

## 2012 Kansas Statutes

**58-3316. Civil remedies for violations.** (a) Any person who disposes of subdivided lands in violation of K.S.A. 58-3304, or who in disposing of subdivided lands makes an untrue statement of a material fact, or who in disposing of subdivided lands omits a material fact required to be stated in a registration statement or public offering statement or necessary to make the statements made not misleading, is liable as provided in this section to the purchaser unless in the case of an untruth or omission it is proved that the purchaser knew of the untruth or omission or that 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, or that the purchaser did not rely on the untruth or omission.

(b) In addition to any other remedies, the purchaser, under the preceding subsection, may recover the consideration paid for the lot, parcel, unit or interest in subdivided lands together with interest at the rate of 15% per year from the date of payment, property taxes paid, costs, and reasonable attorneys' 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 lot, parcel, unit or interest in subdivided lands, 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 15% per year on that amount from the date of disposition.

(c) Every person who directly or indirectly controls a subdivider liable under subsection (a), 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 such 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.

(d) Every person whose occupation gives authority to a statement which with such person's consent has been used in an application for registration or public offering statement, if such person is not otherwise associated with the subdivision and development plan in a material way, is liable only for false statements and omissions in such person's statement and only if such person fails to prove that such person did not know and in the exercise of the reasonable care of a person in such person's occupation could not have known of the existence of the facts by reason of which the liability is alleged to exist.

(e) A tender of reconveyance may be made at any time before the entry of judgment.

(f) A person may not recover under this section in actions commenced more than four years after first payment of money to the subdivider in the contested transaction.

(g) Any stipulation or provision purporting to bind any person acquiring subdivided lands to waive compliance with this act or any rule or regulation or order under it is void.

**History:** L. 1967, ch. 311, § 16; L. 1976, ch. 241, § 14; L. 1982, ch. 232, § 1; July 1.