§6-113. Civil actions by administrator

1. After demand, the administrator, through the Attorney General, may bring a civil action against a creditor for any violation listed in section 5-201 or for a violation of Article 8-A. An action may relate to transactions with more than one consumer. If it is found that the creditor has made a violation so listed, the court shall order respondent to grant to each consumer affected the option to recover all excess charges, to have the contract reformed to conform to this Act or to rescind the contract. The court shall order amounts recovered or recoverable under this subsection paid to each consumer or set off against the consumer's obligation. A consumer's action takes precedence over a prior or subsequent action by the administrator with respect to the claim of that consumer. When an action takes precedence over another action under this subsection, to the extent appropriate, the other action may be stayed while the precedent action is pending and may be dismissed if the precedent action is dismissed with prejudice or results in a final judgment granting or denying the claim asserted in the precedent action. A consumer whose action is dismissed or results in a final judgment denying the claim may not participate in any subsequent recovery on the claim by the administrator.
[PL 2011, c. 427, Pt. D, §12 (AMD).]

2. The administrator, through the Attorney General, may bring a civil action against a creditor or a person acting on a creditor's behalf to recover a civil penalty for willfully violating this Act or violating an assurance of discontinuance, and if the court finds that the defendant has engaged in repeated violations, a willful violation of this Act or a violation of an assurance of discontinuance, it may assess a civil penalty of not more than $5,000.

If the creditor establishes by a preponderance of evidence that repeated violations were the result of a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid any such violation or error, liability is not imposed under this subsection.

A civil penalty pursuant to this subsection may not be imposed for violations of this Act occurring more than 2 years before the action is brought.
[RR 2025, c. 1, Pt. C, §53 (COR).]

SECTION HISTORY

PL 1973, c. 762, §1 (NEW). PL 1981, c. 243, §§23,26 (AMD). PL 1981, c. 551, §3 (AMD). PL 2011, c. 427, Pt. D, §12 (AMD). RR 2025, c. 1, Pt. C, §53 (COR).

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