



Ohio Revised Code Section 4763.11 Disciplinary actions.

Effective: October 16, 2009

Legislation: House Bill 1 - 128th General Assembly

(A) Within ten business days after a person files a written complaint against a person certified, registered, or licensed under this chapter with the division of real estate, the superintendent of real estate shall acknowledge receipt of the complaint by sending notice to the certificate holder, registrant, or licensee that includes a copy of the complaint. The acknowledgement to the complainant and the notice to the certificate holder, registrant, or licensee may state that an informal mediation meeting will be held with the complainant, the certificate holder, registrant, or licensee, and an investigator from the investigation and audit section of the division, if the complainant and certificate holder, registrant, or licensee both file a request for such a meeting within twenty calendar days after the acknowledgment and notice are mailed.

(B) If the complainant and certificate holder, registrant, or licensee both file with the division requests for an informal mediation meeting, the superintendent shall notify the complainant and certificate holder, registrant, or licensee of the date of the meeting, by regular mail. If the complainant and certificate holder, registrant, or licensee reach an accommodation at an informal mediation meeting, the investigator shall report the accommodation to the superintendent, the complainant, and the certificate holder, registrant, or licensee and the complaint file shall be closed upon the superintendent receiving satisfactory notice that the accommodation has been fulfilled.

(C) If the complainant and certificate holder, registrant, or licensee fail to agree to an informal mediation meeting or fail to reach an accommodation agreement, or fail to fulfill an accommodation agreement, the superintendent shall assign the complaint to an investigator for an investigation into the conduct of the certificate holder, registrant, or licensee against whom the complaint is filed.

(D) Upon the conclusion of the investigation, the investigator shall file a written report of the results of the investigation with the superintendent. The superintendent shall review the report and determine whether there exists reasonable and substantial evidence of a violation of division (G) of this section by the certificate holder, registrant, or licensee. If the superintendent finds such



evidence exists, the superintendent shall notify the complainant and certificate holder, registrant, or licensee of the determination. The certificate holder, registrant, or licensee may request a hearing pursuant to Chapter 119. of the Revised Code. If a formal hearing is conducted, the hearing examiner shall file a report of findings of fact and conclusions of law with the superintendent, the board, the complainant and the certificate holder, licensee, or registrant after the conclusion of the formal hearing. Within ten calendar days of receipt of the copy of the hearing examiner's finding of fact and conclusions of law, the certificate holder, licensee, or registrant or the division may file with the board written objections to the hearing examiner's report, which shall be considered by the board before approving, modifying, or rejecting the hearing examiner's report. If the superintendent finds that such evidence does not exist, the superintendent shall notify the complainant and certificate holder, registrant, or licensee of that determination and the basis for the determination. Within fifteen business days after the superintendent notifies the complainant and certificate holder, registrant, or licensee that such evidence does not exist, the complainant may file with the division a request that the real estate appraiser board review the determination. If the complainant files such request, the board shall review the determination at the next regularly scheduled meeting held at least fifteen business days after the request is filed but no longer than six months after the request is filed. The board may hear the testimony of the complainant, certificate holder, registrant, or licensee at the meeting upon the request of that party. If the board affirms the determination of the superintendent, the superintendent shall notify the complainant and the certificate holder, registrant, or licensee within five business days thereafter. If the board reverses the determination of the superintendent, a hearing before a hearing examiner shall be held and the complainant and certificate holder, registrant, or licensee notified as provided in this division.

(E) The board shall review the referee's or hearing examiner's report and the evidence at the next regularly scheduled board meeting held at least fifteen business days after receipt of the referee's or examiner's report. The board may hear the testimony of the complainant, certificate holder, registrant, or licensee upon request. If the complainant is the Ohio civil rights commission, the board shall review the complaint

(F) If the board determines that a licensee, registrant, or certificate holder has violated this chapter for which disciplinary action may be taken under division (G) of this section, after review of the referee's or examiner's report and the evidence as provided in division (E) of this section, the board shall order the disciplinary action the board considers appropriate, which may include, but is not



limited to, any of the following:

- (1) Reprimand of the certificate holder, registrant, or licensee;
- (2) Imposition of a fine, not exceeding, two thousand five hundred dollars per violation;
- (3) Requirement of the completion of additional education courses. Any course work imposed pursuant to this section shall not count toward continuing education requirements or prelicense or precertification requirements set forth in section 4763.05 of the Revised Code.
- (4) Suspension of the certificate, registration, or license for a specific period of time;
- (5) Revocation of the certificate, registration, or license.

The decision and order of the board is final, subject to review in the manner provided for in Chapter 119. of the Revised Code and appeal to any court of common pleas.

(G) The board shall take any disciplinary action authorized by this section against a certificate holder, registrant, or licensee who is found to have committed any of the following acts, omissions, or violations during the appraiser's certification, registration, or licensure:

- (1) Procuring or attempting to procure a certificate, registration, or license pursuant to this chapter by knowingly making a false statement, submitting false information, refusing to provide complete information in response to a question in an application for certification, registration, or licensure, or by any means of fraud or misrepresentation;
- (2) Paying, or attempting to pay, anything of value, other than the fees or assessments required by this chapter, to any member or employee of the board for the purpose of procuring a certificate, registration, or license;
- (3) Being convicted in a criminal proceeding for a felony or a crime involving moral turpitude;
- (4) Dishonesty, fraud, or misrepresentation, with the intent to either benefit the certificate holder,



registrant, or licensee or another person or injure another person;

(5) Violation of any of the standards for the development, preparation, communication, or reporting of an appraisal report set forth in this chapter and rules of the board;

(6) Failure or refusal to exercise reasonable diligence in developing, preparing, or communicating an appraisal report;

(7) Negligence or incompetence in developing, preparing, communicating, or reporting an appraisal report;

(8) Violating or willfully disregarding chapter or the rules adopted thereunder;

(9) Accepting an appraisal assignment where the employment is contingent upon the appraiser preparing or reporting a predetermined estimate, analysis, or opinion, or where the fee to be paid for the appraisal is contingent upon the opinion, conclusion, or valuation attained or upon the consequences resulting from the appraisal assignment;

(10) Violating the confidential nature of governmental records to which the certificate holder, registrant, or licensee gained access through employment or engagement as an appraiser by a governmental agency;

(11) Entry of final judgment against the certificate holder, registrant, or licensee on the grounds of fraud, deceit, misrepresentation, or gross negligence in the making of any appraisal of real estate;

(12) Violating any federal or state civil rights law;

(13) Having published advertising, whether printed, radio, display, or of any other nature, which was misleading or inaccurate in any material particular, or in any way having misrepresented any appraisal or specialized service;

(14) Failing to provide copies of records to the superintendent or failing to maintain records as required by section 4763.14 of the Revised Code. Failure of a certificate holder, licensee, or



registrant to comply with a subpoena issued under division (C)(1) of section 4763.03 of the Revised Code is prima-facie evidence of a violation of division (G)(14) of section 4763.11 of the Revised Code.

(15) Failing to provide notice to the board as required in division (I) of this section.

(H) The board immediately shall notify the superintendent of real estate of any disciplinary action taken under this section against a certificate holder, registrant, or licensee who also is licensed under Chapter 4735. of the Revised Code, and also shall notify any other federal, state, or local agency and any other public or private association that the board determines is responsible for licensing or otherwise regulating the professional or business activity of the appraiser. Additionally, the board shall notify the complainant and any other party who may have suffered financial loss because of the certificate holder's, registrant's, or licensee's violations, that the complainant or other party may sue for recovery under section 4763.16 of the Revised Code. The notice provided under this division shall specify the conduct for which the certificate holder, registrant, or licensee was disciplined and the disciplinary action taken by the board and the result of that conduct.

(I) A certificate holder, registrant, or licensee shall notify the board within fifteen days of the agency's issuance of an order revoking or permanently surrendering any professional license, certificate, or registration by any public entity other than the division of real estate. A certificate holder, registrant, or licensee who is convicted of a felony or crime of moral turpitude as described in division (G)(3) of this section shall notify the board of the conviction within fifteen days of the conviction.

(J) If the board determines that a certificate holder, registrant, or licensee has violated this chapter for which disciplinary action may be taken under division (G) of this section as a result of an investigation conducted by the superintendent upon the superintendent's own motion or upon the request of the board, the superintendent shall notify the certificate holder, registrant, or licensee of the certificate holder's, registrant's, or licensee's right to a hearing pursuant to Chapter 119. of the Revised Code and to an appeal of a final determination of such administrative proceedings to any court of common pleas.

(K) All notices, written reports, and determinations issued pursuant to this section shall be mailed



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via certified mail, return receipt requested. If the certified notice is returned because of failure of delivery or was unclaimed, the notice, written reports, or determinations are deemed served if the superintendent sends the notice, written reports, or determination via regular mail and obtains a certificate of mailing of the notice, written reports, or determination. Refusal of delivery by personal service or by mail is not failure of delivery and service is deemed to be complete.