



## Ohio Revised Code

### Section 4764.12 Violations; investigation.

Effective: April 5, 2019

Legislation: Senate Bill 255 - 132nd General Assembly

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(A) On receipt of a written complaint or on the superintendent's or the board's own motion, the superintendent of real estate and professional licensing may investigate licensed home inspectors concerning any alleged violation of this chapter. Investigators and auditors employed by the superintendent may review and audit, during normal business hours, the licensed home inspector's business records that are directly related to complaints. The licensed home inspector shall permit such a review and audit.

(B) Within five business days after a person files a complaint against a licensed home inspector with the superintendent, the superintendent shall provide to that person an acknowledgment of the receipt of the complaint and send a notice regarding that complaint to the licensee who is the subject of the complaint. The superintendent shall include in that notice a description of the activities in which the licensed home inspector allegedly engaged that violate this chapter. Within twenty days after the superintendent sends the notice to the complainant and the licensed home inspector who is the subject of the complainant's complaint, the complainant and the licensed home inspector may file with the superintendent a request to have an informal mediation hearing.

If both the complainant and the licensed home inspector file such a request, the superintendent shall notify the complainant and the licensed home inspector of the date and time of the informal mediation hearing. A mediator employed by the superintendent shall conduct the informal mediation hearing. If the complainant and the licensed home inspector reach an accommodation during that informal mediation hearing, the mediator shall send a written report describing the accommodation to the superintendent, complainant, and licensee. Notwithstanding division (C) of this section, the written report describing the accommodation is confidential and is not a public record for purposes of section 149.43 of the Revised Code. The superintendent shall close the complaint upon satisfactory completion of the accommodation.

If the licensee or the complainant fails to file a request for an informal mediation hearing, or if the parties fail to agree on an accommodation during that informal mediation hearing, the superintendent



shall proceed with an investigation of the complaint.

(C) This section does not prohibit the superintendent of real estate and professional licensing from releasing information relating to licensees to the superintendent of financial institutions for purposes relating to the administration of sections 1322.01 to 1322.12 of the Revised Code, to the superintendent of insurance for purposes relating to the administration of Chapter 3953. of the Revised Code, to the commissioner of the division of securities for purposes relating to the administration of Chapter 1707. of the Revised Code, to the attorney general, or to local law enforcement and appropriate prosecutorial authorities. Information released by the superintendent pursuant to this section remains confidential.

(D) The Ohio home inspector board or the superintendent may compel, by order or subpoena, the attendance of witnesses to testify in relation to any matter over which the board or superintendent has jurisdiction and that is the subject of inquiry and investigation by the board or superintendent, and may require the production of any book, paper, or document pertaining to such a matter. For that purpose, the board or superintendent shall have the same power as judges of county courts to administer oaths, compel the attendance of witnesses, and punish them for refusal to testify. Service of the subpoena may be made by sheriffs or constables, or by certified mail, return receipt requested, and the subpoena shall be considered served on the date delivery is made or the date the person refused to accept delivery. A witness shall receive, after the witness's appearance before the board or superintendent, the fees and mileage allowed in civil actions in courts of common pleas. If two or more witnesses travel together in the same vehicle, the mileage fee shall be paid to only one of those witnesses, but the witnesses may agree to divide the fee among themselves in any manner.

(E) If any person fails to file any statement or report, obey any subpoena, give testimony, answer questions, or produce any books, records, or papers as required by the board or superintendent under this chapter, the board or superintendent may apply to the court of common pleas of any county in the state setting forth the failure.

The court may make an order awarding process of subpoena or subpoena duces tecum for the person to appear and testify before the board or superintendent. The court also may order any person to give testimony and answer questions, and to produce books, records, or papers, as required by the board or superintendent.



Upon the filing of such order in the office of the clerk of the court of common pleas, the clerk, under the seal of the court, shall issue process of subpoena for the person to appear before the board or superintendent at a time and place named in the subpoena, and each day thereafter until the examination of such person is completed. The subpoena may contain a direction that the witness bring with the witness to the examination any books, records, or papers mentioned in the subpoena. The clerk shall also issue, under the seal of the court, such other orders, in reference to the examination, appearance, and production of books, records, or papers, as the court directs.

If any person so summoned by subpoena fails to obey the subpoena, to give testimony, to answer questions as required, or to obey an order of the court, the court, on motion supported by proof, may order an attachment for contempt to be issued against the person charged with disobedience of any order or injunction issued by the court under this chapter. If the person is brought before the court by virtue of the attachment, and if upon a hearing the disobedience appears, the court may order the offender to be committed and kept in close custody.