

§ 143-215.102. Penalties.

(a) Civil Penalty. – Any person who violates any provision of this Part, or any rule, regulation or order made pursuant to this Part, shall incur, in addition to any other penalty provided by law, a civil penalty in an amount not to exceed ten thousand dollars (\$10,000) for every such violation, the amount to be determined by the Secretary after taking into consideration the factors set out in G.S. 143B-282.1(b). The procedures set out in G.S. 143-215.6 and G.S. 143B-282.1 shall apply to civil penalties assessed under this section. The penalty herein provided for shall become due and payable when the person incurring the penalty receives a notice in writing from the Commission describing the violation with reasonable particularity and advising such person that the penalty is due. A person may contest a penalty by filing a petition for a contested case under G.S. 150B-23 within 30 days after receiving notice of the penalty. If any civil penalty has not been paid within 30 days after notice of assessment has been served on the violator, the Secretary shall request the Attorney General to institute a civil action in the Superior Court of any county in which the violator resides or has his or its principal place of business to recover the amount of the assessment, unless the violator contests the assessment, or requests remission of the assessment in whole or in part as provided in G.S. 143-215.6. If any civil penalty has not been paid within 30 days after the final agency decision or court order has been served on the violator, the Secretary shall request the Attorney General to institute a civil action in the Superior Court of any county in which the violator resides or has his or its principal place of business to recover the amount of the assessment.

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

(b) Criminal Penalties. – Any person who intentionally or knowingly or willfully violates any provision of this Part, or any rule, regulation or order made pursuant to this Part shall be guilty of a Class 2 misdemeanor which may include a fine to be not more than ten thousand dollars (\$10,000). No proceeding shall be brought or continued under this subsection for or on account of a violation by any person who has previously been convicted of a federal violation or a local ordinance violation based upon the same set of facts. (1975, c. 521, s. 2; 1987, c. 827, s. 202; 1989 (Reg. Sess., 1990), c. 1036, s. 7; 1993, c. 539, s. 1025; 1994, Ex. Sess., c. 24, s. 14(c); 1998-215, s. 71.)