§ 44. Violations; penalties. 1. * (a) Without limiting any power granted to the superintendent under any other provision of this chapter, the superintendent may, in a proceeding after notice and a hearing, require any safe deposit company, licensed lender, licensed casher of checks, licensed sales finance company, licensed insurance premium finance agency, licensed transmitter of money, licensed mortgage banker, licensed student loan servicer, registered mortgage broker, licensed mortgage loan originator, registered mortgage loan servicer or licensed budget planner to pay to the people of this state a penalty for any violation of this chapter, any regulation promulgated thereunder, any final or temporary order issued pursuant to section thirty-nine of this article, any condition imposed in writing by the superintendent in connection with the grant of any application or request, or any written agreement entered into with the superintendent.

* NB Effective until certain provisions are met (see Ch. 58 of 2025, Part Y, § 13)

* (a) Without limiting any power granted to the superintendent under any other provision of this chapter, the superintendent may, in a proceeding after notice and a hearing, require any safe deposit company, licensed lender, licensed buy-now-pay-later lender, licensed casher of checks, licensed sales finance company, licensed insurance premium finance agency, licensed transmitter of money, licensed mortgage banker, licensed student loan servicer, registered mortgage broker, licensed mortgage loan originator, registered mortgage loan servicer or licensed budget planner to pay to the people of this state a penalty for any violation of this chapter, any regulation promulgated thereunder, any final or temporary order issued pursuant to section thirty-nine of this article, any condition imposed in writing by the superintendent in connection with the grant of any application or request, or any written agreement entered into with the superintendent.

* NB Effective upon the one hundred eightieth day after the promulgation of rules and/or regulations by the department of financial services to effectuate certain provisions (see Ch. 58 of 2025, Part Y, § 13)

(b) The penalty for each violation prescribed in paragraph (a) of this subdivision shall not exceed two thousand five hundred dollars for each day during which such violation continues.

(c) Notwithstanding paragraph (b) of this subdivision, if the superintendent determines (i) that any such licensee, registrant or safe deposit company has committed a violation as described in paragraph (a) of this subdivision, or has recklessly engaged in any unsafe and unsound practice and (ii) that such violation or practice is part of a pattern of misconduct, results or is likely to result in more than minimal loss to such licensee, registrant or safe deposit company, or results in pecuniary gain or other benefit to such licensee, registrant or safe deposit company, then the penalty shall not exceed fifteen thousand dollars for each day during which such violation or practice continues.

(d) Notwithstanding paragraphs (b) or (c) of this subdivision, if the superintendent determines (i) that any such licensee, registrant or safe deposit company has knowingly and willfully committed any violation as described in paragraph (a) of this subdivision, or has knowingly and willfully engaged in any unsafe and unsound practice, or (ii) that any licensee, registrant or safe deposit company has knowingly committed any violation described in paragraph (a) of this subdivision which substantially undermines public confidence in any such licensee, registrant or safe deposit company or in such licensees, registrants or safe deposit companies generally, and, in either case, (iii) that such licensee, registrant or safe deposit company has knowingly or recklessly incurred so substantial a loss as a result of such violation or practice as to threaten the safety and soundness of such licensee, registrant or safe deposit company, then the penalty shall not exceed seventy-five thousand dollars for each day during which such violation continues.

(e) The superintendent, in determining the amount of any penalty assessed pursuant to this subdivision, shall take into consideration the net worth and annual business volume of such licensees, registrants or safe deposit companies.

2. (a) Without limiting any power granted to the superintendent under any other provision of this chapter, the superintendent may, in a proceeding after notice and hearing, require any banking organization, bank holding company out-of-state state bank that maintains a branch or branches or representative or other offices in this state, or foreign banking corporation licensed by the superintendent to maintain a branch, agency or representative office in this state to pay to the people of

this state a penalty for any violation of this chapter, any regulation promulgated thereunder, any final or temporary order issued pursuant to section thirty-nine of this article, any condition imposed in writing by the superintendent in connection with the grant of any application or request, or any written agreement entered into with the superintendent. For purposes of this section, any reference to a "banking organization" shall be deemed to exclude a safe deposit company and any reference to a "foreign bank licensee" shall be deemed to include an out-of-state state bank that maintains a branch or branches or representative or other offices in this state and a foreign banking corporation licensed to maintain a branch, agency or representative office in this state.

(b) The penalty for each violation prescribed in paragraph (a) of this subdivision shall not exceed five thousand dollars for each day during which such violation continues.

3. Notwithstanding paragraph (b) of subdivision two of this section, if the superintendent determines: (a) that any banking organization, bank holding company, or foreign bank licensee has committed any violation described in subdivision two of this section or has recklessly engaged in any unsafe and unsound practice, and

(b) that such violation or practice is part of a pattern of misconduct, results or is likely to result in more than minimal loss to the banking organization, bank holding company, or foreign bank licensee, or results in pecuniary gain or other benefit to the banking organization, bank holding company, or foreign bank licensee, then the penalty shall not exceed twenty-five thousand dollars for each day during which such violation or practice continues.

4. Notwithstanding paragraph (b) of subdivision two and subdivision three of this section, if the superintendent determines: (a) (i) that any banking organization, bank holding company, or foreign bank licensee has knowingly and willfully committed any violation described in subdivision two of this section or has knowingly and willfully engaged in any unsafe and unsound practice, or (ii) that any banking organization, bank holding company, or foreign bank licensee has knowingly committed any violation described in subdivision two of this section which substantially undermines public confidence in any such

banking organization, bank holding company, or foreign bank licensee or in banking organizations, bank holding companies, or foreign bank licensees generally, and, in either case, (b) that the banking organization, bank holding company, or foreign bank licensee has knowingly or recklessly incurred so substantial a loss as a result of such violation or practice as to threaten the safety and soundness of such banking organization, bank holding company, or foreign bank licensee, then the penalty shall not exceed the lesser of (i) two hundred fifty thousand dollars or (ii) one percent of the total assets of such banking organization, or one percent of the total assets of the banking subsidiaries, as such term is defined pursuant to section one hundred forty-one of this chapter, of such bank holding company, or one percent of the total assets in this state of such foreign bank licensee, as applicable, for each day during which such violation or practice continues.

5. In assessing any penalty against any entity listed in paragraph (a) of subdivision one or paragraph (a) of subdivision two of this section, the superintendent shall take into account, without limitation, factors including: (a) the extent, if any, to which senior management or board directors or trustees participated therein, (b) the extent to which the entity has cooperated with the superintendent in the investigation of such conduct, (c) any sanction imposed by any other regulatory agency, (d) the financial resources and good faith of the entity, (e) the gravity of the violation, (f) any history of prior violations, and (g) such other matters as justice and the public interest may require.

6. Whenever the superintendent shall require the payment of such penalty by any such entity, he shall forthwith execute in duplicate a written order to that effect. On the date such order is executed, the superintendent shall file one copy of such order in the office of the department and serve the second copy upon such entity either personally or by registered or certified mail, return receipt requested, directed to the entity's principal place of business or, in the case of a licensee or registrant, its last known address of record. Such order may be reviewed in the manner provided by article seventy-eight of the civil practice law and rules. Such special proceeding for review as authorized

by this section must be commenced within thirty days from the service of such order.

7. The superintendent may compromise, modify, or remit any penalty which he or she may assess or had already assessed under this section.

8. The superintendent may prescribe regulations to carry out the provisions and purposes of this section.

9. As used in this section, "bank holding company" shall have the same meaning as that term is defined in subdivision six of section thirty-nine of this article.