



Ohio Revised Code

Section 5311.27 Purchaser's remedies - attorney general actions.

Effective: July 20, 2004

Legislation: House Bill 135 - 125th General Assembly

(A)(1) In addition to any other remedy available, a contract or agreement for the sale of a condominium ownership interest that is executed in violation of section 5311.25 or 5311.26 of the Revised Code shall be voidable by the purchaser until the later of fifteen days after the contract is entered into for sale of the condominium ownership interest or fifteen days after the purchaser executes a document evidencing receipt of the information required by section 5311.26 of the Revised Code, except that in no case is the contract or agreement voidable after the title to the condominium ownership interest is conveyed to the purchaser.

(2) Upon the exercise of the right to void the contract or agreement, the developer or an agent shall refund fully and promptly to the purchaser any deposit or other prepaid fee or item and any amount paid on the purchase price and shall pay all closing costs paid by the purchaser or for which the purchaser is liable in connection with the void sale.

(B)(1) Any developer or agent who sells a condominium ownership interest in violation of section 5311.25 or 5311.26 of the Revised Code shall be liable to the purchaser in an amount equal to the difference between the amount paid for the interest and the least of the following amounts:

(a) The fair market value of the interest as of the time the suit is brought;

(b) The price at which the interest is disposed of in a bona fide market transaction before suit is brought;

(c) The price at which the unit is disposed of in a bona fide market transaction after suit is brought but before judgment is entered.

(2)(a) In no case shall the amount recoverable under this section be less than five hundred dollars for each violation against each purchaser bringing an action under this section, together with court costs and reasonable attorney's fees.



(b) If the purchaser complaining of the violation of section 5311.25 or 5311.26 of the Revised Code brings or maintains an action that the purchaser knows to be groundless or in bad faith and if the developer or agent prevails, the court shall award reasonable attorney's fees to the developer or agent.

(C)(1) If the attorney general has reason to believe that substantial numbers of persons are affected and substantial harm is occurring or is about to occur to those persons or that the case is otherwise of substantial public interest, the attorney general may do either of the following:

(a) Bring an action to obtain a declaratory judgment that an act or practice of a developer violates section 5311.25 or 5311.26 of the Revised Code or the condominium instruments, or to enjoin a developer who is violating or threatening to violate those sections or instruments;

(b) Bring a class action for damages on behalf of persons injured by a developer's violation of section 5311.25 or 5311.26 of the Revised Code or of the condominium instruments.

(2)(a) On motion of the attorney general and without bond, in an attorney general's action under this section, the court may make appropriate orders, including, but not limited to, orders for appointment of a master or a receiver, for sequestration of assets, to reimburse persons found to have been damaged, or to grant other appropriate relief. The court may assess the expenses of a master or receiver against the developer.

(b) Any moneys or property recovered by the attorney general in an action under this section that, with due diligence within five years, cannot be restored to persons entitled to them shall be unclaimed funds reportable under Chapter 169. of the Revised Code.

(c) No action may be brought by the attorney general under this section to recover for a transaction more than two years after the occurrence of a violation.

(d) If a court determines that provision has been made for reimbursement or other appropriate corrective action, insofar as practicable, with respect to all persons damaged by a violation, or in any other appropriate case, the attorney general, with court approval, may terminate enforcement



proceedings brought by the attorney general upon acceptance of an assurance from the developer of voluntary compliance with sections 5311.25 and 5311.26 of the Revised Code or with the condominium instruments, with respect to the alleged violation. The assurance shall be filed with the court and entered as a consent judgment. A consent judgment is not evidence of prior violation of those sections. Disregard of the terms of a consent judgment entered upon an assurance shall be treated as a violation of an injunction issued under this section.

(D) Nonmaterial errors and omissions in the disclosure statements required by sections 5311.25 and 5311.26 of the Revised Code shall not be actionable in a civil action otherwise authorized by this section if the developer or agent has attempted in good faith to comply with the disclosure requirements and if the developer or agent has substantially complied with those requirements.