

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-203 effective on the designated transfer date, see section 1100H of Pub. L. 111-203, set out as a note under section 552a of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-153 effective on effective date of regulations implementing such amendment, but in no case later than six months following Dec. 21, 1979, see section 410 of Pub. L. 96-153, set out as a note under section 1701 of this title.

§ 1709. Civil liabilities**(a) Violations; relief recoverable**

A purchaser or lessee may bring an action at law or in equity against a developer or agent if the sale or lease was made in violation of section 1703(a) of this title. In a suit authorized by this subsection, the court may order damages, specific performance, or such other relief as the court deems fair, just, and equitable. In determining such relief the court may take into account, but not be limited to, the following factors: the contract price of the lot or leasehold; the amount the purchaser or lessee actually paid; the cost of any improvements to the lot; the fair market value of the lot or leasehold at the time relief is determined; and the fair market value of the lot or leasehold at the time such lot was purchased or leased.

(b) Enforcement of rights by purchaser or lessee

A purchaser or lessee may bring an action at law or in equity against the seller or lessor (or successor thereof) to enforce any right under subsection (b), (c), (d), or (e) of section 1703 of this title.

(c) Amounts recoverable

The amount recoverable in a suit authorized by this section may include, in addition to matters specified in subsections (a) and (b) of this section, interest, court costs, and reasonable amounts for attorneys' fees, independent appraisers' fees, and travel to and from the lot.

(d) Contributions

Every person who becomes liable to make any payment under this section may recover contribution as in cases of contract from any person who, if sued separately, would have been liable to make the same payment.

(Pub. L. 90-448, title XIV, §1410, Aug. 1, 1968, 82 Stat. 595; Pub. L. 96-153, title IV, §405, Dec. 21, 1979, 93 Stat. 1130.)

AMENDMENTS

1979—Subsec. (a). Pub. L. 96-153 substituted provisions relating to violations of section 1703(a) of this title and scope of relief authorized in suits brought against such violations, for provisions relating to suits for untrue statements or omissions to state material fact in statement of record.

Subsec. (b). Pub. L. 96-153 substituted provisions relating to enforcement of rights by the purchaser or lessee against the seller or lessor, for provisions relating to suits by the purchaser against the developer or agent.

Subsec. (c). Pub. L. 96-153 substituted provisions authorizing interest, court costs, etc., to be recoverable in suits under this section, for provisions relating to enumeration of damages recoverable in suits under this section.

Subsec. (d). Pub. L. 96-153 reenacted provisions without change.

Subsec. (e). Pub. L. 96-153 struck out subsec. (e) which set forth limitation on amount recoverable under this section.

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Amendment by Pub. L. 96-153 effective on effective date of regulations implementing such amendment, but in no case later than six months following Dec. 21, 1979, see section 410 of Pub. L. 96-153, set out as a note under section 1701 of this title.

§ 1710. Court review of orders**(a) Petition; jurisdiction; findings of Director; additional evidence; finality**

Any person, aggrieved by an order or determination of the Director issued after a hearing, may obtain a review of such order or determination in the court of appeals of the United States, within any circuit wherein such person resides or has his principal place of business, or in the United States Court of Appeals for the District of Columbia, by filing in such court, within sixty days after the entry of such order or determination, a written petition praying that the order or determination of the Director be modified or be set aside in whole or in part. A copy of such petition shall be forthwith transmitted by the clerk of the court to the Director, and thereupon the Director shall file in the court the record upon which the order or determination complained of was entered, as provided in section 2112 of title 28. No objection to an order or determination of the Director shall be considered by the court unless such objection shall have been urged before the Director. The finding of the Director as to the facts, if supported by substantial evidence, shall be conclusive. If either party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for failure to adduce such evidence in the hearing before the Director, the court may order such additional evidence to be taken before the Director and to be adduced upon a hearing in such manner and upon such terms and conditions as to the court may seem proper. The Director may modify his findings as to the facts by reason of the additional evidence so taken, and shall file such modified or new findings, which, if supported by substantial evidence, shall be conclusive, and his recommendation, if any, for the modification or setting aside of the original order. Upon the filing of such petition, the jurisdiction of the court shall be exclusive and its judgment and decree, affirming, modifying, or setting aside, in whole or in part, any order of the Director, shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28.

(b) Stay of order

The commencement of proceedings under subsection (a) of this section shall not, unless specifically ordered by the court, operate as a stay of the Secretary's¹ order.

¹ So in original. Probably should be "Director's".

(Pub. L. 90-448, title XIV, §1411, Aug. 1, 1968, 82 Stat. 595; Pub. L. 111-203, title X, §1098A(1), July 21, 2010, 124 Stat. 2105.)

AMENDMENTS

2010—Subsec. (a). Pub. L. 111-203 substituted “Director” for “Secretary” wherever appearing.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-203 effective on the designated transfer date, see section 1100H of Pub. L. 111-203, set out as a note under section 552a of Title 5, Government Organization and Employees.

§ 1711. Limitation of actions

(a) Section 1703(a) violations

No action shall be maintained under section 1709 of this title with respect to—

(1) a violation of subsection (a)(1) or (a)(2)(D) of section 1703 of this title more than three years after the date of signing of the contract of sale or lease; or

(2) a violation of subsection (a)(2)(A), (a)(2)(B), or (a)(2)(C) of section 1703 of this title more than three years after discovery of the violation or after discovery should have been made by the exercise of reasonable diligence.

(b) Section 1703(b) to (e) violations

No action shall be maintained under section 1709 of this title to enforce a right created under subsection (b), (c), (d), or (e) of section 1703 of this title unless brought within three years after the signing of the contract or lease, notwithstanding delivery of a deed to a purchaser.

(Pub. L. 90-448, title XIV, §1412, Aug. 1, 1968, 82 Stat. 596; Pub. L. 96-153, title IV, §406, Dec. 21, 1979, 93 Stat. 1131.)

AMENDMENTS

1979—Pub. L. 96-153 designated existing provisions as subsec. (a), substituted provisions setting forth limitations relating to any action maintained under section 1709 of this title, for provisions setting forth limitations relating to any action maintained to enforce any liability created under section 1709(a) or (b)(2) of this title, and added subsec. (b).

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§ 1712. Contrary stipulations void

Any condition, stipulation, or provision binding any person acquiring any lot in a subdivision to waive compliance with any provision of this chapter or of the rules and regulations of the Director shall be void.

(Pub. L. 90-448, title XIV, §1413, Aug. 1, 1968, 82 Stat. 596; Pub. L. 111-203, title X, §1098A(1), July 21, 2010, 124 Stat. 2105.)

AMENDMENTS

2010—Pub. L. 111-203 substituted “Director” for “Secretary”.

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111-203, set out as a note under section 552a of Title 5, Government Organization and Employees.

§ 1713. Additional remedies

The rights and remedies provided by this chapter shall be in addition to any and all other rights and remedies that may exist at law or in equity.

(Pub. L. 90-448, title XIV, §1414, Aug. 1, 1968, 82 Stat. 596.)

§ 1714. Investigations, injunctions, and prosecution of offenses

(a) Permanent or temporary injunction or restraining order; jurisdiction

Whenever it shall appear to the Director that any person is engaged or about to engage in any acts or practices which constitute or will constitute a violation of the provisions of this chapter, or of any rule or regulation prescribed pursuant thereto, he may, in his discretion, bring an action in any district court of the United States, or the United States District Court for the District of Columbia to enjoin such acts or practices, and, upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond. The Director may transmit such evidence as may be available concerning such acts or practices to the Attorney General who may, in his discretion, institute the appropriate criminal proceedings under this chapter.

(b) Investigations; publication of information concerning violations

The Director may, in his discretion, make such investigations as he deems necessary to determine whether any person has violated or is about to violate any provision of this chapter or any rule or regulation prescribed pursuant thereto, and may require or permit any person to file with him a statement in writing, under oath or otherwise as the Director shall determine, as to all the facts and circumstances concerning the matter to be investigated. The Director is authorized, in his discretion, to publish information concerning any such violations, and to investigate any facts, conditions, practices, or matters which he may deem necessary or proper to aid in the enforcement of the provisions of this chapter, in the prescribing of rules and regulations thereunder, or in securing information to serve as a basis for recommending further legislation concerning the matters to which this chapter relates.

(c) Oaths and affirmations; subpoena power

For the purpose of any such investigation, or any other proceeding under this chapter; the Director, or any officer designated by him, is empowered to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memorandums, or other records which the Director deems relevant or material to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States or any State at any designated place of hearing.