each violation of the insurance laws of this State:

(1) If the violator is an insurer or a health maintenance organization licensed in this State, the director or his designee shall (a) fine the violator in an amount not to exceed fifteen thousand dollars, or (b) suspend or revoke the violator’s authority to do business in this State, or both. If the violation is wilful, the director or his designee shall (a) fine the violator in an amount not to exceed thirty thousand dollars, or (b) suspend or revoke the violator’s authority to do business in this State, or both.

(2) If the violator is a person, other than an insurer or a health maintenance organization, licensed by the director or his designee in this State, the director or his designee shall (a) fine the person in an amount not to exceed two thousand five hundred dollars, or (b) suspend or revoke the license of the person, or both. If the violation is wilful, the director or his designee shall (a) fine the person in an amount not to exceed five thousand dollars, or (b) suspend or revoke the license of the person, or both.

The penalties in items (1) and (2) are in addition to any criminal penalties provided by law or any other remedies provided by law. The administrative proceedings in items (1) and (2) do not preclude civil or criminal proceedings from taking place before, during, or after the administrative proceeding.

HISTORY: 1988 Act No. 374, Section 1; 1993 Act No. 181, Section 531.

CROSS REFERENCES

Address requirements for bondsman or runner license, see Section 38‑53‑95.

Anti‑inducements provisions of the insurance laws, see Section 38‑55‑40.

Circulation of false or misleading information concerning any annuity issued by an insurer, see Section 38‑69‑10.

Committing an unfair insurance trade practice, see Section 38‑57‑200.

Discrimination by insurers, agents, and brokers, see Section 38‑55‑60.

Engaging in improper claim practices, see Section 38‑59‑30.

Failure of a property and casualty insurer which fails to pay an assessment when due of fails to comply with a plan of operation, see Section 38‑31‑80.

Failure of an agent to give notice of liquidation of an insurer or file a report of compliance, see Section 38‑27‑420.

Failure to keep proper fire insurance records or reports or to pay money due on premiums, see Section 38‑7‑80.

Giving false or misleading information to the commissioner and others, see Section 38‑73‑80.

Imposition of a monetary penalty in lieu of license revocation or suspension, see Section 38‑5‑130.

Imposition of an administrative penalty in lieu of suspending, revoking or refusing to issue or reissue an agent’s license, see Section 38‑43‑130.

Improper publication of assets and liabilities of insurers, see Section 38‑13‑90.

Insurer circulating false or misleading information, see Section 38‑63‑10.

Life, accident or health insurer which fails to pay an assessment when due or fails to comply with the plan of operation, see Section 38‑29‑100.

Life insurance policy illustration rules, see S.C. Code of Regulations R. 69‑40.

Life insurers circulating false or misleading information, see Section 38‑65‑10.

Limited licensing of self‑service storage facilities to sell or offer insurance, revocation or suspension of license, penalties, see Section 38‑43‑680.

Limited Lines Travel Insurance Act, violations of article, see Section 38‑43‑770.

Penalty imposed on bail bondsmen and runners in lieu of revocation or suspension of their license, see Section 38‑53‑150.

Portable electronics insurance, penalties, see Section 38‑97‑60.

Privacy of genetic information, penalties, see Section 38‑93‑90.

Property insurance, prohibited grounds for refusal to issue policy or determination of premiums, see Section 38‑75‑1210.

Property insurance, prohibited grounds for refusal to renew policy, see Section 38‑75‑1220.

Special Purpose Reinsurance Vehicles, see Section 38‑14‑20.

Standard valuation law, see Section 38‑9‑180.

Suitability in annuity transactions, see S.C. Code of Regulations R. 69‑29.

Violating insurance laws applicable to accident and health insurance, see Section 38‑71‑90.

Violation of Title 38 by adjuster warrants imposition of penalties provided in this section, see Section 38‑47‑70.

Violations of Managing General Agents Act, see Section 38‑44‑70.

Library References

Insurance 1022.

Westlaw Topic No. 217.

C.J.S. Insurance Section 53.

NOTES OF DECISIONS

Constitutional issues 1

1. Constitutional issues

The statutory penalties for homeowners insurer’s bad faith were set at such a low level, there was little basis for comparing it with any meaningful punitive damage award, and thus, $1,000,000 punitive damages award in insureds’ bad faith action regarding insurer’s handling of dog bite claim did not violate due process; under statute, the director of the Department of Insurance could impose a fine not to exceed $15,000 if the conduct was not willful or a fine not to exceed $30,000 if the conduct was willful. James v. Horace Mann Ins. Co. (S.C. 2006) 371 S.C. 187, 638 S.E.2d 667. Constitutional Law 4427; Insurance 3376

**SECTION 38‑2‑20.** Penalties for conviction of misdemeanor.

Any person convicted of a misdemeanor defined in this title must be punished by a fine of not more than two thousand five hundred dollars or by imprisonment for not more than two years, or both, unless another penalty is specifically provided by law.

HISTORY: 1988 Act No. 374, Section 1.

CROSS REFERENCES

Application of this section to the penalties for giving false or misleading information to the commissioner and others, see Section 38‑73‑80.

Library References

Insurance 3640.

Westlaw Topic No. 217.

C.J.S. Insurance Section 148.

**SECTION 38‑2‑30.** Penalties for acting without license required by this title.

Any person who performs an act without a license required by this title is guilty of a misdemeanor and, upon conviction, must be fined not more than ten thousand dollars or imprisoned for two years, or both.

HISTORY: 1988 Act No. 374, Section 1.

CROSS REFERENCES

Application of this section to the penalties for giving false or misleading information to the commissioner and others, see Section 38‑73‑80.

Library References

Insurance 3640, 3642, 3646.

Westlaw Topic No. 217.

C.J.S. Insurance Sections 146 to 148.