
Accompanying the first recommendation of the Department of Public Utilities (House, No. 107). Legal Affairs.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Sixty-Five.

AN ACT MAKING CERTAIN CONTRACTS FOR SALE OF SECURITIES VOIDABLE AND ESTABLISHING A CAUSE OF ACTION FOR SALE OF SECURITIES IN VIOLATION OF CERTAIN PROVISIONS OF LAW.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 110A of the General Laws, as appearing
2 in the Tercentenary Edition, is hereby amended by adding after
3 section 5 the following section: —

4 *Section 5A.* If a notice of intention has not been filed in ac-
5 cordance with section five, or if the statement referred to in said
6 section has not been filed, or if the sale of a security has been
7 forbidden under any provision of this chapter, no person may
8 act as an agent for the purchase of such security unless such
9 agent has informed the buyer in a writing, delivered prior to
10 completion of the sale, that such notice of intention has not been
11 filed, or that statement has not been filed or that such sale has
12 been forbidden, as the case may be. A statement contained in
13 the confirmation of the purchase shall not be compliance with
14 this section.

1 SECTION 2. Said chapter is further amended by striking out
2 section 18 and inserting in place thereof the following section: —

3 *Section 18.* Every sale or contract of sale of any security made
4 in violation of any provision of section five or of section five A
5 shall be voidable at the election of the purchaser. The purchaser
6 shall be entitled to recover in an action at law from the seller,
7 in the case of a violation of section five, or from the agent, in the
8 case of a violation of section five A, upon tender to the seller or
9 to the agent, as the case may be, in person or in open court of the

10 security sold, in proper form for transfer, together with the
11 amount of all dividends, interest and other income and distribu-
12 tions received by the purchaser from or upon such security, the
13 full amount paid by such purchaser for such security with in-
14 terest from the date of purchase; provided, that no action shall
15 be brought for recovery of the purchase price after two years
16 from the date of such sale or contract of sale; and provided,
17 further that no purchaser otherwise entitled shall claim or have
18 the benefit of this section who shall have refused or failed to
19 accept, within thirty days from the receipt thereof, an offer in
20 writing of the seller or the agent to take back the security in
21 question and to refund the full amount paid by such purchaser,
22 together with interest on such amount from the date of payment
23 to the date of repayment, such interest to be computed at the
24 same rate as the interest or dividend rate, if any, provided for
25 in such security, or, if no such rate is so provided for, at the
26 rate of six per cent per annum, and less in every case the amount
27 of any income and distributions from or upon such security
28 which may have been received by such purchaser. Except as
29 aforesaid, no transaction involving a sale or contract of sale of
30 any security shall be void or voidable by reason of any express
31 or implied provision of this chapter; but nothing in this chapter
32 shall limit any other statutory or any common law right of any
33 person to bring any action in any court for any act involved in
34 the sale of a security, or the right of the commonwealth to
35 punish any person for the violation of any law, except as pro-
36 vided in section sixteen.