



## Ohio Revised Code Section 4735.051 Investigating complaints.

Effective: November 5, 2004

Legislation: Senate Bill 106 - 125th General Assembly

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(A) Within five business days after a person files a signed written complaint against a licensed real estate broker or licensed real estate salesperson with the division of real estate, the superintendent of real estate shall acknowledge receipt of the complaint and send a notice to the licensee describing the acts complained of. The acknowledgment to the complainant and the notice to the licensee shall state that an informal mediation meeting will be held with the complainant, the licensee, and an investigator from the investigation and audit section of the division if the complainant and licensee both file a request for such a meeting within ten business days thereafter on a form provided by the superintendent.

(B) If the complainant and licensee both file with the division requests for an informal mediation meeting, the superintendent shall notify the complainant and licensee of the date of the meeting, which shall be within twenty business days thereafter, except that any party may request an extension of up to fifteen business days for good cause shown. If the complainant and licensee reach an accommodation at an informal mediation meeting, the investigator shall so report to the superintendent, the complainant, and licensee and the complaint file shall be closed.

(C) If the complainant and licensee fail to agree to an informal mediation meeting or fail to reach an accommodation the superintendent shall, within five business days of such determination, so notify the complainant and licensee and shall investigate the conduct of the licensee against whom the complaint is filed.

(D) Within sixty business days after receipt of the complaint, or, if an informal meeting is held, within sixty days of such meeting, the investigator shall file a written report of the results of the investigator's investigation with the superintendent. Within fourteen business days thereafter, the superintendent shall review the report and determine whether there exists reasonable and substantial evidence of a violation of section 4735.18 of the Revised Code by the licensee. If the superintendent finds such evidence exists, within seven business days of the determination, the superintendent shall notify the complainant and licensee of the date of a hearing to be held by a hearing examiner



pursuant to Chapter 119. of the Revised Code within fifteen days but not prior to seven days thereafter, except that either the superintendent or the licensee may request an extension of up to thirty business days for good cause shown. If the superintendent finds that such evidence does not exist, within five business days thereafter, the superintendent shall so notify the complainant and licensee of the superintendent's determination and the basis for the determination. Within fifteen business days after the superintendent notifies the complainant and licensee that such evidence does not exist, the complainant may file with the division a request that the commissioners review the determination. If the complainant files such request, the commissioners shall review the determination at the next regularly scheduled meeting held at least fifteen business days after the request is filed. The commission shall hear the testimony of either the complainant or the licensee at the meeting upon the request of the complainant or licensee. If the commissioners affirm the determination of the superintendent, the superintendent shall so notify the complainant and the licensee within five business days thereafter. If the commissioners reverse the determination of the superintendent, a hearing shall be held and the complainant and licensee notified as provided in this division.

After the date of a hearing to be held by a hearing examiner has been scheduled pursuant to division (D) of this section, but before the issuance of the report of findings of fact and conclusions of law pursuant to division (E) of this section, the superintendent upon receipt of additional evidence, may withdraw the notice of hearing. Withdrawal by the superintendent does not constitute evidence that the original notice of hearing was not substantially justified. Upon withdrawal of the notice of hearing, the superintendent shall notify the complainant and licensee of the superintendent's determination and basis for the determination. Within fifteen business days after the superintendent notifies the complainant and licensee, the complainant may file with the superintendent a request that the Ohio real estate commission review the determination. The commission shall review the request as provided in division (D) of this section.

(E) Within twenty-five business days 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, and the complainant and licensee.

(F) The commissioners shall review the hearing examiner's report at the next regularly scheduled commission meeting held at least fifteen business days after receipt of the hearing examiner's report.



The commission shall hear the testimony of the complainant or the licensee upon request. If the complainant is the Ohio civil rights commission, the complaint shall be reviewed by the commissioners directly upon request.

(G) The commission shall decide whether to impose disciplinary sanctions upon a licensee for a violation of section 4735.18 of the Revised Code. The commission shall decide within sixty days of the filing of the hearing examiner's report or within sixty days of the filing of an Ohio civil rights commission complaint. The commission shall maintain a transcript of the proceedings and issue a written opinion to the complainant and licensee, citing its findings and grounds for any action taken. The commission shall notify the complainant and any other person who may have suffered financial loss because of the licensee's violations, that the complainant or other person may sue for recovery under section 4735.12 of the Revised Code.

(H) An investigation under this section is subject to section 4735.32 of the Revised Code.

(I) The commission may impose the following sanctions upon a licensee for a violation of section 4735.18 of the Revised Code:

- (1) Revoke a license issued under Chapter 4735. of the Revised Code;
- (2) Suspend a license for a term set by the commission;
- (3) Impose a fine, not exceeding two thousand five hundred dollars per violation;
- (4) Issue a public reprimand;
- (5) Require the completion of additional continuing education course work. Any continuing education course work imposed pursuant to this section shall not count toward the continuing education requirements set forth in section 4735.14 of the Revised Code.

All fines imposed pursuant to division (I)(3) of this section shall be credited to the real estate recovery fund, which is created in the state treasury under section 4735.12 of the Revised Code.



(J) All notices, written reports, and determinations issued pursuant to this section shall be mailed via certified mail, return receipt requested. If the certified notice is returned because of failure of delivery, or was refused or unclaimed, the notice, written reports, or determinations are deemed served if the superintendent sends the notice, written report, or determination via regular mail and obtains a certificate of mailing of the notice, written reports, or determination.