

By the Committee on Banking and Insurance; and Senator Sebesta

311-2003-99

1 A bill to be entitled
2 An act relating to the sale of securities;
3 amending s. 517.211, F.S.; providing that a
4 sale of securities by a dealer, associated
5 person, or issuer who is not registered with
6 the Department of Banking and Finance may be
7 rescinded by the purchaser; providing limited
8 circumstances where rescission does not apply;
9 providing that an investment adviser or
10 associated person who engages in business
11 without being registered with the department
12 may have such business canceled by the
13 purchaser; providing an effective date.

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15 Be It Enacted by the Legislature of the State of Florida:

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17 Section 1. Subsection (1) of section 517.211, Florida
18 Statutes, is amended to read:

19 517.211 Remedies available in cases of unlawful
20 sale.--

21 (1) Every sale made in violation of either s. 517.07
22 or s. 517.12(1), (4), (5), (9), (11), (13), (16), or (18)~~s.~~
23 517.12 may be rescinded at the election of the purchaser,
24 except that a sale made in violation of the provisions of s.
25 517.12(11) relating to a renewal of a branch office
26 registration shall not be subject to rescission and a sale
27 made in violation of the provisions of s. 517.12(13) relating
28 to filing a change of address amendment shall not be subject
29 to rescission. Each~~and the~~ person making the sale and every
30 director, officer, partner, or agent of or for the seller, if
31 the director, officer, partner, or agent has personally

1 participated or aided in making the sale, is jointly and
2 severally liable to the purchaser in an action for rescission,
3 if the purchaser still owns the security, or for damages, if
4 the purchaser has sold the security. No purchaser otherwise
5 entitled will have the benefit of this subsection who has
6 refused or failed, within 30 days of receipt, to accept an
7 offer made in writing by the seller, if the purchaser has not
8 sold the security, to take back the security in question and
9 to refund the full amount paid by the purchaser or, if the
10 purchaser has sold the security, to pay the purchaser an
11 amount equal to the difference between the amount paid for the
12 security and the amount received by the purchaser on the sale
13 of the security, together, in either case, with interest on
14 the full amount paid for the security by the purchaser at the
15 legal rate, pursuant to s. 55.03, for the period from the date
16 of payment by the purchaser to the date of repayment, less the
17 amount of any income received by the purchaser on the
18 security.

19 Section 2. This act shall take effect July 1, 1999.

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21 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
22 COMMITTEE SUBSTITUTE FOR
23 Senate Bill 2226

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25 Retains the purchaser's remedy of rescission due to a violation
26 of s. 517.12, (1), (4), (5), (9), (11), (13), (16), or
27 (18), F.S., except for a violation of subsections (11) and (13)
28 pertaining to renewal registration of a branch office and
29 filing a change of address amendment, will not allow
30 rescission at the election of the purchaser.
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