

UNIFORM SECURITIES ACT (2002) (EXCERPT)
Act 551 of 2008

451.2510 Purchaser, seller, or recipient of investment advice; action prohibited; false representation; security as void; damages.

Sec. 510. (1) A purchaser, seller, or recipient of investment advice may not maintain an action under section 509 if all of the following are met:

(a) The purchaser, seller, or recipient of investment advice receives in a record, before the action is commenced, an offer that does all of the following:

(i) States the respect in which liability under section 509 may have arisen and fairly advises the purchaser, seller, or recipient of investment advice of that person's rights in connection with the offer, including financial or other information necessary to correct all material misstatements or omissions in the information that was required by this act to be furnished to that person at the time of the purchase, sale, or investment advice.

(ii) If the basis for relief under this section may have been a violation of section 509(2), offers to repurchase the security for cash, payable on delivery of the security, equal to the consideration paid, and interest at 6% per year from the date of purchase, less the amount of any income received on the security, or, if the purchaser no longer owns the security, offers to pay the purchaser upon acceptance of the offer damages in an amount that would be recoverable upon a tender, less the value of the security when the purchaser disposed of it, and interest at 6% from the date of purchase in cash equal to the damages computed in the manner provided in this subsection.

(iii) If the basis for relief under this section may have been a violation of section 509(3), offers to tender the security, on payment by the seller of an amount equal to the purchase price paid, less income received on the security by the purchaser and interest at 6% from the date of the sale, or if the purchaser no longer owns the security, offers to pay the seller upon acceptance of the offer, in cash, damages in the amount of the difference between the price at which the security was purchased and the value the security would have had at the time of the purchase in the absence of the purchaser's conduct that may have caused liability and interest at 6% from the date of the sale.

(iv) If the basis for relief under this section may have been a violation of section 509(4), and if the customer is a purchaser, offers to pay as specified in subdivision (a)(ii) or, if the customer is a seller, offers to tender or to pay as specified in subdivision (a)(iii).

(v) If the basis for relief under this section may have been a violation of section 509(5), offers to reimburse in cash the consideration paid for the advice and interest at 6% from the date of payment.

(vi) If the basis for relief under this section may have been a violation of section 509(6), offers to reimburse in cash the consideration paid for the advice and the amount of any actual damages that may have been caused by the conduct, and interest at 6% from the date of the violation causing the loss.

(vii) States that the offer must be accepted by the purchaser, seller, or recipient of investment advice within 30 days after the date of its receipt by the purchaser, seller, or recipient of investment advice or within a shorter period of not less than 3 days that the administrator, by order, specifies.

(b) The offeror has the present ability to pay the amount offered or to tender the security under subdivision (a).

(c) The offer under subdivision (a) is delivered to the purchaser, seller, or recipient of investment advice or sent in a manner that ensures receipt by the purchaser, seller, or recipient of investment advice.

(d) The purchaser, seller, or recipient of investment advice that accepts the offer under subdivision (a) in a record within the period specified under subdivision (a)(vii) is paid in accordance with the terms of the offer.

(2) If the legality or exempt status of a sale of a security made in accordance with this act is contingent on the intrastate nature of that transaction, a person's agreement to purchase, or the purchase of, that security is considered a representation that the person is a resident of this state at the time that agreement is made, and if this representation is subsequently shown to be false, the agreement for the sale of the security is void.

(3) If an agreement to purchase, or the purchase of, a security is void under subsection (2), the issuer of the security may recover damages from the misrepresenting offeree or purchaser. These damages include, but are not limited to, the issuer's expenses in resolving the misrepresentation. However, damages described in this subsection shall not exceed the amount of the person's investment in the security.

History: 2008, Act 551, Eff. Oct. 1, 2009;—Am. 2013, Act 264, Imd. Eff. Dec. 30, 2013.

Compiler's note: For transfer of securities division of office of finance and insurance regulation from office of finance and insurance regulation to department of licensing and regulatory affairs, see E.R.O. No. 2012-6, compiled at MCL 445.2034.