



CHAPTER 78D

ARTICLE 2 - ADMINISTRATION AND ENFORCEMENT

N.C.G.S. § 78D-23.

Power of court to grant relief.

SOURCE	LAST AMENDMENT IN THIS TEXT	RETRIEVED	SOURCE FINGERPRINT
General Statutes of North Carolina, as published by the General Assembly	S.L. 1998-215, s. 124 — second act in the lineage	21 September 2026, 02:53 UTC	31c2c0f4a3a4e3d20dd04ea7 - 7b8d53daaf4fd31801092062 - 920408a1b1d1ac9d

§ 78D-23(a)

(1) Upon a proper showing by the Administrator that a person has violated, or is about to violate, any provision of this Chapter or any rule or order of the Administrator, any court of competent jurisdiction may grant appropriate legal or equitable remedies.

- (2) Upon showing of violation of this Chapter or a rule or order of the Administrator, the court, in addition to traditional legal and equitable remedies, including temporary restraining orders, permanent or temporary prohibitory or mandatory injunctions, and writs of prohibition or mandamus, may grant the following special remedies:
- a. Imposition of a civil penalty in an amount which may not exceed twenty-five thousand dollars (\$25,000) for any single violation or five hundred thousand dollars (\$500,000) for multiple violations in a single proceeding or a series of related proceedings;
 - b. Disgorgement;
 - c. Declaratory judgment;
 - d. Restitution to investors wishing restitution; and
 - e. Appointment of a receiver or conservator for the defendant or the defendant's assets.
- (3) Appropriate remedies when the defendant is shown only about to violate this Chapter or a rule or order of the Administrator shall be limited to:
- a. A temporary restraining order;
 - b. A temporary or permanent injunction;

c.A writ of prohibition or mandamus; or

d.An order appointing a receiver or conservator for the defendant or the defendant's assets.

The clear proceeds of civil penalties imposed pursuant to this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

§ 78D-23(b)

The court shall not require the Administrator to post a bond in any official action under this Chapter.

§ 78D-23(c)

(1) Upon a proper showing by the administrator or securities or commodity agency of another state that a person (other than a government or governmental agency or instrumentality) has violated, or is about to violate, any provision of the commodity code of that state or any rule or order of the administrator or securities or commodity agency of that state, the Superior Court of Wake County may grant appropriate legal and equitable remedies.

(2) Upon showing of a violation of the securities or commodity act of the foreign state or a rule or order of the administrator or securities or commodity agency of the foreign state, the court, in addition to traditional legal or equitable remedies including temporary restraining orders, permanent or temporary prohibitory or mandatory injunctions and writs of prohibition or mandamus, may grant the following special remedies:

a. Disgorgement; and

b. Appointment of a receiver, conservator, or ancillary receiver or conservator for the defendant or the defendant's assets located in this State.

(3) Appropriate remedies when the defendant is shown only about to violate the securities or commodity act of the foreign state or a rule or order of the administrator or securities or commodity agency of the foreign state shall be limited to:

a. A temporary restraining order;

b. A temporary or permanent injunction;

c. A writ of prohibition or mandamus; or

d. An order appointing a receiver, conservator, or ancillary receiver or conservator for the defendant or the defendant's assets located in this State.

END OF SECTION TEXT

APPARATUS FOLLOWS — DERIVED, NOT ENACTED

APPARATUS I
2 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.

1989		1994		1998
TICK HEIGHT = ACTS IN THAT YEAR		DASHED = RECODIFICATION, NOT AMENDMENT		
Nº	YEAR	ACT	CHARACTER	
01	1989	c. 634, s. 1	ENACTED	
02	1998	S.L. 1998-215, s. 124	AMENDED	

APPARATUS II
1 AUTHORITY

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. 115C-457.2	(a)	<i>"and Forfeiture Fund in accordance with"</i>

APPARATUS III

Citation

FULL SECTION

N.C. Gen. Stat. § 78D-23 (1998).

PINPOINT

N.C. Gen. Stat. § 78D-23(a) (1998).

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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This is not the official text. The official text is published by the General Assembly of North Carolina.

HISTORY PARENTHETICAL, AS PRINTED BY THE STATE
(1989, c. 634, s. 1; 1998-215, s. 124.)

SET IN SPECTRAL AND ARCHIVO
NORTH CAROLINA LAW — STATUTE EXPORT, FORMAT V1

