

*****DRAFT - NOT FOR FILING*****

1301:11-1-10 Settlement agreements.

- (A) Any real estate appraiser who has been notified by the superintendent of a hearing to be held by a hearing examiner pursuant to Chapter 119. of the Revised Code for the purpose of determining whether a violation of section 4763.11 of the Revised Code occurred may enter into a settlement agreement with the superintendent.
- (B) The settlement agreement shall contain the following information:
- (1) A description of the conduct which the superintendent alleges the appraiser committed⁵;
 - (2) An admission by the appraiser that the appraiser engaged in such conduct⁵;
 - (3) An acknowledgement by the appraiser that such conduct admitted to constitutes a violation of section 4763.11 of the Revised Code⁵;
 - (4) A waiver by the appraiser to an administrative hearing pursuant to Chapter 119. of the Revised Code⁵;
 - (5) An acknowledgement by the appraiser that the appraiser had the opportunity to review the settlement agreement with the appraiser's legal counsel⁵;
 - (6) Recommendation of a sanction, if any, which the superintendent believes should be imposed by the Ohio real estate appraiser board on the licensee for the admitted violations of section 4763.11 of the Revised Code. However, the superintendent may choose not to make any recommendation as to a sanction and leave that solely within the discretion of the Ohio real estate appraiser board. Such sanctions may include any combination of the following:
 - (a) A suspension of the certificate, license or registration of the appraiser for a specified period of time⁵;
 - (b) A revocation or surrender of the certificate, license or registration of the appraiser⁵;
 - (c) A requirement the appraiser complete additional educational course work. Any education course work imposed shall not count toward the continuing education requirement set forth in section 4763.07 of the Revised Code, or the education requirement for licensure or certification set forth in section 4763.05 of the Revised Code⁵;
 - (d) A requirement the appraiser pay a fine, not exceeding two thousand five hundred dollars per violation⁵;
 - (e) Reprimand of the certificate holder, registrant or licensee.
 - (7) An acknowledgement by the parties that the settlement agreement, if accepted and adopted by the Ohio real estate appraiser board, will become a final order⁵;
 - (8) A waiver by the appraiser of all appeals pursuant to section 119.12 of the Revised Code and any right of reconsideration⁵; and
 - (9) Any other provision which the superintendent deems to be appropriate.

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- (C) If a settlement agreement is entered, the formal hearing shall be postponed pending the presentation of the settlement agreement terms to the Ohio real estate appraiser board at its next regularly scheduled meeting. All settlement agreements are contingent on the approval of the Ohio real estate appraiser board. If the Ohio real estate appraiser board approves the settlement agreement, then the formal hearing shall be cancelled.
- (D) The superintendent shall not enter into any settlement agreements with an appraiser if the superintendent knows it is not the appraiser's free and voluntary act to enter into such an agreement.
- (E) Upon reviewing a proposed settlement agreement, the Ohio real estate appraiser board may accept, modify or reject said proposal. No modifications to such an agreement may become a final order without the agreement and consent of the appraiser. If the Ohio real estate appraiser board rejects the proposed settlement agreement terms, or it modifies the settlement agreement terms and the modification is not agreed to by the appraiser, then the ~~original~~ matter ~~that gave rise to the investigation~~ shall be ~~set for hearing~~returned to the division of real estate for additional investigation or shall be set for hearing. For purposes of this rule, a reduction of the proposed sanction in the settlement agreement by the Ohio real estate appraiser board does not constitute a modification of the agreement.
- (F) During the course of an investigation, pursuant to section 4763.11 of the Revised Code, the appraiser may voluntarily surrender the appraiser's certificate, license or registration, provided the appraiser affirms under oath: that the appraiser will cease and desist all activity for which a certificate, license or registration is required, and that the appraiser will not apply for an Ohio appraisal certificate, license or registration in the future.