



## Ohio Revised Code Section 4722.07 Civil actions and penalties.

Effective: August 31, 2012

Legislation: House Bill 383 - 129th General Assembly

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(A) If the attorney general, by the attorney general's own inquiries or as a result of complaints, has reasonable cause to believe that a supplier has engaged or is engaging in an act or practice that violates this chapter, and that the action would be in the public interest, the attorney general may bring any of the following:

(1) An action to obtain a declaratory judgment that the act or practice violates this chapter;

(2)(a) An action, with notice as required by Civil Rule 65, to obtain a temporary restraining order, preliminary injunction, or permanent injunction to restrain the act or practice. If the attorney general shows by a preponderance of the evidence that the supplier has violated or is violating this chapter, the court may issue a temporary restraining order, preliminary injunction, or permanent injunction to restrain and prevent the act or practice.

(b) On motion of the attorney general, or on its own motion, the court may impose a civil penalty of not more than five thousand dollars for each day of violation of a temporary restraining order, preliminary injunction, or permanent injunction issued under this section, if the supplier received notice of the action. The civil penalties shall be paid as provided in division (G) of this section.

(c) Upon the commencement of an action under division (A)(2) of this section against a supplier who operates under a license, permit, certificate, commission, or other authorization issued by the supreme court or by a board, commission, department, division, or other agency of this state, the attorney general shall immediately notify the supreme court or agency that such an action has been commenced against the supplier.

(3) A class action under Civil Rule 23, as amended, on behalf of owners who have engaged in home construction service contracts in this state for damage caused by an act or practice described in this chapter.



(B) On motion of the attorney general and without bond, in the attorney general's action under this section, the court may make appropriate orders, including appointment of a referee or a receiver, for sequestration of assets, to reimburse owners found to have been damaged, to carry out a home construction service contract in accordance with an owner's reasonable expectations, to strike or limit the application of unconscionable clauses of contracts so as to avoid an unconscionable result, or to grant other appropriate relief. The court may assess the expenses of a referee or receiver against the supplier.

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

(D) In addition to the other remedies provided in this section, the attorney general may request and the court may impose a civil penalty of not more than twenty-five thousand dollars against the supplier for each violation of an act or practice described in this chapter. The civil penalties shall be paid as provided in division (G) of this section.

(E) No action may be brought by the attorney general under this section to recover for a home construction service contract more than two years after the occurrence of a violation.

(F) If a court determines that provision has been made for reimbursement or other appropriate corrective action, insofar as practicable, with respect to all consumers 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 supplier of voluntary compliance with this chapter, 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 such chapter. 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.

(G) Civil penalties ordered pursuant to divisions (A) or (D) of this section shall be paid as follows: one-fourth of the amount to the treasurer of the county in which the action is brought and three-fourths to the consumer protection enforcement fund created by section 1345.51 of the Revised Code.



(H) The remedies available to the attorney general under this section are cumulative and concurrent, and the exercise of one remedy by the attorney general does not preclude or require the exercise of any other remedy.

(I) In carrying out the attorney general's official duties, the attorney general shall not disclose publicly the identity of any supplier who is or was the subject of an investigation under this chapter or any facts developed during such an investigation unless those matters have become a matter of public record in enforcement proceedings, or the supplier who is the subject of the investigation gives written consent to public disclosure of those matters.

(J) The attorney general shall cooperate with state and local officials, officials of other states, and officials of the federal government in the administration of statutes comparable to this chapter.