



## Ohio Revised Code Section 4768.13 Disciplinary actions.

Effective: December 14, 2018

Legislation: House Bill 213 - 132nd General Assembly

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

(B) If the complainant and the person against whom the complaint is filed both file with the division requests for an informal mediation meeting, the superintendent shall notify the complainant and the person of the date, time, and place of the meeting by regular mail. If the complainant and the person reach an accommodation at an informal mediation meeting, the investigator shall report the accommodation to the superintendent, the complainant, and the person against whom the complaint is filed and the file shall be closed upon the superintendent receiving satisfactory notice that the accommodation agreement has been fulfilled.

(C) If the complainant and the person against whom the complaint is filed fail to agree to an informal mediation meeting, 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 person 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 to justify disciplinary action against the person on a ground described in division (K) of this section.



(E) If the superintendent finds that reasonable and substantial evidence to justify disciplinary action against the person on a ground described in division (K) of this section does not exist, the superintendent shall notify that person and the complainant of that determination and the basis for the determination. Within fifteen business days after the superintendent notifies the complainant and the person against whom the complaint is filed of that determination, 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 superintendent's determination at the next regularly scheduled meeting held at least fifteen business days after the request is filed but not longer than six months after the request is filed. The board may hear the testimony of the complainant or the person against whom the complaint is filed 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 person against whom the complaint is filed within ten 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 the person against whom the complaint is filed shall be notified as provided in division (N) of this section.

(F) If the superintendent finds that reasonable and substantial evidence to justify disciplinary action against the person on a ground described in division (K) of this section does exist, the superintendent shall notify that person and the complainant of the determination. The person against whom the complaint is filed may request a hearing pursuant to Chapter 19. of the Revised Code. If a formal hearing is to be conducted, the superintendent shall appoint a hearing examiner to conduct the hearing in accordance with that chapter.

(G) In accordance with section 119.09 of the Revised Code, after conducting a hearing, the hearing examiner shall submit a report of findings of fact and conclusions of law with the superintendent, the board, the complainant, and the person against whom the complaint is filed. Within ten calendar days of receipt of the copy of the hearing examiner's report, the person against whom the complaint is filed and the division may file with the board objections to the hearing examiner's report, which shall be considered by the board before approving, modifying, or rejecting the hearing examiner's report. The board may hear the testimony of the complainant and the person against whom the complaint is filed upon request of those parties.

(H) At any time after the superintendent notifies a person against whom the complaint is filed of the



superintendent's determination in accordance with division (F) 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.

(I) If, after review of the hearing examiner's report or the settlement agreement, the board determines that a ground for disciplinary action that is described in division (K) of this section exists against a person, the board shall order the disciplinary action the board considers appropriate, which may include any of the following:

- (1) Reprimand of the person, if licensed under this chapter;
- (2) Imposition of a fine, not exceeding twenty-five thousand dollars per violation;
- (3) Suspension of a license issued under this chapter for a specific period of time;
- (4) Revocation of a license issued under this chapter.

If the board approved a settlement agreement entered into pursuant to division (H) of this section in relation to the ground for disciplinary action, the disciplinary action shall not be inconsistent with that settlement agreement.

(J) 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 the court of common pleas of Franklin county.

(K) The board may take any disciplinary action authorized by division (I) of this section against any person, including an appraisal management company licensed under this chapter, to which any of the following grounds apply:



- (1) The person procured or attempted to procure a license under 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 licensure, or by any means of fraud or misrepresentation.
- (2) The person paid, or attempted 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 license under this chapter.
- (3) The person offered, performed, or otherwise provided appraisal management services, without a license issued under this chapter, under a business structure that was designed to circumvent the requirements and prohibitions of this chapter.
- (4) The person violated section 4768.09 of the Revised Code.
- (5) The person violated section 4768.11 of the Revised Code.
- (6) The person violated section 4768.12 of the Revised Code.
- (7) The person failed to provide copies of records to the superintendent as required under this chapter or failed to maintain records, or include certain information in the appraisal assignment file, as required under section 4768.10 of the Revised Code.
- (8) Entry of final judgment exists against a person licensed under this chapter on the grounds of fraud, deceit, misrepresentation, or coercion in the making of any appraisal of real estate.
- (9) The person failed to provide notice to the board as required in division (M) of this section.
- (10) The person failed to assist the superintendent in the investigation of complaints under division (A)(8) of section 4768.04 of the Revised Code.
- (11) The license, certificate, or registration of the appraisal management company that was issued by another state was revoked or surrendered for a substantive reason. An appraisal management company may have had a license, certificate, or registration refused, denied, canceled, revoked, or



surrendered in lieu of revocation in a state for a nonsubstantive reason if the license, certificate, or registration was subsequently granted or reinstated.

(12) If the person is an appraisal management company licensed under this chapter, the person failed to provide written notice to the division within fifteen days of changing the controlling person who is designated as the appraisal management company's main contact under division (A)(2) of section 4768.06 of the Revised Code.

(13) If the person is an appraisal management company licensed under this chapter, the person entered into a contract or an agreement with an appraiser who is not licensed or certified under Chapter 4763. of the Revised Code for the performance of real estate appraisal services.

(14) If the person is an appraisal management company licensed under this chapter, the person failed to verify that an appraiser added to the appraisal management company's appraiser panel is a licensed or certified appraiser under Chapter 4763. of the Revised Code who is in good standing with this state.

(15) If the person is an appraisal management company licensed under this chapter, the person failed to require that appraisals coordinated by the appraisal management company comply with the uniform standards of professional appraisal practice.

(16) An owner or controlling person of an appraisal management company was convicted of or pleaded guilty to a felony.

(L) Failure of a person, including a licensee under this chapter, to comply with a subpoena issued under division (B)(1) of section 4768.04 of the Revised Code is prima facie evidence of a violation of division (K)(7) of this section.

(M) A licensee shall notify the board within thirty days of any state agency's issuance of an order revoking or permanently surrendering any professional appraisal management company license, certificate, or registration issued by any public entity other than the division.

(N) Except as otherwise provided, all notices, written reports, and determinations issued pursuant to



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this section shall be mailed via certified mail, return receipt requested. If the notice, written report, or determination is returned because of failure of delivery or was unclaimed, the notice, written report, or determination shall be 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 report, or determination. Refusal of delivery by personal service or by mail is not failure of delivery and service is deemed to be complete.