



Ohio Revised Code Section 4768.14 Investigations.

Effective: October 3, 2023

Legislation: House Bill 33

(A) Upon receipt of a written complaint or upon the superintendent of real estate and professional licensing's own motion, the superintendent may investigate any person that allegedly violated division (A)(1) of section 4768.02 of the Revised Code.

(B) If, after investigation, the superintendent determines there exists reasonable evidence of a violation of division (A)(1) of section 4768.02 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 division (A)(1) of section 4768.02 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 before a hearing examiner, and a statement giving the date and place of that hearing;

(4) A statement informing the party that the party or the party's attorney may appear in person at the hearing and present evidence and examine witnesses appearing for and against the party, or the party may submit written testimony stating any positions, arguments, or contentions.

(C) At any time after the superintendent notifies a person of the superintendent's determination in accordance with division (B) of this section but before a hearing is held on the matter, the person may apply to the superintendent to enter into a settlement agreement regarding the alleged violation. The superintendent and the person shall comply with the requirements for settlement agreements established by rules adopted by the board under division (A)(3) of section 4768.03 of the Revised Code. If the parties enter into the settlement agreement, the hearing before the hearing examiner shall be postponed and the board shall review the settlement agreement at its next regularly scheduled



meeting. If the board disapproves the settlement agreement, the hearing before the hearing examiner shall be rescheduled.

(D) The hearing examiner shall hear the testimony of all parties present at the hearing and consider any written testimony submitted pursuant to division (B)(4) of this section. At the conclusion of the hearing, the hearing examiner shall determine if there has been a violation of division (A)(1) of section 4768.02 of the Revised Code.

(E) After the conclusion of formal hearings, the hearing examiner shall file with the superintendent, the real estate appraiser board, the complainant, and the parties a written report setting forth the examiner's findings of fact and conclusions of law and a recommendation of the action to be taken by the superintendent. Within ten days of receiving a copy of that report, the parties and the division of real estate and professional licensing may file with the board written objections to the report. The board shall consider the objections before approving, modifying, or disapproving the report.

The board shall review the hearing examiner's report at the next regularly scheduled board meeting held at least fifteen business days after receipt of the hearing examiner's report. The board shall hear the testimony of the complainant or the parties.

(F) After reviewing the hearing examiner's report pursuant to division (E) of this section, or after reviewing the settlement agreement pursuant to division (C) of this section, the board shall decide whether to impose sanctions upon a party for a violation of division (A)(1) of section 4768.02 of the Revised Code. The board may assess a civil penalty in an amount it determines, not to exceed one thousand dollars per violation, not to exceed ten thousand dollars in aggregate. Each day a violation occurs or continues is a separate violation. The board shall determine the terms of payment. The board shall maintain a transcript of the proceedings of the hearing and issue a written opinion to all parties, citing its findings and grounds for any action taken. If the board approved a settlement agreement entered into pursuant to division (C) of this section in relation to the violation, the civil penalty shall not be inconsistent with that settlement agreement.

(G) Civil penalties collected under this section shall be deposited in the real estate operating fund created under section 4735.211 of the Revised Code.



(H) If a party fails to pay a civil penalty assessed pursuant to this section within the time prescribed by the board, 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. The party shall pay the fee assessed by the attorney general for collection of the civil penalty in addition to the civil penalty assessed pursuant to this section in an amount not to exceed ten thousand dollars.