

Montana Code Annotated 2011

[Previous Section](#) [MCA Contents](#) [Part Contents](#) [Search](#) [Help](#) [Next Section](#)

30-10-1001. (Temporary) Short title. This part may be cited as the "Securities Restitution Assistance Fund Act of Montana". (*Terminates June 30, 2017--sec. 16, Ch. 58, L. 2011.*)

History: En. Sec. 1, Ch. 58, L. 2011.

Provided by Montana Legislative Services

Montana Code Annotated 2011

[Previous Section](#) [MCA Contents](#) [Part Contents](#) [Search](#) [Help](#) [Next Section](#)

30-10-1002. (Temporary) Purpose. The purpose of this part is to provide restitution assistance to victims who:
(1) were awarded restitution in a final order issued by the commissioner or were awarded restitution in the final order in a legal action initiated by the commissioner; and
(2) have not received the full amount of restitution ordered before the application for restitution assistance is due.
(Terminates June 30, 2017--sec. 16, Ch. 58, L. 2011.)

History: En. Sec. 2, Ch. 58, L. 2011.

Provided by Montana Legislative Services

Montana Code Annotated 2011

[Previous Section](#) [MCA Contents](#) [Part Contents](#) [Search](#) [Help](#) [Next Section](#)

30-10-1003. (Temporary) Definitions. As used in this part, the following definitions apply:

(1) "Claimant" means a person who files an application for restitution assistance under this part on behalf of a victim. The claimant and the victim may be the same but do not have to be the same. The term includes the named party in a restitution award in a final order, the executor of a named party in a restitution award in a final order, and the heirs and assigns of a named party in a restitution award in a final order.

(2) "Department" means the office of the securities commissioner established in [2-15-1901](#).

(3) "Final order" means a final order issued by the commissioner or a final order in a legal action initiated by the commissioner.

(4) "Fund" means the securities restitution assistance fund created by [30-10-1004](#).

(5) "Securities violation" means a violation of this chapter and any related administrative rules.

(6) "Victim" means a person who was awarded restitution in a final order. (*Terminates June 30, 2017--sec. 16, Ch. 58, L. 2011.*)

History: En. Sec. 3, Ch. 58, L. 2011.

Provided by Montana Legislative Services

Montana Code Annotated 2011

[Previous Section](#) [MCA Contents](#) [Part Contents](#) [Search](#) [Help](#) [Next Section](#)

30-10-1004. (Temporary) Creation of securities restitution assistance fund. (1) There is an account in the state special revenue fund to the credit of the commissioner for use only for securities restitution assistance. This account may be referred to as the "securities restitution assistance fund" or "fund". The money in the fund is statutorily appropriated, as provided in [17-7-502](#), to the commissioner for the purposes provided in subsection (4) of this section.

(2) (a) The fund consists of amounts received by the commissioner from persons who have committed securities violations and from persons who have voluntarily contributed to the fund.

(b) Amounts received by the commissioner for deposit in the fund do not include administrative penalties or fines imposed under this chapter and as referenced under the Montana Administrative Procedure Act, Title 2, chapter 4, part 6.

(c) The amounts received for the fund may not be placed in the general fund.

(3) Amounts received by the commissioner for deposit in the fund must be promptly turned over to the state treasurer for deposit in the fund created under subsection (1).

(4) The fund may be used by the commissioner only to pay awards of restitution assistance under this part. (*Terminates June 30, 2017--sec. 16, Ch. 58, L. 2011.*)

History: En. Sec. 4, Ch. 58, L. 2011.

Provided by Montana Legislative Services

Montana Code Annotated 2011

[Previous Section](#) [MCA Contents](#) [Part Contents](#) [Search](#) [Help](#) [Next Section](#)

- 30-10-1005. (Temporary) Eligibility.** (1) The following victims are eligible for restitution assistance:
- (a) a natural person who is a resident of Montana; or
 - (b) a person, other than a natural person, domiciled in Montana.
- (2) The commissioner may not award securities restitution assistance under this part:
- (a) to more than one claimant per victim;
 - (b) unless the person ordered to pay restitution has not paid the full amount of restitution owed to the victim before the application for restitution assistance from the fund is due; or
 - (c) if there was no award of restitution in the final order.
- (3) If an award of restitution in a final order is overturned on appeal, the commissioner may not award restitution assistance under this part.
- (4) If, after the commissioner has made a securities restitution assistance award from the fund under this part, the restitution award in the final order is overturned on appeal and all legal remedies have been exhausted, the claimant shall forfeit the restitution assistance awarded under this part. (*Terminates June 30, 2017--sec. 16, Ch. 58, L. 2011.*)

History: En. Sec. 5, Ch. 58, L. 2011.

Provided by Montana Legislative Services

Montana Code Annotated 2011

[Previous Section](#)[MCA Contents](#)[Part Contents](#)[Search](#)[Help](#)[Next Section](#)

30-10-1006. (Temporary) Application for restitution assistance -- maximum amount of restitution assistance award.

(1) A person who is eligible for restitution assistance under this part may submit an application, in a manner and form prescribed by the commissioner, to the department.

(2) An application must be received by the department within 2 years after the deadline for payment of restitution established in the final order.

(3) The maximum award from the fund for each claimant is the lesser of \$25,000 or 25% of the amount of unpaid restitution awarded in a final order. (*Terminates June 30, 2017--sec. 16, Ch. 58, L. 2011.*)

History: En. Sec. 6, Ch. 58, L. 2011.

Provided by Montana Legislative Services

Montana Code Annotated 2011

[Previous Section](#) [MCA Contents](#) [Part Contents](#) [Search](#) [Help](#) [Next Section](#)

30-10-1007. (Temporary) False application -- penalties -- statute of limitations. (1) A claimant who knowingly files or causes to be filed an application for restitution assistance or documents supporting the application any of which contain false, incomplete, or misleading information in any material aspect shall forfeit all restitution assistance provided from the fund.

(2) The commissioner may levy a fine of up to \$10,000 on a claimant found to be in violation of subsection (1).

(3) A proceeding to determine a violation of subsection (1) must be in accordance with the contested case proceedings in the Montana Administrative Procedure Act, Title 2, chapter 4, parts 6 and 7.

(4) Notwithstanding the statutes of limitations provided in [30-10-305](#) through [30-10-307](#), any proceeding to determine a violation of subsection (1) of this section must be initiated within 2 years of the date on which the department discovers the violation or, through the use of reasonable diligence, should have discovered the violation, whichever occurs later. Regardless of when the department discovers a violation or should have discovered a violation through the use of reasonable diligence, the department may not initiate a proceeding under this subsection more than 5 years after the date of the violation. (*Terminates June 30, 2017--sec. 16, Ch. 58, L. 2011.*)

History: En. Sec. 7, Ch. 58, L. 2011.

Provided by Montana Legislative Services

Montana Code Annotated 2011

[Previous Section](#)[MCA Contents](#)[Part Contents](#)[Search](#)[Help](#)[Next Section](#)

30-10-1008. (Temporary) Rulemaking authority. The commissioner may adopt rules regarding the department's processes for:

- (1) reviewing applications for securities restitution assistance awards;
- (2) making recommendations to the commissioner; and
- (3) suspending awards or making a proportional payment of awards if the fund balance approaches zero. (*Terminates June 30, 2017--sec. 16, Ch. 58, L. 2011.*)

History: En. Sec. 8, Ch. 58, L. 2011.

Provided by Montana Legislative Services