

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

4781-11-15 Adjudication process Discipline.

- (A) ~~The commission~~ division shall determine the need for adjudication hearings in accordance with sections 119.06 to 119.13 of the Revised Code. Pursuant to section 4781.21 of the Revised Code, the division of real estate investigates the conduct of any licensee and shall suspend revoke or refuse to renew a license consistent with this chapter. Pursuant to section 4781.121 of the Revised Code, any person who has allegedly committed a violation of section 4781.16 of the Revised Code may be investigated.
- (1) ~~After a denial, revocation, or suspension~~ the suspension or revocation of a license issued pursuant to Chapter 4781. of the Revised Code, ~~the commission~~ superintendent shall notify the licensee ~~or applicant~~ of ~~their~~ the right to request a hearing. ~~The notice shall be in writing and sent by certified mail, return receipt requested.~~ shall be issued pursuant to chapter 119. of the Revised Code.
- ~~(2) The notice shall include:~~
- ~~(a) The charges or reasons for the denial, suspension or revocation;~~
 - ~~(b) The applicable laws or rules directly involved; and~~
 - ~~(c) A statement informing the licensee or applicant that:~~
 - ~~(i) The licensee or applicant is entitled to a hearing if a written petition is received by the manufactured homes commission within thirty days of the date the notice was mailed. If no appeal is taken within thirty days of receipt of the order, the order is final and conclusive;~~
 - ~~(ii) All appeals must be by petition in writing and verified under oath by the applicant whose application for license was being revoked, suspended, denied, or not renewed, and must set forth the reason for the appeal and the reason why, in the petitioner's opinion, the order is not correct. The original and at least one copy shall be filed with the commission. The petition shall include a copy of the order from which the appeal is taken.~~
 - ~~(iii) The licensee or applicant may appear in person or be represented by an attorney;~~
 - ~~(iv) The licensee or applicant may choose to present their position, argument, or contentions in writing; and~~
 - ~~(v) The licensee or applicant may present evidence, and examine witnesses appearing on the licensee or applicant's behalf and cross-examine the commission's witnesses at the hearing.~~
- ~~(3) Upon receiving a request within thirty days of the date of the mailing of the notice for hearing from the licensee or applicant, the commission or its executive director shall immediately set the date, time, and location of the hearing. The date set for hearing shall be within seven and fifteen days of receiving the request for hearing, unless continued by the commission on its own motion or continued by agreement of both parties.~~
- ~~(4) The executive director may issue subpoenas for any witnesses or to compel the production of any books, records, or papers in accordance with Chapter 119. of the Revised Code upon request of the licensee, applicant, or legal counsel to the commission. Such request for subpoenas shall be made no later than fourteen days prior to the date of the adjudication hearing. The service and enforcement of subpoenas shall be made in accordance with Chapter 119. of the Revised Code.~~

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- ~~(5) A licensee, applicant or representative of the licensee or applicant may request a continuance of the scheduled hearing by submitting a written request no later than fourteen days prior to the scheduled hearing date. The executive director may grant a continuance upon good cause.~~
- (B) At any hearing before the commission, the record of which may be the basis of an appeal to a court, a stenographic record of the testimony and other evidence submitted shall be taken at the expense of the commission. For purposes of section 119.09 of the Revised Code, the record of an adjudication hearing before the Ohio division of real estate shall be provided by use of audio or video teleconferencing electronic recording devices. Such recording shall serve as the official record of the proceeding and may serve as the basis for a transcript for furnishing to a court upon appellate review. A stenographic service other than the division's audio or video recording devices may be requested by one of the parties to the hearing. Advance written notice shall be provided to the division by the requesting party prior to the scheduled hearing date. All scheduling with the stenographic service shall be the responsibility of the party requesting the stenographic service. The testimony at the adjudication hearing shall be transcribed at the cost of the party requesting the stenographic service. Upon request, the stenographic service may provide a transcript of the adjudication hearing and the cost of the transcript shall be the responsibility of the party requesting the transcript. The division may use the transcript from the stenographic service as the official record of the proceeding.
- ~~(C) In all hearings before the commission, the procedure shall be as follows:~~
- ~~(1) The attorney general concisely may state his case and briefly may state his evidence to sustain it.~~
 - ~~(2) The license holder, or his attorney, may then briefly state his case, and briefly may state his evidence in support of it.~~
 - ~~(3) The attorney general first must produce his evidence and the license holder, or his attorney must then produce his evidence.~~
 - ~~(4) The attorney general may offer evidence in rebuttal.~~
 - ~~(5) The commission may in its discretion hear arguments.~~
 - ~~(6) The commission may in its discretion request or permit the filing of briefs.~~
- ~~(D) In all hearings before the commission, the introduction of evidence shall be governed in general by the rules of evidence.~~
- ~~(E) The commission may call the license holder to testify under oath as upon cross examination.~~
- ~~(F) Briefs shall be clearly typewritten or photocopied. The party filing the brief shall furnish the opposite party or his attorney with one copy and file with the commission ten copies.~~
- ~~(G) After submission of the case to the commission, the commission may retire and deliberate immediately or take the case under advisement.~~
- (H) The decision of the ~~commission~~ superintendent shall be issued pursuant to chapter 119. of the Revised Code. shall be written and a copy of such decision shall be mailed to the license holder by certified mail, return receipt requested, and a copy mailed to the attorney for the license holder, if any. A copy also shall be forwarded to the attorney general.

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(I) ~~The commission shall keep a docket and enter into such docket all cases before the commission. Said docket shall be open to public inspection.~~ Any final order of the superintendent no longer subject to appeal, may be publicly disseminated using any of the following methods:

- (a) Publication in the division of real estate's newsletter;
- (b) Press release(s); and,
- (c) Any other method deemed appropriate by the superintendent.