

UNIFORM SECURITIES ACT (2002) (EXCERPT)
Act 551 of 2008

451.2602 Investigation and subpoenas; powers and authority of administrator; failure to comply; privilege against self-incrimination; assistance to securities regulator of another jurisdiction.

Sec. 602.

(1) The administrator may do any of the following:

(a) Conduct public or private investigations in or out of this state that the administrator considers necessary or appropriate to determine whether any person has violated, is violating, or is about to violate this act or a rule adopted or order issued under this act, or to aid in the enforcement of this act or the adoption of rules and forms under this act.

(b) Require or permit a person to testify, file a statement, or produce a record, under oath or otherwise as the administrator determines, as to all the facts and circumstances concerning a matter to be investigated or about which an action or proceeding is to be commenced.

(c) Publish a record concerning an action, proceeding, or investigation under, or a violation of, this act or a rule adopted or order issued under this act if the administrator determines it is necessary or appropriate in the public interest and for the protection of investors.

(2) For the purpose of an investigation under this act, the administrator or a designated officer may administer oaths and affirmations, subpoena witnesses, seek compulsion of attendance, take evidence, require the filing of statements, and require the production of any records that the administrator considers relevant or material to the investigation.

(3) If a person fails to appear or refuses to testify, file a statement, produce records, or otherwise fails to obey a subpoena as required by the administrator under this act, the administrator may refer the matter to the attorney general or the proper prosecuting attorney, who may apply to the circuit court of Ingham county or a court of another state to enforce compliance. The court may do any of the following:

(a) Hold the person in contempt.

(b) Order the person to appear before the administrator.

(c) Order the person to testify about the matter under investigation or in question.

(d) Order the production of records.

(e) Grant injunctive relief, including restricting or prohibiting the offer or sale of securities or the providing of investment advice.

(f) Order a civil fine of not less than \$10,000.00 and not more than \$500,000.00 for each violation.

(g) Grant any other necessary or appropriate relief.

(4) This section does not preclude a person from applying to the circuit court of Ingham county or a court of another state for appropriate relief from a request to appear, testify, file a statement, produce records, or obey a subpoena.

(5) An individual is not excused from attending, testifying, filing a statement, producing a record or other evidence, or obeying a subpoena of the administrator under this act or in an action commenced or proceeding instituted by the administrator under this act on the ground that the required testimony, statement, record, or other evidence, directly or indirectly, may tend to incriminate the individual or subject the individual to a criminal fine, administrative or civil fine, or forfeiture. If the individual refuses to testify, file a statement, or produce a record or other evidence on the basis of the individual's privilege against self-incrimination, the administrator may apply to the circuit court to compel the testimony, the filing of the statement, the production of the record, or the giving of other evidence. The testimony, record, or other information compelled under a court order obtained under this subsection shall not be used, directly or indirectly, against the individual in a criminal case, except in a prosecution for perjury, contempt, or otherwise failing to comply with the order.

(6) At the request of the securities regulator of another state or a foreign jurisdiction, the administrator may provide assistance if the requesting regulator states that it is conducting an investigation to determine whether a person has violated, is violating, or is about to violate a law or rule of the other state or foreign jurisdiction relating to securities matters which the requesting regulator administers or enforces. The administrator may provide the assistance by using the authority to investigate and the powers conferred by this section as the administrator determines is necessary or appropriate. The assistance may be provided without regard to whether the conduct described in the request would also constitute a violation of this act or other law of this state if occurring in this state. In deciding whether to provide the assistance, the administrator may consider whether the requesting regulator is permitted and has agreed to provide assistance reciprocally within its state or foreign jurisdiction to the administrator on securities matters when requested, whether compliance with the request would violate or prejudice the public policy of this state, and the availability of resources and employees of the administrator to carry out the request for assistance.

History: 2008, Act 551, Eff. Oct. 1, 2009

Compiler's Notes: For transfer of securities division of office of finance and insurance regulation from office of finance and insurance regulation to department of licensing and regulatory affairs, see E.R.O. No. 2012-6, compiled at MCL 445.2034.