502.510 Rescission offers.

A purchaser, seller, or recipient of investment advice may not maintain an action under section 502.509 if all of the following apply:

1. The purchaser, seller, or recipient of investment advice receives in a record, before the action is instituted, any of the following:

a. An offer stating the respect in which liability under section 502.509 may have arisen and fairly advising the purchaser, seller, or recipient of investment advice of that person's rights in connection with the offer, and any financial or other information necessary to correct all material misrepresentations or omissions in the information that was required by this chapter to be furnished to that person at the time of the purchase, sale, or investment advice.

b. If the basis for relief under this section may have been a violation of section 502.509, subsection 2, an offer to repurchase the security for cash, payable on delivery of the security, equal to the consideration paid, and interest at the legal rate from the date of the purchase, less the amount of any income received on the security; or, if the purchaser no longer owns the security, an offer to pay the purchaser upon acceptance of the offer damages in an amount that would be recoverable upon a tender, less the value of the security when the purchaser disposed of it, and interest at the legal rate from the date of the purchase in cash equal to the damages computed in the manner provided in this subsection.

c. If the basis for relief under this section may have been a violation of section 502.509, subsection 3, an offer to tender the security, on payment by the seller of an amount equal to the purchase price paid, less income received on the security by the purchaser and interest at the legal rate from the date of the sale; or if the purchaser no longer owns the security, an offer to pay the seller upon acceptance of the offer, in cash, damages in the amount of the difference between the price at which the security was purchased and the value the security would have had at the time of the purchase in the absence of the purchaser's conduct that may have caused liability and interest at the legal rate of interest from the date of the sale.

d. If the basis for relief under this section may have been a violation of section 502.509, subsection 4; and if the customer is a purchaser, an offer to pay as specified in paragraph "*b*"; or, if the customer is a seller, an offer to tender or to pay as specified in paragraph "*c*".

e. If the basis for relief under this section may have been a violation of section 502.509, subsection 5, an offer to reimburse in cash the consideration paid for the advice and interest at the legal rate from the date of payment.

f. If the basis for relief under this section may have been a violation of section 502.509, subsection 6, an offer to reimburse in cash the consideration paid for the advice, the amount of any actual damages that may have been caused by the conduct, and interest at the legal rate from the date of the violation causing the loss.

2. The offer under subsection 1 states that it must be accepted by the purchaser, seller, or recipient of investment advice within thirty days after the date of its receipt by the purchaser, seller, or recipient of investment advice or any shorter period, of not less than three days, that the administrator, by order, specifies.

3. The offeror has the present ability to pay the amount offered or to tender the security under subsection 1.

4. The offer under subsection 1 is delivered to the purchaser, seller, or recipient of investment advice, or sent in a manner that ensures receipt by the purchaser, seller, or recipient of investment advice.

5. The purchaser, seller, or recipient of investment advice that accepts the offer under subsection 1 in a record within the period specified under subsection 2 is paid in accordance with the terms of the offer.

6. If the basis for relief under this section alleges a violation of section 502.509 which employed a device, scheme, or artifice to defraud, made an untrue statement of a material fact necessary in order to make the statement made, in light of the circumstances under which it was made, not misleading, or engaged in an act, practice, or course of business that operated or would operate as a fraud or deceit on another person, the offer is filed with the

administrator ten business days before the offering and conforms in form and content with a rule prescribed by the administrator.

2004 Acts, ch 1161, §49, 68; 2006 Acts, ch 1117, §11; 2017 Acts, ch 54, §76

Referred to in §502.202, 502.204, 502.610