

that it is without merit, he shall dismiss the complaint without a hearing, and shall, in that event promptly notify, in writing, the surety and the complainant. In all other cases, the Commissioner shall hold a hearing on the complaint within 30 days after receipt of the complaint and shall give written notice of the time and place of the hearing to all parties at least 10 days prior to the scheduled date of the hearing. At any hearing to determine whether there has been a violation of this section, the burden of persuasion shall be upon the surety to demonstrate that the cancellation or refusal to underwrite or renew is not based in whole or in part upon race, color, creed, sex, or physical handicap or disability of an applicant or principal or for any unfairly discriminatory reason. If, after the hearing, the Commissioner finds that the surety has violated any provision of this section, he may issue an appropriate order specifying the manner in which the surety has violated this section. The order may also provide relief under subsections (f) or (g) of this section, if appropriate; and the order shall state when, within a reasonable period thereafter and in no event less than 10 days, it shall be effective.

All hearings and proceedings conducted under this section, as well as any decision of the Commissioner, shall be subject to appeal by any party involved. Such hearings, proceedings and appeal shall be in accordance with the provisions of § 40 of this article.

[(e)] (F) Any information or testimony provided by a surety pursuant to a complaint under this section shall be privileged and confidential and there shall be no liability on the part of and no cause of action of any nature shall arise against any surety, its representatives, or any person who in good faith furnishes to the surety any information or testimony relating to the complaint.

[(f)] (G) If the Commissioner finds that the surety has willfully violated any of the provisions of this section, he may impose a fine upon the offending party in accordance with § 12 of this article.

[(g)] (H) In lieu of the penalty provided in subsection (f) of this section the Commissioner may, if appropriate, order the surety to write the bond if, at the hearing provided in subsection (d), he finds the following facts to be proven by a preponderance of the evidence:

(1) That the violation of subsections (a) or (b) of this section was knowing and willfull and,

(2) That the violation of subsection (a) or (b) was the basis for the surety's action.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 1981.