

57-11-17 Violations -- Civil remedies.

- (1)
 - (a) A person is liable as provided in Subsection (1)(b) if that person:
 - (i) disposes of subdivided lands in violation of Subsection 57-11-5(1), (2), or (3);
 - (ii) in disposing of subdivided lands, makes an untrue statement of a material fact; or
 - (iii) in disposing of subdivided lands, omits a material fact required to be stated in a registration statement, public offering statement, statement of record or public report, necessary to make the statements made not misleading.
 - (b) A person described in Subsection (1)(a) is liable as provided in this section to the purchaser unless, in the case of an untruth or omission, it is proved that:
 - (i) the purchaser knew of the untruth or omission; or
 - (ii) the person offering or disposing of subdivided lands did not know and in the exercise of reasonable care could not have known of the untruth or omission.
- (2) In addition to any other remedies, the purchaser under Subsection (1) may recover the consideration paid for the unit together with interest at the rate of 7% per year from the date of payment, property taxes paid, costs, and reasonable attorney fees, less the amount of any income received from the subdivided lands, upon tender of appropriate instruments of reconveyance. If the purchaser no longer owns the unit, the purchaser may recover the amount that would be recoverable upon a tender of a reconveyance, less the value of the land when disposed of and less interest at the rate of 7% per year on that amount from the date of disposition.
- (3) Every person who directly or indirectly controls a subdivider liable under Subsection (1), every general partner, officer, or director of a subdivider, every person occupying a similar status or performing a similar function, every employee of the subdivider who materially aids in the disposition, and every agent who materially aids in the disposition is also liable jointly and severally with and to the same extent as the subdivider, unless the person otherwise liable sustains the burden of proof that the person did not know and in the exercise of reasonable care could not have known of the existence of the facts by reason of which the liability is alleged to exist. There is a right to contribution as in cases of contract among persons so liable.
- (4) Every person whose occupation gives authority to a statement which with that person's consent has been used in an application for registration, public offering statement, statement of record or public report, if the person is not otherwise associated with the subdivision and development plan in a material way, is liable only for false statements and omissions in the person's statement and only if the person fails to prove that the person did not know and in the exercise of the reasonable care of a person in the person's occupation could not have known of the existence of the facts by reason of which the liability is alleged to exist.
- (5) A tender of reconveyance may be made at any time before the entry of judgment.
- (6) A person may not recover under this section in actions commenced more than four years after the person's first payment of money to the subdivider in the contested action.
- (7) Any stipulation or provision purporting to bind any person acquiring subdivided lands to waive compliance with this chapter or any rule or order under it is void.

Amended by Chapter 325, 2007 General Session