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## Bill Analysis

**Version:** As Introduced

**Primary Sponsor:** Rep. Patton

Andrew Little, Attorney

### SUMMARY

- Requires each roofing contractor who is responsible for work on a nonresidential construction project to hold or be assigned a roofing contractor license issued by the Ohio Construction Industry Licensing Board (OCILB).
- Creates the Roofing Section within the OCILB that is responsible for the licensing of roofing contractors.
- Requires a person seeking a roofing contractor license to satisfy the same requirements that other specialty contractors must satisfy under continuing law, including passing an examination and assigning the license to the contracting company that employs the person.
- Provides a temporary alternative path to licensure as a roofing contractor for persons currently engaged as roofing contractors.
- Requires the OCILB, within 120 days after the bill's effective date, to send notice of the bill to local governments that currently provide for the licensing or registration of roofing contractors.
- Requires the OCILB, within 90 days after the bill's effective date, to publish notice of the bill's provisions in appropriate trade publications and newspapers of general circulation in Ohio once a week for three consecutive weeks.

### DETAILED ANALYSIS

The bill adds roofing contractors to the list of specialty contractors who must be licensed by the Ohio Construction Industry Licensing Board (OCILB) to perform work in their specialty on nonresidential projects. Roofing contractors currently may be licensed at the local level but are not currently licensed at the state level. In addition to the licensing requirement, several other requirements apply to roofing contractors under the bill by virtue of their inclusion as specialty contractors licensed by the OCILB.

## Licensure as a roofing contractor

### License required

Under the bill, a roofing contractor must hold or be assigned a license from the OCILB if the contractor is responsible for work on a construction project and employs tradespersons or performs construction work for that project. The bill also prohibits a person from claiming to be a roofing contractor eligible to perform work as a roofing contractor if the person is not licensed. This licensing requirement is similar to the requirement for other specialty contractors licensed by the OCILB under continuing law.<sup>1</sup> A person who violates this requirement is guilty of a minor misdemeanor on the first violation and a fourth degree misdemeanor on subsequent violations. Additionally, the person may be subject to a civil penalty of up to \$1,000 assessed by the Roofing Section (created by the bill – see “**Ohio Construction Industry Licensing Board**,” below) of the OCILB after a notice and a hearing.<sup>2</sup>

Under continuing law, a “construction project” is a project involving a building or structure subject to the Nonresidential Building Code and does not include industrialized units (self-sufficient building units fabricated off-site) or residential buildings (one-family, two-family, or three-family dwelling houses, and any accessory structure incidental to a dwelling house).<sup>3</sup>

### Application and examination

Similar to the continuing law requirement for specialty contractor license applicants, under the bill an applicant for a roofing contractor license must file a written application with the Roofing Section. The application must be on the form prescribed by the Section, include the application fee set by the Section, and be verified by the applicant’s oath.

A roofing contractor applicant also must provide information to the Section showing that the applicant meets the following continuing law requirements to take a specialty contractor licensing examination:

- The person is at least 18 and a U.S. citizen or legal resident;
- The person has been a tradesperson in roofing for at least five years before the date the application is filed, is currently registered as an engineer in Ohio with three years of business experience in roofing, or has other acceptable experience;
- The person maintains contractor’s liability insurance in the amount required by the Section;
- The person has not been convicted of or pleaded guilty to a crime of moral turpitude or a disqualifying offense as defined under continuing law; violated the OCILB Law;<sup>4</sup>

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<sup>1</sup> R.C. 4740.01(A) and (B); R.C. 4740.13, not in the bill; with conforming change in R.C. 4764.03.

<sup>2</sup> R.C. 4740.16 and 4740.99, not in the bill.

<sup>3</sup> R.C. 4740.01(F), by reference to R.C. 3781.06, not in the bill.

<sup>4</sup> R.C. Chapter 4740.

obtained an OCILB specialty contractor license by fraud, misrepresentation, or deception; or engaged in fraud, misrepresentation, or deception in the conduct of business.

If an applicant meets the requirements to take the examination and passes the required examination, the Section must authorize the Administrative Section of the OCILB to license the applicant as a roofing contractor. A license issued under the OCILB Law expires annually. A license holder may renew the license by submitting a renewal application, a renewal fee set by the Section, and proof of compliance with continuing education requirements to the Section no more than 90 days before the license expires.<sup>5</sup>

### **Transition licensing**

The bill creates a temporary path to licensure as a roofing contractor. Under the bill, the Roofing Section must issue a roofing contractor license to any person who does all of the following:

- Has been actively engaged as a roofing contractor in Ohio for at least three years immediately before the bill's effective date and furnishes business records or other evidence to verify the experience;
- Applies to the Roofing Section within 12 months after the bill's effective date;
- Pays the appropriate fee, as determined by the Roofing Section;
- Provides evidence of all of the following:
  - Current contractor's liability insurance, including complete operations coverage, in the amount of \$500,000;
  - Compliance with Ohio's Workers' Compensation Law;
  - Compliance with any other applicable legal requirements to do business in Ohio, as determined by the OCILB.

If more than one person affiliated with a contracting company is licensed under this temporary path, those persons collectively must provide evidence of current contractor's liability coverage, including complete operations coverage, in the total amount of \$500,000.<sup>6</sup>

### **Reciprocity**

Similar to other specialty contractors under continuing law, a person who is licensed, registered, or certified as a roofing contractor in another state may obtain a roofing contractor license under the OCILB Law without examination if the Roofing Section, pursuant to rules it adopts, determines that both of the following apply:

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<sup>5</sup> R.C. 4740.06 and 4740.09, not in the bill.

<sup>6</sup> Section 4.

- The requirements for registration, licensure, or certification under the laws of that state are substantially equal to the requirements for licensure under the OCILB Law;
- That state extends reciprocity to persons licensed under the OCILB Law.

A person who is eligible for reciprocity may obtain a roofing contractor license by submitting a copy of the reciprocity agreement and a license fee set by the Roofing Section.<sup>7</sup>

### **Assignment**

Similar to other specialty contractor licenses under continuing law, a person issued a roofing contractor license must assign the license to the contracting company with whom the license holder is employed. No license can be assigned to more than one contracting company at a time. If the license is not assigned to a contracting company it must be placed in inactive status.<sup>8</sup>

### **Disciplinary actions**

Similar to holders of other specialty licenses under continuing law, the Roofing Section of the OCILB may suspend, revoke, or refuse to issue a license; require additional continuing education hours; or issue a fine to a roofing contractor license holder that does any of the following:

- Is convicted of a crime of moral turpitude or disqualifying offense;
- Violates the OCILB Law;
- Obtains or attempts to obtain an OCILB specialty contractor license by fraud, deception, or misrepresentation;
- Obtains an order, ruling, or authorization from any section of the OCILB through fraud or misrepresentation;
- Engages in fraud, misrepresentation, or deception in the conduct of business;
- Transfers the person's license to another person without approval of the Roofing Section;
- Allows the person's license to be used by an unlicensed person;
- Fails to comply with a disciplinary action imposed by the Roofing Section;
- Fails to maintain insurance throughout the license year.<sup>9</sup>

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<sup>7</sup> R.C. 4740.08 and 4740.09, not in the bill.

<sup>8</sup> R.C. 4740.07, not in the bill.

<sup>9</sup> R.C. 4740.10, not in the bill.

## Ohio Construction Industry Licensing Board

### Generally

Under continuing law, nonresidential specialty contractors (heating, ventilating, and air conditioning contractors; refrigeration contractors; electrical contractors; plumbing contractors; hydronics contractors; and, as added by the bill, roofing contractors) are licensed by the OCILB. The OCILB currently consists of an administrative section and three specialty sections. The bill creates a new roofing specialty section responsible for the licensing and continuing education of roofing contractors. The expansion of the OCILB to include the Roofing Section increases the current membership of the full board from 17 to 22.

### Roofing Section

The Roofing Section created by the bill consists of the following five members:

- A building inspector employed by the Department of Commerce or a municipal corporation;
- Two roofing contractors who are not affiliated with a union representing roofers;
- Two roofing contractors who have entered into an agreement with a union representing roofing contractors.

As members of the OCILB, Roofing Section members added by the bill must be appointed by the Director of Commerce. The Director must make these appointments within 90 days after the bill's effective date and the initial terms of Roofing Section members must be staggered. Two of the initial appointments are for terms ending one year after the bill's effective date, two must be for terms ending two years after that date, and one must be for a term ending three years after that date. After initial terms of office for Roofing Section members, terms of office are for three years.<sup>10</sup>

Similar to other specialty sections under continuing law, the Roofing Section must do all of the following under the bill:

- Adopt rules regarding issuing licenses and disciplining licensees;
- Investigate violations of the OCILB Law pertaining to the Section;
- Maintain a record of its proceedings;
- Grant approval to training agencies to offer continuing education courses;
- Establish or approve continuing education curriculum;
- Design the examination for roofing contractors.<sup>11</sup>

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<sup>10</sup> R.C. 4740.02(A), (E), and (F).

<sup>11</sup> R.C. 4740.05, not in the bill.

## Administrative Section

Each section of the OCILB, including the Roofing Section, as added by the bill, must annually elect one of its members to serve on the Administrative Section of the OCILB. In addition to these members from specialty sections, the Director or the Director's designee must serve as a member of the Administrative Section and the Director must appoint one member to the Administrative Section who is not a member of any group certified by a section of the OCILB. Because the bill adds the Roofing Section to the OCILB, and requires one member of the Roofing Section to be elected to the Administrative Section, the Administrative Section, under the bill, will consist of six members. Under continuing law, the Administrative Section cannot take any action without concurrence of at least three of its members.

Under continuing law, the Administrative Section is responsible for administration of the OCILB Law and must do all of the following:

- Schedule the contractor examinations each of the other sections directs;
- Select and contract with persons to prepare, administer, score, and maintain the confidentiality of the examinations;
- Pay expenses and charge fees associated with the examinations;
- Issue and renew licenses;
- Report annually to the Director on proceedings before the OCILB;
- Keep a record of information concerning every specialty contractor (including roofing contractors added by the bill) issued a license under the OCILB Law;
- Regulate a contractor's use and display of a license and of any information contained in the license;
- Adopt rules concerning, in addition to other topics, continuing education requirements and fees;
- Adopt any continuing education curriculum established or approved by the specialty sections.<sup>12</sup>

## Notifications and registration requirements

On or before 120 days after the bill's effective date, OCILB must send notice by regular mail to the legislative authority of every municipal corporation and board of county commissioners that, before the bill's effective date, provided for the licensing or registration of roofing contractors, informing the municipal corporation and board of county commissioners of the bill's provisions. Additionally, within 90 days after the bill's effective date, the OCILB must publish notice of the bill's provisions in appropriate trade publications and in a newspaper of

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<sup>12</sup> R.C. 4740.02 and 4740.04; R.C. 4740.03, not in the bill.

general circulation in each of the nine most populous metropolitan areas of Ohio, once a week for three consecutive weeks.<sup>13</sup>

Similar to registration for other specialty contractors, the bill allows boards of county commissioners and municipal corporations to require registration of licensed roofing contractors engaging in work within their respective jurisdictions. Likewise, the bill allows the board or municipal corporation to require a fee for registration. But the bill prohibits a board of county commissioners or municipal corporation from requiring an OCILB-licensed roofing contractor to take a separate examination or skills assessment for registration in the jurisdiction.<sup>14</sup>

The bill also extends to roofing contractors a current law provision that prohibits a political subdivision, district, or agency of the state from adopting an ordinance or rule that requires contractor registration and a registration fee unless the ordinance or rule also requires any contractor who registers and pays the fee to be licensed as a contractor under the OCILB Law.<sup>15</sup>

## Effective dates

The bill generally takes effect 180 days after the bill's effective date, except for the following provisions, which take effect on the bill's effective date:

- The bill's notification requirement (see "**Notifications and registration requirements**," above);
- The bill's transition licensing path (see "**Transition licensing**," above);
- Changes in the bill to the membership of the OCILB, including the creation of the Roofing Section.<sup>16</sup>

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## HISTORY

Action	Date
Introduced	04-16-19

H0199-I-133/ks

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<sup>13</sup> Section 3.

<sup>14</sup> R.C. 715.27 and 3781.102.

<sup>15</sup> R.C. 4740.12.

<sup>16</sup> Section 5.