

1301:16-1-08 **Settlement agreements.**

(A) Any appraisal management company licensee 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 purposes of determining whether a violation of section 4768.13 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 licensee committed;

(2) An admission by the licensee that the licensee engaged in such conduct;

(3) An acknowledgement by the licensee that such conduct admitted to constitutes a violation of section 4768.13 of the Revised Code;

(4) A waiver by the licensee to an administrative hearing pursuant to Chapter 119. of the Revised Code;

(5) An acknowledgement by the licensee that the licensee had the opportunity to review the settlement agreement with the licensee's legal counsel;

(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 4768.13 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 license for a specified period of time;

(b) A revocation or surrender of the license;

(c) A requirement the licensee pay a fine, not exceeding twenty-five thousand dollars per violation;

(d) Reprimand of the 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 order;

(8) A waiver by the licensee of all appeals pursuant to section 119.12 of the Revised Code and any right of reconsideration;

(9) An acknowledgment by the parties that a licensee's failure to pay any fine ordered by the Ohio real estate appraiser board in a timely manner shall result in the automatic suspension of the Ohio appraisal management company license; and

(10) Any other provision which the superintendent deems to be appropriate.

(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 a licensee if the superintendent knows it is not the licensee'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 licensee. 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 licensee, then the matter shall be returned to the division of real estate & professional licensing 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.

The board may hear the testimony of the parties to the settlement agreement and the complainant upon request. The testimony shall relate only to mitigation of the settlement agreement or the board's acceptance, reduction of sanction, or rejection of the settlement agreement. The board shall not hear the testimony of any additional witnesses and shall not admit any exhibits.

(F) During the course of an investigation, pursuant to section 4768.13 of the Revised Code, the licensee may voluntarily surrender the license, provided the licensee affirms under oath: that the licensee will cease and desist all activity for which an appraisal management company license is required, and that the licensee will not apply for an Ohio appraisal management company license in the future.

Effective:

Five Year Review (FYR) Dates:

Certification

Date

Promulgated Under:	119.03
Statutory Authority:	4768.03
Rule Amplifies:	4768.13, 4768.14