



CHAPTER 78A

ARTICLE 6 - ADMINISTRATION AND REVIEW

N.C.G.S. § 78A-47.

Injunctions; cease and desist orders.

SOURCE	LAST AMENDMENT IN THIS TEXT	RETRIEVED	SOURCE FINGERPRINT
General Statutes of North Carolina, as published by the General Assembly	S.L. 2001-126, s. 4 — eighth act in the lineage	21 September 2026, 05:37 UTC	2edb4dea2cb61a1dfe13052 - f9cda8b320b85ce1a56baa49 - bd2bcf9486583bad

§ 78A-47(a)

Whenever it appears to the Administrator that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of this Chapter or any rule or order hereunder, he may in his discretion bring an action in any court of competent jurisdiction to enjoin the acts or practices and to enforce compliance with this Chapter or any rule or order hereunder. Upon a proper showing a permanent or temporary injunction, restraining order, or writ of mandamus shall be granted and a receiver or conservator may be appointed for the defendant or the defendant's assets. In addition to any other remedies provided by this Chapter, the Administrator may apply to the court hearing this matter for an order of restitution whereby the defendant in such action shall be ordered to make restitution of those sums shown by the Administrator to have been obtained by him in violation of any of the provisions of this Chapter. Such restitution shall be payable, in the discretion of the court, to the Administrator or receiver appointed pursuant to this section for the benefit of those persons whose assets were obtained in violation of this Chapter, or directly to those persons. The court may not require the Administrator to post a bond.

§ 78A-47(b)

(1) If the Administrator determines after giving notice of and opportunity for a hearing, that any person has engaged in or is about to engage in, any act or practice constituting a violation of any provision of this Chapter or any rule or order hereunder, he may order such person to cease and desist from such unlawful act or practice and take such affirmative action as in the judgment of the Administrator will carry out the purposes of this Chapter.

- (2) If the Administrator makes written findings of fact that the public interest will be irreparably harmed by delay in issuing an order under G.S. 78A-47(b)(1), the Administrator may issue a temporary cease and desist order. Upon the entry of a temporary cease and desist order, the Administrator shall promptly notify in writing the person subject to the order that such order has been entered, the reasons therefor, and that within 20 days after the receipt of a written request from such person the matter shall be scheduled for hearing in accordance with Chapter 150B of the General Statutes to determine whether or not the order shall become permanent and final. If no request for a hearing, other responsive pleading, or submission is received by the Administrator within 30 business days of receipt of service of notice of the order upon the person subject to the order and no hearing is ordered by the Administrator, the order shall become final and remain in effect unless it is modified or vacated by the Administrator. If a hearing is requested or ordered, the Administrator, after giving notice of an opportunity for a hearing to the person subject to the order, shall by written findings of fact and conclusion of law, vacate, modify, or make permanent the order.
- (3) No order under subsection (b), except an order issued pursuant to G.S. 78A-47(b)(2), may be entered without prior notice of an opportunity for hearing. The Administrator may vacate or modify an order under this subsection (b) upon his finding that the conditions which required such an order have changed and that it is in the public interest to so vacate or modify.
- (4) A final order issued pursuant to the provisions of subsection (b) shall be subject to review as provided in G.S. 78A-48.

§ 78A-47(c)

The Administrator may issue an order against an applicant, registered person, or other person who willfully violates this Chapter or a rule or order of the Administrator under this Chapter:

- (1) Imposing a civil penalty of up to two thousand five hundred dollars (\$2,500) for a single violation or of up to twenty-five thousand dollars (\$25,000) for multiple violations in a single proceeding or a series of related proceedings; and
- (2) Requiring reimbursement of the costs of investigation.

The clear proceeds of civil penalties imposed under this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. Any reimbursement imposed under this subsection shall be paid into the General Fund. No

order under this subsection may be entered without prior notice and an opportunity for a hearing conducted pursuant to Article 3 of Chapter 150B of the General Statutes.

END OF SECTION TEXT

APPARATUS FOLLOWS — DERIVED, NOT ENACTED

APPARATUS I
8 ACTS

Amendment lineage

The State prints this history as a single parenthetical at the foot of the section. It is reproduced verbatim in the colophon and unpacked below in order of enactment.



Nº	YEAR	ACT	CHARACTER
01	1925	c. 190, s. 16	ENACTED
02	1927	c. 149, s. 16	AMENDED
03	1973	c. 1380	AMENDED
04	1983	c. 817, s. 18	AMENDED
05	1991	c. 456, ss. 3, 4	AMENDED
06	1997	S.L. 1997-462, s. 4	AMENDED
07	1998	S.L. 1998-215, s. 120	AMENDED
08	2001	S.L. 2001-126, s. 4	AMENDED

APPARATUS II

4 AUTHORITIES

Authorities referenced

Every G.S. cross-reference appearing in the text of this section, in order of first appearance. Nothing is characterized; the operative language is quoted from the section itself.

REFERENCE	APPEARS IN	OPERATIVE LANGUAGE IN THIS SECTION
G.S. 78A-47(b)(1)	(b)(2)	"delay in issuing an order under"
G.S. 78A-47(b)(2)	(b)(3)	"except an order issued pursuant to"
G.S. 78A-48	(b)(4)	"subject to review as provided in"
G.S. 115C-457.2	(c)	"and Forfeiture Fund in accordance with"

APPARATUS III

Citation

FULL SECTION

N.C. Gen. Stat. § 78A-47 (2001).

PINPOINT

N.C. Gen. Stat. § 78A-47(a) (2001).

Pinpoint keys are set in the left margin of the text rather than line numbers: subsection designators are stable across editions and paper sizes, line numbers are not.

COLOPHON

Provenance

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HISTORY PARENTHETICAL, AS PRINTED BY THE STATE

(1925, c. 190, s. 16; 1927, c. 149, s. 16; 1973, c. 1380; 1983, c. 817, s. 18; 1991, c. 456, ss. 3, 4; 1997-462, s. 4; 1998-215, s. 120; 2001-126, s. 4.)

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