



Ohio Revised Code

Section 1345.11 Bona fide errors.

Effective: August 11, 1978

Legislation: House Bill 681 - 112th General Assembly

(A) In any case arising under Chapter 1345. of the Revised Code, if a supplier shows by a preponderance of the evidence that a violation resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adopted to avoid the error, no civil penalties shall be imposed against the supplier under division (D) of section 1345.07 of the Revised Code, no party shall be awarded attorney's fees, and monetary recovery shall not exceed the amount of actual damages resulting from the violation.

(B) If a supplier shows by a preponderance of the evidence that a violation was an act or practice required or specifically permitted by federal trade commission orders, trade regulation rules and guides, or the federal courts' interpretations of subsection 45(a)(1) of the "Federal Trade Commission Act," 38 Stat. 717 (1914), 15 U.S.C.A. 41, as amended, and that the act or practice was not otherwise declared to be unfair, deceptive, or unconscionable by a rule adopted pursuant to division (B)(2) of section 1345.05 of the Revised Code before the consumer transaction on which the action is based, and:

(1) If the case arises under section 1345.07 of the Revised Code, the attorney general is limited to injunctive relief as the only remedy against the supplier for that violation; or

(2) If the case arises under section 1345.09 of the Revised Code, the supplier is not subject to any liability or penalty for the violation.

(C) A receiver may be appointed by the court in an action under section 1345.07 of the Revised Code, if it is shown that the assets of the supplier are in danger of being lost, removed, injured, or dissipated. A receiver may, under the direction of the court, do all of the following:

(1) Sue for, collect, receive, and take into his possession all the goods, chattels, rights, credits, moneys, effects, lands, tenements, books, records, documents, papers, choses in action, bills, notes, and other property and assets of every kind and description acquired by any act or practice prohibited



by this chapter, including property with which such property has been commingled if it cannot be identified in kind because of commingling;

(2) Sell, convey, and assign all property taken into his possession, and hold and dispose of the proceeds;

(3) Perform any other acts respecting the property that the court authorizes.

Any person who has suffered damages as a result of the use of any act or practice prohibited by this chapter and who submits proof to the satisfaction of the court that he has in fact been damaged, may participate with general creditors in the distribution of the assets to the extent he has sustained out-of-pocket losses.

(D) If a court determines after a hearing in any action brought pursuant to section 1345.07 of the Revised Code that a supplier in the course of performing activity under any license or permit issued by the state or a political subdivision or agency of the state, engaged in a practice that violates this chapter, the attorney general may, within sixty days after the time for appealing has expired, send a certified copy of the court's final judgment and supporting opinion to the issuing authority. Upon receipt of the court's judgment and opinion, the issuing authority shall promptly investigate to determine whether to institute proceedings to revoke or suspend the supplier's license or permit. The court's judgment, findings of fact, and conclusions of law shall be binding upon the issuing authority when it conducts its investigation. The issuing authority shall report its decision or action to the attorney general within twenty days of the conclusion of the issuing authority's investigation. If the issuing authority institutes proceedings to revoke or suspend the supplier's license or permit, it shall report its decision to the attorney general within twenty days of the conclusion of the issuing authority's proceedings.