Ohio Revised Code

Section 1121.61 Bona fide errors.

Effective: March 20, 2019
Legislation: House Bill 489 - 132nd General Assembly

(A) As used in this section, "bona fide error" means an unintentional clerical, calculation, computer malfunction or programming, or printing error.

(B) A state bank, trust company, or regulated person shall not be held civilly liable in any action brought under Title XI or under Chapter 1309., 1317., or 1345. of the Revised Code, and shall not be subject to any sanction by the superintendent of financial institutions, if all of the following conditions are met:

(1) The bank, trust company, or person shows by a preponderance of evidence that the compliance failure was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid any such error.

(2) Within sixty days after discovering the error, and prior to the initiation of any action by the superintendent or the receipt of written notice of the error from the consumer, the bank, trust company, or person notifies the superintendent and the consumer of the error and the manner in which the bank, trust company, or person intends to make full restitution to the consumer.

(3) The bank, trust company, or person promptly makes reasonable restitution to the consumer.

(C) If, in the event of a compliance failure, the bank, trust company, or regulated person does not meet the conditions set forth in division (B) of this section, a consumer injured by the error has a cause of action to recover damages. Such an action may not, however, be maintained as a class action.