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BUSINESS AND PROFESSIONS CODE - BPC

DIVISION 4. REAL ESTATE [10000 - 11506] (*Division 4 added by Stats. 1943, Ch. 127.*)

PART 1. LICENSING OF PERSONS [10000 - 10580] (*Part 1 added by Stats. 1943, Ch. 127.*)

CHAPTER 2. Administration [10050 - 10106] (*Chapter 2 added by Stats. 1943, Ch. 127.*)

ARTICLE 3. Hearings [10100 - 10106] (*Article 3 added by Stats. 1943, Ch. 127.*)

10100. (a) Before suspending or revoking a license or license endorsement issued under the provisions of this part, the department shall proceed as prescribed by Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the department shall have all the powers granted therein.

(b) Upon denial of an application for a license or license endorsement issuable under the provisions of this part, the department shall proceed under Sections 485 to 488, inclusive.

(Amended by Stats. 2012, Ch. 380, Sec. 2. (SB 875) Effective January 1, 2013.)

10100.2. A licensee against whom an investigation is pending or an accusation has been filed pursuant to Section 11503 of the Government Code may petition the commissioner to voluntarily surrender his or her license. The surrender of a license shall become effective upon acceptance by the commissioner and thereafter, a surrendered licensee may be relicensed only by petitioning for reinstatement pursuant to Section 11522 of the Government Code. When deciding a petition for reinstatement, the commissioner may consider all relevant evidence, including affidavits.

(Added by Stats. 1996, Ch. 587, Sec. 1. Effective January 1, 1997.)

10100.4. (a) Notwithstanding Section 11415.60 of the Government Code, the department may enter into a settlement with a licensee or applicant instead of the issuance of an accusation or statement of issues against that licensee or applicant.

(b) The settlement shall identify the factual basis for the action being taken and the statutes or regulations violated.

(c) A person who enters a settlement pursuant to this section is not precluded from filing a petition, in the timeframe permitted by law, to modify the terms of the settlement or a petition for early termination of probation, if probation is part of the settlement.

(d) Any settlement with a licensee executed pursuant to this section shall be considered discipline by the department.

(Added by Stats. 2011, Ch. 712, Sec. 5. (SB 706) Effective January 1, 2012.)

10101. The accusation provided for by Section 11503 of the Government Code shall be filed not later than three years from the occurrence of the alleged grounds for disciplinary action unless the acts or omissions with which the licensee is charged involves fraud, misrepresentation or a false promise in which case the accusation shall be filed within one year after the date of discovery by the aggrieved party of the fraud, misrepresentation or false promise or within three years after the occurrence thereof, whichever is later, except that in no case shall an accusation be filed later than 10 years from the occurrence of the alleged grounds for disciplinary action.

(Amended by Stats. 1977, Ch. 546.)

10103. The lapsing or suspension of a license by operation of law or by order or decision of the department or a court of law, or the voluntary surrender of a license by a licensee shall not deprive the department of jurisdiction to proceed with any investigation of or action or disciplinary proceeding against such licensee, or to render a decision suspending or revoking such license.

(Amended by Stats. 1978, Ch. 651.)

10106. (a) Except as otherwise provided by law, in any order issued in resolution of a disciplinary proceeding before the department, the commissioner may request the administrative law judge to direct a licensee found to have committed a violation of

this part to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

(b) In the case of a disciplined licensee that is a corporation or a partnership, the order may be made against the licensed corporate entity or licensed partnership.

(c) A certified copy of the actual costs, or a good faith estimate of costs where actual costs are not available, signed by the commissioner or the commissioner's designated representative, shall be prima facie evidence of reasonable costs of investigation and prosecution of the case. The costs shall include the amount of investigative and enforcement costs up to the date of the hearing, including, but not limited to, charges imposed by the Attorney General.

(d) The administrative law judge shall make a proposed finding of the amount of reasonable costs of investigation and prosecution of the case when requested pursuant to subdivision (a). The finding of the administrative law judge with regard to costs shall not be reviewable by the commissioner to increase the cost award. The commissioner may reduce or eliminate the cost award, or remand to the administrative law judge where the proposed decision fails to make a finding on costs requested pursuant to subdivision (a).

(e) Where an order for recovery of costs is made and timely payment is not made as directed in the commissioner's decision, the commissioner may enforce the order for repayment in any appropriate court. This right of enforcement shall be in addition to any other rights the commissioner may have as to any licensee to pay costs.

(f) In any action for recovery of costs, proof of the commissioner's decision shall be conclusive proof of the validity of the order of payment and the terms for payment.

(g) (1) Except as provided in paragraph (2), the department shall not renew or reinstate the license of any licensee who has failed to pay all of the costs ordered under this section.

(2) The department may, in its discretion, conditionally renew or reinstate for a maximum of one year the license of any licensee who demonstrates financial hardship and who enters into a formal agreement with the department to reimburse the department within that one-year period for the unpaid costs.

(h) All costs recovered under this section shall be considered a reimbursement for costs incurred and shall be deposited in the Real Estate Fund to be available, notwithstanding Section 10451, upon appropriation by the Legislature.

(i) Nothing in this section shall preclude the department from including the recovery of the costs of investigation and enforcement of a case in any stipulated settlement.

(Added by Stats. 2011, Ch. 712, Sec. 6. (SB 706) Effective January 1, 2012.)