

## **IC 22-12-7**

Chapter 7. Administrative Adjudication; Special Judicial Proceedings

### **IC 22-12-7-1**

#### **Application of chapter**

Sec. 1. This chapter applies to the commission, the education board, the rules board, and every officer, employee, and agent of an office or division within the department whenever the person has authority to administer or enforce a law.

*As added by P.L.245-1987, SEC.1.*

### **IC 22-12-7-2**

#### **Application of IC 4-21.5**

Sec. 2. IC 4-21.5 applies to persons described in section 1 of this chapter.

*As added by P.L.245-1987, SEC.1.*

### **IC 22-12-7-3**

#### **Orders under IC 4-21.5-3-4; issuance**

Sec. 3. Notwithstanding IC 4-21.5-3-5, the appropriate person under section 1 of this chapter shall issue the following orders under IC 4-21.5-3-4:

- (1) The grant, renewal, restoration, transfer, or denial of a permit, registration, certification, release, variance, exemption, authorization, or other license.
- (2) The determination of tax due or other liability.
- (3) Any other order that must be issued under IC 4-21.5 and is not described in section 4 of this chapter.

*As added by P.L.245-1987, SEC.1.*

### **IC 22-12-7-4**

#### **Orders under IC 4-21.5-3-6; issuance**

Sec. 4. The appropriate person under section 1 of this chapter shall issue the following orders under IC 4-21.5-3-6:

- (1) An order requiring a person to cease and correct any violation of law.
- (2) An order that imposes a sanction described in section 7(4) or 7(5) of this chapter or that imposes a requirement under IC 35-47.5-4-2.
- (3) Any other enforcement order.

*As added by P.L.245-1987, SEC.1. Amended by P.L.141-2003, SEC.7.*

### **IC 22-12-7-5**

#### **Orders under IC 4-21.5-3-6; time to correct violation**

Sec. 5. An order issued under IC 4-21.5-3-6 must grant a reasonable time in which to cease and correct a violation of law covered by the order.

*As added by P.L.245-1987, SEC.1.*

## **IC 22-12-7-6**

### **Emergency or temporary orders**

Sec. 6. (a) An emergency or other temporary order may be issued under IC 4-21.5-4 whenever the appropriate person under section 1 of this chapter determines that conduct or a condition of property:

- (1) presents a clear and immediate hazard of death or serious bodily injury to any person other than a trespasser;
- (2) is prohibited without a permit, registration, certification, release, authorization, variance, exemption, or other license required under IC 22-14 or IC 22-15 or another statute administered by a person described in section 1 of this chapter and the license has not been issued; or
- (3) will conceal a violation of law.

(b) An emergency or other temporary order issued by an employee or agent of the division of fire and building safety must be approved by the state fire marshal or by the executive director of the department.

(c) An approval under subsection (b) may be orally communicated to the employee or agent issuing the order. However, the department shall maintain a written record of the approval.

*As added by P.L.245-1987, SEC.1. Amended by P.L.1-2006, SEC.357.*

## **IC 22-12-7-7**

### **Orders under IC 4-21.5-3-6 or IC 4-21.5-4; corrective actions; sanctions**

Sec. 7. An order under IC 4-21.5-3-6 or IC 4-21.5-4 may include the following, singly or in combination:

- (1) Require a person who has taken a substantial step toward violating a law or has violated a law to cease and correct the violation.
- (2) Require a person who has control over property that is affected by a violation to take reasonable steps to:
  - (A) protect persons and property from the hazards of the violation; and
  - (B) correct the violation.
- (3) Require persons to leave an area that is affected by a violation and prohibit persons from entering the area until the violation is corrected.
- (4) Impose any of the following sanctions with respect to a permit, registration, certification, release, authorization, variance, exemption, or other license issued by a person described in section 1 of this chapter:
  - (A) Permanently revoke the license.
  - (B) Suspend the license.
  - (C) Censure the person to whom the license is issued.
  - (D) Issue a letter of reprimand to a person to whom the license is issued.
  - (E) Place a person to whom the license is issued on probation.

An order to permanently revoke or suspend a license under this subdivision may include the revocation or suspension of a license issued under IC 35-47.5-4-4.5 for the commission of an offense under IC 35-47.5-5 or 18 U.S.C. 842 by the licensee.

(5) Impose on a person who has violated a law that may be enforced by the department a civil penalty not to exceed two hundred fifty dollars (\$250) for each day the violation occurs.

*As added by P.L.245-1987, SEC.1. Amended by P.L.141-2003, SEC.8; P.L.35-2004, SEC.1.*

#### **IC 22-12-7-8**

##### **Probation orders**

Sec. 8. (a) If a licensee is placed on probation under section 7 of this chapter, the person issuing the order may require that licensee to:

- (1) report regularly to the department or another person upon the matters that are the basis of probation;
- (2) limit use of property or other conduct to those areas prescribed by the person issuing the order; or
- (3) if the disciplined licensee is an inspector or an inspection agency, continue or renew professional education under the department or another person approved by the person issuing the order until the person issuing the order finds that a satisfactory degree of skill has been attained in those areas that are the basis of the probation.

(b) The person issuing the order may cancel a probation order if it finds that the deficiency that required disciplinary action has been remedied by the licensee.

*As added by P.L.245-1987, SEC.1.*

#### **IC 22-12-7-9**

##### **Reinstatement of suspended licenses**

Sec. 9. (a) The person issuing the order may reinstate a license that has been suspended under section 7 of this chapter if the person issuing the order is satisfied that the applicant for reinstatement is able to practice or operate with reasonable skill and safety.

(b) As a condition of reinstatement the person issuing the order may impose disciplinary or corrective measures authorized under this article.

*As added by P.L.245-1987, SEC.1.*

#### **IC 22-12-7-10**

##### **Consistency in imposing sanctions; reasons for departure from prior decisions**

Sec. 10. (a) A person described in section 1 of this chapter shall try to be consistent in imposing sanctions authorized under section 7(4) of this chapter.

(b) If circumstances require a significant departure from prior decisions involving similar conduct, the person shall explain the reasons for the departure in its findings or orders.

*As added by P.L.245-1987, SEC.1.*

### **IC 22-12-7-11**

#### **Appeal of orders issued by rules board**

Sec. 11. (a) An order issued by the rules board may be appealed to the commission under IC 4-21.5-3-7.

(b) If an order is appealed, the commission or its designee shall conduct all administrative proceedings under IC 4-21.5. In its proceedings, the commission may modify the order or reverse the order.

*As added by P.L.245-1987, SEC.1.*

### **IC 22-12-7-12**

#### **Appeal of orders issued by office or division of department; informal discussions**

Sec. 12. (a) This section applies to an order issued by an officer, employee, or agent of an office or division within the department.

(b) The office or division issuing an order shall give a person who:

(1) is aggrieved by the order; and

(2) requests review of the order in verbal or written form; an opportunity to informally discuss the order with the office or division. Review under this subsection does not suspend the running of the time period in which a person must petition under IC 4-21.5-3-7 to appeal the order.

(c) The office or division issuing the order may, on its own initiative or at the request of any person, modify its order or reverse the order.

(d) An order issued by an office or a division may be appealed to the commission under IC 4-21.5-3-7. A decision to deny a request to modify or reverse an order under subsection (c) is not appealable.

(e) If an order is appealed, the commission or its designee shall conduct all administrative proceedings under IC 4-21.5. In its proceedings, the commission may modify the order to impose any requirement authorized under this article or reverse the order.

*As added by P.L.245-1987, SEC.1.*

### **IC 22-12-7-13**

#### **Applications for court orders**

Sec. 13. In lieu of issuing an administrative order, the appropriate person under section 1 of this chapter may apply for an order from a circuit or superior court in the county in which a person takes a substantial step toward violating a law or a violation occurs.

*As added by P.L.245-1987, SEC.1.*

### **IC 22-12-7-14**

#### **Injunctions; restraining orders**

Sec. 14. Upon a showing that a person has:

(1) taken a substantial step toward violating a law; or

(2) violated a law;

the court may grant without bond an injunction, restraining order, or other appropriate order.

*As added by P.L.245-1987, SEC.1.*