

**45:15-16.78**

rights, duties, or responsibilities of the developer or timeshare plan as set forth in this act.

**45:15-16.78. Application for registration deemed submission to jurisdiction of courts**

a. For purposes of this act, an application for registration submitted to the commission shall be deemed a submission, by the applicant, to the jurisdiction of the courts of the State of New Jersey.

b. In addition to the methods of service provided for in the Rules of Court, service may be made by delivering a copy of the process to a person designated by the commission to receive the process at its office, but that service shall not be effective unless the plaintiff, which may be the commission, in a proceeding instituted by it:

(1) Sends a copy of the process and the pleading by certified mail to the defendant or respondent at his last known address; and

(2) The plaintiff's affidavit of compliance with this section is filed in the case on or before the return day of the process, if any, or within the time as the court allows.

c. If any person, including any nonresident of this State, engages in conduct prohibited by this act and has not filed a consent to service of process, and personal jurisdiction over him cannot otherwise be obtained in this State, that conduct authorizes the commission to receive service of process, in any non-criminal proceedings against him or his successor which arises from that conduct and which is brought under this act with the same force as if served on him personally. Notice shall be given as provided in subsection b. of this section.

**45:15-16.79. Additional penalties**

a. Any broker, broker-salesperson or salesperson who violates the provisions of this act shall, in addition to the penalties set forth herein, be subject to the penalties as set forth in R.S.45:15-17.

b. Any person who violates any provision of this act or any person who, in an application for registration filed with the commission, makes any untrue statement of a material fact or omits to state a material fact shall be fined not less than \$ 250, nor more than \$ 50,000, per violation.

c. The commission may levy and collect the penalties set forth in subsection b. of this section after affording the person alleged to be in violation of this act an opportunity for a hearing in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) on the alleged violations and a finding by the commission that the person is guilty of the violation.

When a penalty levied by the commission has not been satisfied within 30 days of the levy, the penalty may be sued for and recovered by, and in the name of, the commission in a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

d. The commission may, in the interest of justice, compromise any civil penalty, if in its determination the gravity of the offense does not warrant the assessment of the full fine.

**45:15-16.80. Actions, counterclaims, remedies**

a. Any person who suffers any ascertainable loss of moneys as a result of the failure of another to comply fully with the provisions of this act may bring an action or assert a counterclaim in any court of competent jurisdiction. In any action filed under this section in which a defendant is found to have knowingly engaged in any false, deceptive, misleading promotional or sales methods or discriminatory advertising on the basis of race, sex, creed, color, marital status, national origin or religion, concealed or fraudulently diverted any funds or assets so as to defeat the rights of timeshare plan purchasers, made an intentional misrepresentation or concealed a material fact in an application for registration, or disposed of any timeshare plan required to be registered under this act, which are not so registered, the court shall, in addition to any other appropriate legal or equitable remedy, award double the damages suffered, and court costs, including reasonable attorney's fees. In the case of an untruth, omission, or misleading statement the developer sustains the burden of proving that the purchaser knew of the untruth, omission or misleading statement, or that he did not rely on such information, or that the developer did not know, and in the exercise of reasonable care could not have known of the untruth, omission, or misleading statement.

b. The court, in addition to the remedies provided in this act, may award any other relief appropriate under the circumstances including, in the court's discretion, restitution of all monies paid and, where a developer has failed to provide to a purchaser a copy of the current public offering statement approved by the commission prior to execution of the contract or agreement, rescission of the contract. If the purchaser fails to establish a cause of action, and the court further determines that the action was wholly without merit, the court shall award attorney's fees to the developer.

c. Any stipulation or provision purporting to bind a purchaser acquiring an interest in a timeshare plan subject to the provisions of this act to a waiver of compliance with the provisions of this act shall be void.

**45:15-16.81. Valid registration required for action**

a. An action shall not be maintained by any developer in any court in this State with respect to any agreement, contract, or ser-