



Ohio Revised Code

Section 4707.262 Determining whether recovery should be from real estate or auction recovery fund.

Effective: July 1, 2003

Legislation: Senate Bill 262 - 124th General Assembly

A person who has sustained actual and direct losses in the course of a real estate auction transaction and who believes that they may qualify to seek recovery for the losses from the real estate recovery fund in accordance with section 4735.12 of the Revised Code or from the auction recovery fund shall apply to a court of competent jurisdiction for a determination of the fund from which the person should seek recovery if either or both of the following apply:

(A) The transaction involves both of the following:

(1) A violation of Chapter 4735. of the Revised Code;

(2) A violation of this chapter or rules adopted under it or conduct that is described in section 4707.15 of the Revised Code.

(B) The person is unclear as to the fund from which recovery should be sought.

Upon receipt of an application under this section, the court shall determine whether it appears that conduct or a violation described in division (A) of this section occurred and also shall determine, in its discretion, the appropriate fund from which the person should seek recovery and notify the person of the determination.

In the event that the court determines the person is able to recover from both the real estate recovery fund and the auction recovery fund, the total aggregate amount that is paid to the person from both the funds shall not exceed the actual and direct losses sustained by the person. In addition, the total aggregate amount that is paid to the person from both the funds shall not exceed the dollar limitations established in section 4707.29 of the Revised Code, and the portion of that total aggregate amount that is paid from the real estate recovery fund shall not exceed the dollar limitations established in division (D) of section 4735.12 of the Revised Code.



For purposes of division (B)(4)(d) of section 4735.12 of the Revised Code, with respect to recovery from the real estate recovery fund, a person shall not be required first to seek recovery from the auction recovery fund in order to be considered to have diligently pursued the person's remedies.