



# Ohio Legislative Service Commission

---

## Bill Analysis

Justin Matta

### **H.B. 52**

129th General Assembly  
(As Introduced)

**Reps.** Snitchler and Okey, Burke, Huffman, Murray, Pillich, Blessing

---

### **BILL SUMMARY**

- Grants the Commissioner of the Division of Securities the power, after an investigation in which the Commissioner finds a person violated Ohio Securities Law, to impose on that person an administrative assessment not to exceed \$10,000 for any violation.
  - Allows the Commissioner to impose additional sanctions on a person who violates Ohio Securities Law, including rescinding the transaction involved in the violation or requiring restitution.
  - Permits the Division to prescribe whether financial statements are "audited" by "independent certified" public accountants instead of whether they are "certified" by "independent or certified" public accountants.
  - Requires that financial statements be prepared according to accounting principles and comply with other requirements specified by rule adopted or order issued under Ohio Securities Law.
- 

### **CONTENT AND OPERATION**

#### **Penalties for violation of Ohio Securities Law**

The bill enacts a new section on administrative remedies for a violation of Ohio Securities Law. The bill states that if the Commissioner of the Division of Securities finds, after an investigation, that any person has violated the Ohio Securities Act (Revised Code Chapter 1707.) or any rule or order adopted or issued pursuant to the Act, the Commissioner may order the payment of an administrative assessment not to exceed \$10,000 for any violation, in addition to any other remedy. The bill makes it clear that each violation shall be treated as a separate offense. In the case of a

continuing violation, each day of continued violation constitutes a separate offense. The administrative assessment will be deposited into the Division of Securities Investor Education and Enforcement Expense Fund established in current law. The bill also establishes that the limitations on administrative assessments contained in the new section, such as the \$10,000 assessment limit, do not apply to settlement agreements.<sup>1</sup>

In addition to, or in lieu of, the administrative assessment, the Commissioner may issue an order directed at a person who violated Ohio Securities Law, requiring any of the following:

- Rescind the transaction involved in the violation.
- Order the person to disgorge any assets acquired or profits made because of the violation.
- Order the person to make restitution.
- Order the person to pay the costs of the investigation or costs of expenses. These expenses include attorney's or witness fees.
- Order the person to pay interest at the legal rate on any payment made for restitution or the costs and expenses of the investigation.

### **Changes made to financial statement certification**

The bill changes how the Division of Securities prescribes rules for financial statements. The bill states that the Division of Securities may prescribe the form and content of financial statements, the circumstances in which consolidated financial statements will be filed, and whether any financial statements must be certified by public accountants. Existing law states that the Division may "by rule or order" prescribe these matters.<sup>2</sup>

The bill makes several changes regarding how financial statements are certified by public accountants. It establishes that if the Division prescribes, the financial statements shall be "audited" by public accountants instead of "certified" as under existing law. The bill states that the certification is done by "independent certified public accountants" instead of "independent *or* certified public accountants" as allowed under existing law. Finally, it gives the Division the ability to require that any financial statements must be prepared according to generally accepted accounting principles and

---

<sup>1</sup> R.C. 1707.49.

<sup>2</sup> R.C. 1707.20(C)(1) to (3).

comply with other requirements specified by rule or order according to the Ohio Securities Act. Under existing law, the Division may prescribe that financial statements must be prepared in accordance with generally accepted accounting practices.<sup>3</sup>

---

## HISTORY

ACTION	DATE
Introduced	01-26-11

H0052-I-129.docx/jc

---

<sup>3</sup> R.C. 1707.20(C)(3).

