



Ohio Revised Code Section 4735.052 Civil penalty.

Effective: December 9, 2012

Legislation: House Bill 487 - 129th General Assembly

(A) Upon receipt of a written complaint or upon the superintendent's own motion, the superintendent may investigate any person that has allegedly violated section 4735.02 or 4735.25 of the Revised Code, except that the superintendent shall not initiate an investigation, pursuant to this section, of any person who held a suspended or inactive license under this chapter on the date of the alleged violation.

(B) If, after investigation, the superintendent determines there exists reasonable evidence of a violation of section 4735.02 or 4735.25 of the Revised Code, within fourteen business days after that determination, the superintendent shall send the party who is the subject of the investigation, a written notice, by regular mail, that includes all of the following information:

(1) A description of the activity in which the party allegedly is engaging or has engaged that is a violation of section 4735.02 or 4735.25 of the Revised Code;

(2) The applicable law allegedly violated;

(3) A statement informing the party that a hearing concerning the alleged violation will be held, upon the party's request, before a hearing examiner pursuant to Chapter 119. of the Revised Code.

(C)(1) If a hearing is requested, the hearing examiner shall hear the testimony of all parties present at the hearing and consider any written testimony submitted pursuant to this section, and determine if there has been a violation of section 4735.02 or 4735.25 of the Revised Code.

(2) After the conclusion of formal hearings, the hearing examiner shall file a report of findings of fact and conclusions of law with the superintendent, the commission, the complainant, and the parties. Within twenty days of receipt of such copy of the written report of findings of fact and conclusions of law, the parties and the division may file with the commission written objections to the report, which shall be considered by the commission before approving, modifying, or



disapproving the report.

(3) The commission shall review the hearing examiner's report at the next regularly scheduled commission meeting held at least twenty business days after receipt of the hearing examiner's report. The commission shall hear the testimony of the complainant or the parties upon request.

(4) The commission shall decide whether to impose disciplinary sanctions upon a party for a violation of section 4735.02 of the Revised Code. If the commission finds that a violation has occurred, the commission may assess a civil penalty, in an amount it determines, not to exceed one thousand dollars per violation. Each day a violation occurs or continues is a separate violation. The commission shall determine the terms of payment. The commission shall maintain a record of the proceedings of the hearing and issue a written opinion to all parties, citing its findings and grounds for any action taken.

(D) Civil penalties collected under this section shall be deposited in the real estate operating fund, which is created in the state treasury under section 4735.211 of the Revised Code.

(E) If a party fails to pay a civil penalty assessed pursuant to this section within the time prescribed by the commission, the superintendent shall forward to the attorney general the name of the party and the amount of the civil penalty, for the purpose of collecting that civil penalty. In addition to the civil penalty assessed pursuant to this section, the party also shall pay any fee assessed by the attorney general for collection of the civil penalty.

(F) The superintendent may reserve the right to bring a civil action against a party that fails to pay a civil penalty for breach of contract in a court of competent jurisdiction.