



Ohio Revised Code

Section 4707.16 Investigation of complaints.

Effective: May 6, 2005

Legislation: Senate Bill 209 - 125th General Assembly

(A) The department of agriculture may, upon its own motion, and shall, upon the verified written complaint of any person, investigate the actions of any auction firm, auctioneer, apprentice auctioneer, or special auctioneer, any applicant for an auction firm's, auctioneer's, apprentice auctioneer's, or special auctioneer's license, or any person who assumes to act in that capacity, if the complaint, together with other evidence presented in connection with it, makes out a prima-facie case.

If the department determines that any such applicant is not entitled to receive a license, a license shall not be granted to the applicant, and if the department determines that any licensee is guilty of a violation of section 4707.14 or 4707.15 of the Revised Code, the department may suspend or revoke the license. Any auction firm, auctioneer, apprentice auctioneer, or special auctioneer who has had the auction firm's, auctioneer's, apprentice auctioneer's, or special auctioneer's license revoked shall not be issued another such license for a period of two years from the date of revocation.

(B) The department may investigate complaints concerning the violation of sections 4707.02 and 4707.15 of the Revised Code and may subpoena witnesses in connection with such investigations as provided in this section. The department may make application to the court of common pleas for an order enjoining the violation of sections 4707.02 and 4707.15 of the Revised Code, and upon a showing by the department that any licensed auction firm, auctioneer, apprentice auctioneer, or special auctioneer has violated or is about to violate section 4707.15 of the Revised Code, or any person has violated or is about to violate section 4707.02 of the Revised Code, an injunction, restraining order, or other order as may be appropriate shall be granted by the court.

(C) The department may compel by subpoena the attendance of witnesses to testify in relation to any matter over which it has jurisdiction and that is the subject of inquiry and investigation by it, and require the production of any book, paper, or document pertaining to that matter. In case any person fails to file any statement or report, obey any subpoena, give testimony, or produce any books, records, or papers as required by such a subpoena, the court of common pleas of any county in the



state, upon application made to it by the department, shall compel obedience by attachment proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from that court, or a refusal to testify therein.

(D) When the department determines that a person not licensed under this chapter is engaged in or is believed to be engaged in activities for which a license is required under this chapter, the department may issue an order to that person requiring the person to show cause as to why the person should not be subject to licensing under this chapter. If the department, after a hearing, determines that the activities in which the person is engaged are subject to licensing under this chapter, the department may issue a cease-and-desist order that shall describe the person and activities that are subject to the order. A cease-and-desist order issued under this section shall be enforceable in and may be appealed to the common pleas courts of this state under Chapter 119. of the Revised Code.

(E) In addition to the remedies provided under this section and irrespective of whether an adequate remedy at law exists, the department may apply to a court of common pleas for a temporary or permanent injunction or other appropriate relief for continued violations of this chapter. For purposes of this division, the court of common pleas shall be the court of common pleas of Licking county or the court of common pleas of the county where the violation occurs.

(F) For purposes of this section, investigative costs incurred by the department are recoverable either by the issuance of an administrative order of the department or by an order of a court of competent jurisdiction.