



Ohio Revised Code

Section 1317.032 Asserting defenses against holder, assignee, or transferee of purchase money loan installment note or retail installment contract.

Effective: August 8, 1980

Legislation: House Bill 272 - 113th General Assembly

(A) A buyer who is entitled to assert in an action in connection with a consumer transaction any of the following defenses against the seller of goods or services that are obtained pursuant to a purchase money loan installment note or retail installment contract may also assert the defenses against the holder, assignee, or transferee of the purchase money loan installment note or retail installment contract, whether or not any notice of potential claims and defenses is included in the note or contract:

(1) That the subject of the consumer transaction was not furnished or delivered by the seller in accordance with the agreed upon terms of the transaction;

(2) That, as evidenced by any writing in the consumer transaction, the subject of the transaction is not of the particular brand, color, or model that it was represented to be;

(3) That the subject of the consumer transaction is not new or unused, if the subject was represented by the seller to be new or unused;

(4) That the subject of the consumer transaction did not conform to any express or implied warranty made by the seller;

(5) That the consumer transaction was entered into because of a fraudulent act or misrepresentation committed or made by the seller.

(B) If a creditor, in writing, requests a debtor to disclose, in writing, whether the proceeds of a loan that he receives or will receive are to be applied to a consumer transaction, the debtor shall disclose at that time any such intended application. The written request imposes a continuing obligation upon the debtor to disclose any application of any part of the proceeds to a consumer transaction. If the debtor fails to disclose any application of the proceeds to a consumer transaction, the loan shall not



be considered a purchase money loan for purposes of this chapter.

(C) A buyer, who has a defense against a seller arising out of a consumer transaction that he is entitled to assert as a defense against a holder, assignee, or transferee of a purchase money loan installment note or retail installment contract and as a cause of action against that seller, may assert the cause of action to recover from the holder, assignee, or transferee of the purchase money loan installment note or retail installment contract, the amount of any payments made to the holder, assignee, or transferee, if all of the following apply:

(1) The buyer has presented, or has made a reasonable effort to present, his claim to the seller, and furnished a copy of the claim to the holder, assignee, or transferee.

(2) The seller has not settled the claim within thirty days after the request if the buyer has presented the claim to the seller.

(3) The buyer's action against the holder, assignee, or transferee is brought within the earlier of the following dates:

(a) The date fixed by the note or contract for the last payment due under the note or contract;

(b) Two years after the date on which the note or contract is executed.

The assertion of such an action against the holder, assignee, or transferee is authorized even if the grounds for the cause of action against the seller are asserted as a defense in an action by the holder, assignee, or transferee.

(D)(1) As used in this section, "claim" means only those claims that arise from a consumer transaction evidenced by a purchase money loan installment note or retail installment contract, that do not involve a claim of personal injury, death, or property damage.

(2) The provisions of this section shall not be construed to limit or otherwise affect any other right, claim, or defense that a buyer may assert against a seller or any other person in an action relative to a consumer transaction, purchase money loan installment note, or retail installment contract.