



OHIO LEGISLATIVE SERVICE COMMISSION

Bill Analysis

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132nd General Assembly

(As Reported by H. Government Accountability and Oversight)

Sens. McColley, Wilson, Jordan, Huffman, Terhar, LaRose, Coley, Hoagland, Lehner, Eklund, Beagle, Balderson, Hackett, Obhof, O'Brien, Peterson, Uecker

Reps. Roegner, Becker, Merrin, Retherford, Young, Zeltwanger

BILL SUMMARY

Expiration of occupational licensing boards

- Requires all occupational licensing boards to be renewed at least once every six years by the General Assembly.
- States that a board that is not renewed within six years of its last renewal or creation is triggered to expire.
- Requires all boards to be reviewed and renewed by December 31, 2024, unless created within six years of that date.
- Allows for the concluding of business and operation of an expired board and allows any person to engage in an occupation if the board that licensed that occupation has expired.

General Assembly to review occupational licensing boards

- Creates a timeline for the House of Representatives and Senate to review occupational licensing boards scheduled to expire during a biennium.

* This analysis was prepared before the report of the House Government Accountability and Oversight Committee appeared in the House Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

- Requires the President of the Senate and the Speaker of the House of Representatives to create standing committees in each chamber to review occupational licensing boards scheduled to expire during a biennium.
- Requires the standing committees to review approximately 33% of the boards each biennium, and to review all boards at least once every six years.
- Requires a board before a standing committee to submit a report containing information about the board's purpose, workload, budget, and staffing.
- States that the board has the burden of proving the need for its continued existence and lists factors for a House or Senate standing committee to consider when making a determination about a board.
- Requires the Senate President and the Speaker of the House to notify the Chief of the Common Sense Initiative Office (CSIO) when a board is to be reviewed, and requires the Chief or the Chief's designee to testify before the standing committee about any information the CSIO has received regarding the board.
- Requires a standing committee to publish a report of the committee's findings and recommendations and suggests information that the report should include.
- Requires the Legislative Service Commission (LSC) to provide staff services to a standing committee performing a review of an occupational licensing board.

LSC Director to issue reports of bills

- Requires the LSC Director to issue reports of all bills introduced in a General Assembly that propose to substantially change or enact occupational regulations.
- States that the Director's report must compare the bill's regulatory scheme with the state's policy on occupational licensing and regulation, and the bill's potential impact on employment, consumer choice, market competition, and cost to government.
- Requires the report also to compare the bill's regulatory scheme with those of other states and with any state policy set forth in the sections of the Revised Code governing the occupation that is the subject of the bill.
- Allows the sponsor of a bill that the Director issues a report on to submit information to the Director to aid in the report.



LSC Director to issue reports of occupations

- Requires the LSC Director to issue a report of 33% of the occupations regulated by the state each biennium beginning in 2019, requires the report to be issued of all occupations at least once before 2024, and on a six-year rolling basis after 2024.
- Permits the Director to align the reports with a standing committee's review of occupational licensing boards.
- Requires the report to compare the current regulatory scheme for an occupation with the state's policy on occupational licensing and regulation.
- Allows the Director to require a department or board that regulates an occupation for which the Director is preparing a report to submit relevant information to the Director.

Official state policy on occupational licensing and regulation

- Establishes a state policy on occupational licensing and regulation of individuals to be used when a body is reviewing an occupational licensing board or the actions of a board.
- Requires the state to use the least restrictive regulation where the state finds it necessary to displace competition, and states that the least restrictive regulation is that which relies on market competition and private remedy to protect consumers.
- Lists appropriate state actions to be taken to protect against specific harms to consumers.
- Preempts local law or regulation inconsistent with the state's policy on occupational licensing and regulation to the extent that a political subdivision regulates an occupation that the state also regulates.

Home Inspector Law

- Establishes the Home Inspector Law and requires individuals wishing to perform home inspections to obtain a license in order to perform those inspections.
- Establishes criminal penalties for performing home inspections without a license and knowingly making, or causing to be made, a false representation concerning a material and relevant fact relating to a person's licensure as a home inspector.

- Creates the Ohio Home Inspector Board to regulate the licensure and performance of home inspectors and requires the Superintendent of Real Estate and Professional Licensing to administer the Home Inspector Law.
- Prohibits a home inspection from being performed unless it is performed pursuant to a written contract entered into between a licensed home inspector and a client.
- Requires a real estate broker or salesperson who provides the name of a home inspector to a purchaser or seller of real estate to provide the names of at least three licensed home inspectors.
- Requires a licensed home inspector to include a written report of the visual examination performed by a licensed home inspector during a home inspection.
- Requires a licensed home inspector to retain documents related to home inspection work for a five-year period.
- Prohibits any person from performing a home inspection unless the inspection conforms to requirements for conducting home inspections, standards of practice, and prohibitions against conflicts of interest specified in rules adopted by the Board.
- Allows the Superintendent, in accordance with the bill's requirements, to investigate a complaint of unlicensed activity or of performing a home inspection in a manner that does not conform to Board rules or without having entered into a contract.
- Requires the Board to hold a hearing regarding an alleged violation of the bill's prohibited activities in accordance with the bill's requirements and, if the Board finds that a violation has occurred, allows the Board to impose a fine on the person, not to exceed \$500 per violation.
- Establishes requirements an individual must satisfy to obtain a license under the bill and requires the Superintendent to have fingerprint-based criminal records checks conducted on applicants for licensure.
- Requires the Board to adopt specified rules for the bill's administration and to approve the education and experience curricula specified in the bill and the examination an applicant must pass for initial licensure.
- Specifies duties for the Superintendent that include approving continuing education providers, courses, and programs in accordance with the Board's rules and issuing and renewing licenses.



- Requires the Superintendent to investigate complaints of violations of the bill and grants the Superintendent and the Board subpoena power in relation to any matter over which the Board or Superintendent has jurisdiction and which is the subject of inquiry and investigation by the Board or Superintendent.
- Specifies disciplinary actions to which a licensed home inspector may be subject for violating the bill's provisions and allows for mediation before an investigation and settlement agreements prior to an adjudication hearing.
- Limits lawsuits brought under the bill to those actions available under common law.
- Specifies that the disciplinary actions against a licensed home inspector are the only remedies for a violation of a conflict of interest prohibition.
- Creates the Home Inspection Recovery Fund administered by the Superintendent for the purpose of satisfying certain judgments against a licensed home inspector when the judgment creditor has exhausted other avenues for recovery.
- Creates the Home Inspectors Fund in the state treasury to be used solely to pay expenses for administering and enforcing the bill's provisions.

Central Service Agency

- Requires the Central Service Agency (CSA) of the Department of Administrative Services to perform routine support services for nine specified boards and commissions in addition to the boards and commissions the CSA currently serves.

Licensing law changes

State Speech and Hearing Professionals Board

- Requires a hearing aid dealer's or fitter's license to be renewed biennially rather than annually as required under current law.
- Changes the continuing professional education requirement for license renewal from ten hours per one-year renewal period to 20 hours per two-year renewal period.
- Requires the State Speech and Hearing Professionals (SHP) Board to adopt rules establishing the amount of any fee required under the Hearing Aid Dealers Law and eliminates the statutorily specified fees.
- Expands the SHP Board's investigatory duties from investigating specific complaints to investigating all alleged irregularities in the sale or practice of dealing in or fitting



hearing aids by any licensee or permit holder, as well as any violations of the Hearing Aid Dealers Law or the Board's rules.

- Revises the list of reasons for which the SHP Board may discipline a licensee or permit holder.
- Requires the SHP Board to act in accordance with the Administrative Procedure Act before disciplining a licensee or permit holder based on a complaint or investigation.
- Expands the types of disciplinary actions the SHP Board may take after finding that a licensee or permit holder has violated the Hearing Aid Dealers Law or a rule adopted by the Board.
- Requires the SHP Board to adopt rules establishing the information that must be included in a hearing aid receipt.
- Specifies that tests and related materials used in an examination, whether administered by the SHP Board or a private or government entity pursuant to a contract, are not public records under the Public Records Law.

Counselor education

- Allows the Counselor, Social Worker, and Marriage and Family Therapist Board to temporarily approve a counseling education program created after January 1, 2018, that has not been accredited by the Council for Accreditation of Counseling and Related Educational Programs.
- Specifies that a degree from a Board-approved counseling education program satisfies the degree and training requirements to receive a professional clinical counselor's license or a professional counselor's license for the time period approved by the Board.
- Requires the Board, if it elects to approve unaccredited programs, to adopt rules regarding the approval process, educational requirements, and time period during which completion of the program will satisfy licensure requirements.

Optical dispensing

- Requires the State Vision Professionals Board to provide each applicant for an optical dispensing license with all forms required to apply for examination, instead of permitting a testing service to provide the forms.
- Requires an optical dispensing apprentice to register with the State Vision Professionals Board on a form provided by the board and in the form of a statement



that includes specified information, instead of allowing registration with either the form or a statement.

Appointment authority

- Changes the authority who appoints the district superintendent and military installment representative members of the State Council on Educational Opportunity for Military Children from the Governor to the Superintendent of Public Instruction.
- Changes authority to appoint certain members of the Historical Boilers Licensing Board from Governor to Director of Commerce.
- Permits the Governor to fill a vacancy on the State Board of Emergency Medical, Fire, and Transportation Services without having to consider an individual who has been nominated by a specified organization, if the Governor has not received a nomination within 30 days after the vacancy occurs.

Membership changes

- Eliminates the requirement that a consumer of services offered in a long-term services and supports setting be appointed to the Board of Executives of Long-Term Services and Supports if a family member of such a consumer or an advocate of such consumers is appointed instead.
- Reduces the number of members of the Board of Nursing (from 13 to 11) and the Board's Advisory Committee on Advanced Practice Registered Nursing (from eight to five).
- Reduces the number of voting members on the Chemical Dependency Professionals Board from 12 to 7.

Abolishments

- Abolishes the Co-op/Internship Program Advisory Committee, Healthier Buckeye Advisory Council, Ohio Water Advisory Council, and Unemployment Compensation Advisory Council.

Makeup artistry

- Defines "makeup artistry" as the application of cosmetics for the purpose of skin beautification.
- Adds makeup artistry to the practice of boutique services.



- Specifies that a person may submit an affidavit or a certificate as proof of formal training or apprenticeship for a boutique services registration.

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CONTENT AND OPERATION

Expiration of occupational licensing boards

The bill requires all occupational licensing boards to be renewed at least once over a total of six years by the General Assembly. Under the bill, an "occupational licensing board" means any board, commission, committee, or council, or any other similar state public body, and any administrative department (see R.C. 121.02), and any agency, division, or office of state government, that issues an occupational license.¹ (See definition of "occupational license" under "**Official state policy on occupational**

¹ R.C. 4798.01.



licensing and regulation," below.) If a board is not renewed within six years of its last renewal or creation, the board is triggered to expire at the end of the 31st day of December of the sixth year after that renewal or creation, and expires at the end of the 30th day of June the following year.² Any board that is not renewed before December 31, 2024, except for boards created within six years from that date, will be triggered to expire on that date. A board is renewed when the General Assembly enacts a law that expressly continues statutes creating, empowering, governing, or regulating the board. The review date for a board does not change under the bill when a statute creating, empowering, governing, or regulating a board is amended. Rather, the review date is only changed if the amendment expressly alters the review date.³

The bill allows a board to operate after it has been triggered to expire for the purpose of winding up its affairs before the board expires. Under the bill, if an occupational licensing board expires, any person may engage in the profession or activity that was formerly licensed by the board without a license, notwithstanding any other state law to the contrary. Additionally, the Director of Budget and Management cannot authorize the expenditure of money for a board on or after the board's expiration date.⁴

Under the bill, unless the General Assembly enacts contrary laws, the orders, licenses, contracts, and other actions taken by the board remain in effect according to their terms. Similarly, any claims pending against the expired board are not terminated, but the Attorney General succeeds the board in any pending claim. The General Assembly also may transfer functions of some or all of an expired board to a successor agency, board, or officer. Additionally, a board that performs functions other than licensing or regulating an occupational license will not expire under the bill. The board continues to the extent it is performing other functions.⁵

General Assembly to review occupational licensing boards

The bill requires the Speaker of the House of Representatives, before March 1 in an odd-numbered year of a biennium, to establish a standing committee to review those occupational licensing boards that are scheduled to expire at the end of that biennium. The standing committee must prepare and publish a report of its findings by November

² R.C. 101.62(B).

³ R.C. 101.62(E).

⁴ R.C. 101.62(B), (C), and (D).

⁵ R.C. 101.62(D) and (F).



1 of that same year. The House must consider any bill offered by the committee regarding the renewal of any boards by December 31 of that same year.

The bill then requires the President of the Senate, before March 1 in the even-numbered year of a biennium, to establish a standing committee to review those occupational licensing boards reviewed by the House in the previous odd-numbered year. The standing committee must prepare and publish a report of its findings by November 1 in that same year. The Senate must consider any bill offered by the committee regarding the renewal of any boards by December 31 of that same year.

The President and the Speaker also may direct those standing committees to review a board that is not triggered to expire during that biennium but for which the Director of the Legislative Service Commission (LSC) has performed a review (see "**LSC Director to issue a report of occupations**," below). The standing committees must review 33% of the occupational licensing boards in each biennium, and all boards must be reviewed at least once every six years. Additionally, LSC must provide staff services to a standing committee that reviews an occupational licensing board under the bill.⁶

Report submitted by occupational licensing board to committee

Under the bill, each occupational licensing board that appears before a standing review committee must submit a report that contains all of the following information:

- The board's primary purpose and its various goals and objectives;
- The board's past and anticipated workload, the number of staff required to complete that workload, and the board's total number of staff;
- The board's past and anticipated budgets and its sources of funding; and
- The number of members of its governing board or other governing entity and their compensation, if any.⁷

Evidence submitted by occupational licensing board to committee

The bill requires each occupational licensing board to demonstrate to the standing committee a public need for its continued existence. In determining whether a board has demonstrated that need, the standing committee must consider, as relevant, all of the following:

⁶ R.C. 101.63(A) and (D).

⁷ R.C. 101.63(B).



- Whether continuing the board is necessary to protect the public's health, safety, or welfare, and if so, whether the board's authority is narrowly tailored to protect against present, recognizable, and significant harms to the public's health, safety, or welfare;
- Whether the public could be protected or served in an alternate or less restrictive manner;
- Whether the board serves a specific private interest;
- Whether the board's rules are consistent with the legislative mandate expressed in the statutes that created and empowered the board;
- The extent to which:
 - The board's jurisdiction and programs overlap or duplicate those of other boards;
 - The board coordinates with those other boards;
 - The board's programs could be consolidated with the programs of other state departments or boards.
- How many other states regulate the occupation, whether a license is required to engage in the occupation in other states, whether the initial licensing and license renewal requirements for the occupation are substantially equivalent in every state, and the amount of regulation the board exercises compared to other states;
- The extent to which significant changes in the board's rules could prevent an individual licensed in Ohio from practicing, or allow an individual licensed in Ohio to practice, the same occupation in another jurisdiction without obtaining an occupational license for that occupation in that other jurisdiction;
- Whether the board recognizes national uniform licensure requirements for the occupation;
- Whether private contractors could be used, in an effective and efficient manner, either to assist the board in the performance of its duties or to perform those duties instead of the board;
- Whether the operation of the board has inhibited economic growth, reduced efficiency, or increased the cost of government;



- An assessment of the board's authority regarding fees, inspections, enforcement, and penalties;
- The extent to which the board has permitted qualified applicants to serve the public;
- The extent to which the board has permitted individuals to practice elements of the occupation without a license;
- The cost-effectiveness of the board in terms of number of employees, services rendered, and administrative costs incurred, both past and present;
- Whether the board's continued operation has been impeded or enhanced by existing statutes and procedures and by budgetary, resource, and personnel practices;
- Whether the board has recommended statutory changes to the General Assembly that would benefit the public as opposed to the persons the board regulates, if any, and whether its recommendations and other policies have been adopted and implemented;
- Whether the board has required any persons it regulates to report to it the impact of board rules and decisions on the public as they affect service costs and service delivery;
- Whether persons the board regulates, if any, have been required to assess problems in their business operations that affect the public;
- Whether the board has encouraged public participation in its rule-making and decision-making;
- The efficiency with which formal public complaints filed with the board have been processed to completion;
- Whether the purpose for which the board was created has been fulfilled, has changed, or no longer exists;
- Whether federal law requires that the board be renewed in some form;
- An assessment of the board's administrative hearing process, if the board has one, and whether that hearing process is consistent with due process rights;



- Whether the requirement for occupational licensure is consistent with the official state policy on occupational licensing (see "**Official state policy on occupational licensing and regulation**," below), serves a meaningful, defined public interest, and provides the least restrictive form of regulation that adequately protects the public interest;
- The extent to which licensing ensures that practitioners have occupational skill sets or competencies that are substantially related to protecting consumers from present, significant, and substantiated harms that threaten public health, safety, or welfare, and the impact that those criteria have on applicants, particularly those with moderate or low incomes, seeking to enter the occupation or profession;
- The extent to which the requirement for the occupational license stimulates or restricts competition, affects consumer choice, and affects the cost of services; and
- An assessment of whether changes are needed in the board's enabling laws for it to comply with the criteria suggested by the considerations listed above.⁸

The bill establishes that, for the purposes of reviewing a board, a government regulatory requirement protects or serves the public interest if it provides protection from present, significant, and substantiated harms to the health, safety, or welfare of the public.

Common Sense Initiative Office Chief to appear before standing committee

The bill requires the Senate President and the Speaker of the House to notify the Chief of the Common Sense Initiative Office (CSIO) when an occupational licensing board is identified to be reviewed by a standing committee to determine whether the board should be renewed.⁹ The Chief, or the Chief's designee, must appear before the committee and testify, with respect to the board, about at least all of the following:

- Whether CSIO has, within the past six years, received commentary related to the board under CSIO's process for adverse impact review;
- Whether CSIO has, within the past six years, received advice from the Small Business Advisory Council related to the board; and

⁸ R.C. 101.63(C)(1) through (27).

⁹ R.C. 101.64.

- Any other information the Chief believes will address the board's effectiveness and efficiency, and in particular, the quality of customer service the board provides.¹⁰

Requirements for report published by standing committee

Under the bill, a standing committee of the Senate or the House that has reviewed an occupational licensing board must publish a report of its findings and recommendations. The report may include information for more than one board the committee reviewed. The committee must send a copy of the report to the Senate President, the Speaker of the House, the Governor, and each affected board. The published report also must be made available to the public on the committee's website and in the offices of the Senate President and the Speaker of the House of Representatives during reasonable hours. As part of a report, a committee may present its recommendations to the General Assembly in bill form.¹¹

If the committee makes recommendations about a board in its report, the recommendations should indicate how the implementation of the recommendations will accomplish each of the following:

- Improving efficiency in the management of state government;
- Improving services rendered to Ohio citizens;
- Simplifying and improving preparation of the state budget;
- Conserving Ohio natural resources;
- Promoting the orderly growth of Ohio and its government;
- Promoting the idea that occupational regulations must be construed and applied to increase economic opportunities, promote competition, and encourage innovation;
- Providing for the least restrictive regulation by repealing the current regulation and replacing it with a less restrictive regulation that is consistent with the state's policies on occupational licensing (see "**Official state policy on occupational licensing and regulation**," below);

¹⁰ R.C. 101.64(A) through (C).

¹¹ R.C. 101.65(A).



- Improving the effectiveness of the services performed by the service departments of the state;
- Avoiding duplication of effort by state agencies or boards; and
- Improving the organization and coordination of the state government in one or more of the ways listed above.¹²

LSC Director to issue a report of bills

The bill requires the Director of LSC to issue a report of all bills introduced in the General Assembly that propose to substantially change or enact occupational regulations. An occupational regulation means a regulation or rule that controls an individual's (that is, a natural person's) practice of a trade or profession. The report must compare the regulatory scheme proposed in the legislation with the state's policies on occupational licensing (see "**Official state policy on occupational licensing and regulation**," below) with respect to proposing the least restrictive regulation to protect consumers from present, significant, and substantiated harms that threaten public health, safety, or welfare.

Under the bill, the Director of LSC must report on consequences of the legislation with respect to the following:

- Opportunities for employment within the occupation;
- Consumer choices and costs;
- Market competition; and
- Cost to government.¹³

The report also must include all of the following:

- A comparison of the regulatory scheme the bill proposes with the current regulatory scheme in other similar states for the same occupation and a consideration of the extent to which significant changes in the board's rules could prevent an individual licensed in Ohio from practicing, or allow an individual licensed in Ohio to practice, the same occupation in another jurisdiction without obtaining an occupational license for that occupation in that other jurisdiction;

¹² R.C. 101.65(B).

¹³ R.C. 103.26(A) and (B)(1) through (4).



- A comparison of the regulatory scheme the bill proposes with the policy of Ohio as set forth in the sections of the Revised Code governing the occupation that is the subject of the bill, if those sections include such a policy.

Additionally, the bill allows the sponsor of a bill substantially changing or enacting occupational regulation to submit relevant information to the Director of LSC to aid in the Director's report of the bill. The information submitted by the sponsor may include all of the following:

- Evidence of present, significant, and substantiated harms to consumers in Ohio;
- An explanation of why existing civil or criminal laws or procedures are inadequate to prevent or remedy any harm to the public;
- An explanation of why a less restrictive regulation consistent with the state's policies on occupational regulation is not proposed;
- The names of associations, organizations, or other groups representing the occupation seeking regulation and the approximate number of members in each in Ohio;
- The functions typically performed by members of this occupation and whether they are identical or similar to those performed by another occupation;
- Whether specialized training, education, or experience is required to engage in the occupation and, if so, how current practitioners acquired that training, education, or experience;
- Whether the proposed regulation would change the way practitioners of the occupation acquire any necessary specialized training, education, or experience, and if so, why;
- Whether any current practitioners of the occupation in Ohio lack whatever specialized training, education, or experience and how the proposed regulation would address that deficiency;
- Whether new entrants into the occupation would be required to provide evidence of any necessary training, education, or experience, or to pass an examination, or both;



- Whether current practitioners would be required to provide evidence of any necessary training, education, or experience, or to pass an examination, and, if not, why not;
- The expected impact of the proposed regulation on the supply of practitioners of the occupation and on the cost of services or goods provided by the occupation; and
- Information from others knowledgeable about the occupation, and the related economic factors.¹⁴

The bill requires the Director of LSC to provide the report in a timely manner. Any bill that proposes to substantially change or enact an occupational regulation cannot be reported out of committee until after the committee has received and considered the report, unless two-thirds of the committee members vote to favorably report the bill without the report.¹⁵

LSC Director to issue a report of occupations

The bill requires the LSC Director to issue a report of 33% of the occupations regulated by the state each biennium, beginning in 2019. All occupations must be reported on at least once before 2024, and at least once every six years after 2024. The Director may report on occupations on a schedule that coordinates with a standing committee's review of an occupational licensing board (see "**General Assembly to review occupational licensing boards**," above). The report must compare the current regulatory scheme with the state's policies on occupational regulation (see "**Official state policy on occupational licensing and regulation**," below). The Director must issue a report by December 1 of each even-numbered year during a biennium, and must send the report to the General Assembly and the Attorney General. The Director may require a department or board that regulates an occupation being reported on to submit relevant information to the Director.¹⁶

Additionally, the bill specifies its intention that for the first biennium, starting in 2019, LSC's review of 33% of the occupations regulated by the state will not consist of the same occupations reviewed by the standing committees of the General Assembly.

¹⁴ R.C. 103.26(C) and (D)(1) through (12).

¹⁵ R.C. 103.26(B) and (E).

¹⁶ R.C. 103.27.

The intent is that the General Assembly will review the same occupations previously reviewed by LSC in the biennium starting in 2021, and every biennium thereafter.¹⁷

Official state policy on occupational licensing and regulation

The bill establishes a state policy on occupational licensing and regulation of individuals (meaning natural persons), to be used when the General Assembly or other body is reviewing an occupational licensing board or the actions of a board. The policy states that occupational regulations must be construed and applied to increase economic opportunities, promote competition, and encourage innovation.

The bill defines an "occupational license" as a nontransferable authorization in law that an individual must possess in order to perform a lawful occupation for compensation based on meeting personal qualifications established by statute, or by a rule authorized by statute. An occupational license does not include a commercial or other driver's license issued under the Revised Code.

The bill defines an "occupational regulation" as a statute, policy, rule, adjudication order, practice, or other state law requiring an individual to possess certain personal qualifications to use an occupational title or work in a lawful occupation, and includes registration, certification, and occupational license. An occupational regulation does not include a business license, facility license, building permit or zoning and land use regulation, except to the extent those laws regulate an individual's personal qualifications to perform a lawful occupation. Additionally, the definition does not include Revised Code sections related to commercial or other driver's licenses.¹⁸

Where the state finds it necessary to displace competition, the bill requires the state to use the least restrictive regulation to protect consumers. The bill presumes that the least restrictive regulation is that which relies on market competition and private remedy to protect consumers.¹⁹

The bill also lists the appropriate state action to be taken to protect consumers from specific harms as follows:

¹⁷ Section 4 of the bill.

¹⁸ R.C. 4798.01(A) and 4798.02(A).

¹⁹ R.C. 4798.02(B).



- For regulations intended to protect consumers against fraud, the appropriate state action is to strengthen powers under the Deceptive Trade Practices Acts.²⁰
- For regulations intended to protect consumers against unsanitary facilities and general health, safety, or welfare concerns, the appropriate state action is to require periodic inspections.
- For regulations intended to protect consumers against potential damages to third parties who are not party to a contract between the seller and the buyer, and other externalities, the appropriate state action is to require bonding or insurance.
- For regulations intended to protect consumers against potential damages by transient providers, the appropriate state action is to require registration with the Secretary of State.
- For regulations intended to protect consumers against asymmetrical information between the seller and buyer, the appropriate state action is to offer voluntary certification, unless suitable, privately offered voluntary certification for the relevant occupation is available.
- For regulations intended to facilitate governmental reimbursement for providing medical services for an emerging medical specialty, the appropriate state action is to require a specialty occupational license for medical reimbursement.
- For regulations required to perform services regulated by both federal and Ohio laws, that require Ohio to recognize an individual's occupational license from another state or territory to allow that individual to practice in Ohio, and that are based on uniform national laws, practices, and examinations that have been adopted by at least 50 other states and territories, the appropriate state action is to require an occupational license.²¹

The bill limits enforcement of an occupational regulation to the extent that an individual sells goods or services that are included explicitly in the statute that defines the occupation's scope of practice. The bill also states that nothing in the bill is intended to restrict an occupational licensing board from requiring, as a condition of licensure or

²⁰ Chapters 1345. and 4165. of the Revised Code, not in the bill.

²¹ R.C. 4798.02(B)(1) through (6).



renewal of licensure, that an individual's personal qualifications include obtaining or maintaining a certification from a private organization that credentials individuals in the relevant occupation. Additionally, the bill states that the state policy contained in the bill preempts local law or regulation that is inconsistent with these provisions, to the extent that a political subdivision regulates an occupation that is also regulated by the state.²²

Least restrictive regulation

The bill defines "least restrictive regulation" as the public policy of relying on one of the following, listed from the least to the most restrictive, as a means of consumer protection:

- Market competition;
- Third-party or consumer-created ratings and reviews;
- Private certification;
- Specific private civil cause of action to remedy consumer harm;
- Actions under the Consumer Sales Practices Law;²³
- Regulation of the process of providing the specific goods or services to consumers;
- Inspection;
- Bonding or insurance;
- Registration;
- Government certification;
- Specialty occupational license for medical reimbursement; or
- Occupational license.²⁴

The bill declares that the state must use the least restrictive regulation under this policy that will protect consumers from significant and present harms.

²² R.C. 4798.02(C) and (D) and 4798.03.

²³ Chapter 1345. of the Revised Code, not in the bill.

²⁴ R.C. 4798.01.



Criminal conviction disqualifications

The bill allows an individual who has been convicted of a criminal offense to request that a licensing authority determine whether that conviction disqualifies the individual from obtaining a license issued or conferred by the licensing authority. A request must include the details of an individual's criminal conviction and any fee required by the licensing authority, not to exceed \$25 per request. The licensing authority must inform the individual of its determination within 30 days from receiving the request. However, the licensing authority is not bound by its determination if, upon further investigation, it finds out that the criminal convictions of the individual differ from what was included in the request.

Under the bill, a licensing authority is a board, commission, or other entity that issues licenses under Title 47 or any other Revised Code provision to practice an occupation or profession or is a political subdivision that issues a license or that charges a fee for an individual to practice an occupation or profession in that political subdivision.

Additionally, the bill requires a licensing authority to make available on its public website a list of all criminal offenses of which conviction of that offense would disqualify an individual from obtaining a license issued or conferred by the licensing authority.²⁵

Rules prescribed by the Ohio Supreme Court

The bill specifies that it does not apply to any rules prescribed by the Ohio Supreme Court. Under the Ohio Constitution, the Ohio Supreme Court is authorized with prescribing rules governing the practice and procedure in all courts of state, including rules to require uniform record keeping and rules governing the admission to the practice of law and discipline of persons admitted to practice law.²⁶

Licensure of home inspectors

Ohio law currently does not require licensure or registration of home inspectors. Beginning 210 days after the bill's effective date, the bill prohibits any person from knowingly conducting a home inspection or representing a qualification to conduct a home inspection for compensation or other valuable consideration unless that person is licensed pursuant to the bill as a home inspector or is performing a parallel inspection

²⁵ R.C. 9.78.

²⁶ Section 3 of the bill. See Ohio Const., art. IV, sec. 5.



as described under "**Definitions**," below.²⁷ A person who violates this prohibition is guilty of a first degree misdemeanor.²⁸

The bill defines "home inspection" as the process by which a home inspector conducts a visual examination of the readily accessible components of a residential building for a client. Home inspection does not include pest inspections; environmental testing; inspection of any property or structure conducted by an employee or representative of an Ohio-licensed insurer licensed for purposes related to the business of insurance; or determination of compliance with applicable statutes, rules, resolutions, or ordinances, including, without limitation, building, zoning, or historic codes. A client, under the bill, is a person who enters into a contract with a licensed home inspector to retain for compensation or other valuable consideration the services of that licensed home inspector to conduct a home inspection and to provide a written report on the condition of a residential building.²⁹

Beginning 210 days after the bill's effective date, home inspections must be performed pursuant to a written contract entered into by a licensed home inspector and a client. Also, after that time period elapses, all home inspections must conform to the requirements specified in rules adopted by the Ohio Home Inspector Board (see "**Duties of the Board**," below).

The bill also prohibits a person, beginning 210 days after the bill's effective date, from knowingly making or causing to be made a false representation concerning a material and relevant fact relating to a person's licensure as a home inspector. Violation of the prohibition is a fifth degree felony.³⁰

The bill permits the Superintendent of Real Estate and Professional Licensing (who administers and enforces the bill) to apply to any court of common pleas to enjoin a violation of the bill. On a showing by the Superintendent that a person has violated or is violating the bill, the court must grant an injunction, restraining order, or other appropriate relief.³¹ The bill also permits the Superintendent to investigate, and the Board to impose a fine against, any person who conducts a home inspection without a

²⁷ R.C. 4764.02(A) and Section 5 of the bill.

²⁸ R.C. 4764.99(A).

²⁹ R.C. 4764.01(A) and (C).

³⁰ R.C. 4764.02 and 4764.99(B) and Section 5 of the bill.

³¹ R.C. 4764.15.



license or otherwise violates the prohibitions described immediately above (see "**Sanctions against unlicensed activity**," below).³²

Persons not subject to the bill

The bill specifies that the prohibitions described under "**Licensure of home inspectors**," above do not apply to any of the following persons when acting within the scope of practice of their respective professions:

- A person who is employed by or whose services otherwise are retained by Ohio or a political subdivision of Ohio for the purpose of enforcing building codes;
- A person holding a valid certificate to practice architecture issued under the Architects Law;³³
- A person registered as a professional engineer under the Professional Engineers and Professional Surveyors Law;³⁴
- A heating, ventilating, and air conditioning contractor, refrigeration contractor, electrical contractor, plumbing contractor, or hydronics contractor who is licensed under the Construction Industry Licensing Board Law or by a county under the Building Standards Law, or who is licensed or registered by a municipal corporation under the Municipal Corporations–General Powers Law;³⁵
- A real estate broker, real estate salesperson, foreign real estate dealer, or foreign real estate salesperson who is licensed under the Real Estate Broker Law;³⁶
- A real estate appraiser who is licensed under the Real Estate Appraiser Law;³⁷

³² R.C. 121.08 and 4764.16.

³³ R.C. Chapter 4703.

³⁴ R.C. Chapter 4733.

³⁵ R.C. Chapter 4740. and R.C. 715.27 and 3781.102, not in the bill.

³⁶ R.C. Chapter 4735.

³⁷ R.C. Chapter 4763.



- A public insurance adjuster who holds a valid certificate of authority issued under the Public Insurance Adjusters Law³⁸ or an employee or representative of an Ohio-licensed insurer who conducts an inspection of any property or structure for purposes related to the business of insurance;
- A commercial applicator of pesticide who is licensed under the Pesticides Law.³⁹

Ohio Home Inspector Board

The bill creates the Ohio Home Inspector Board consisting of seven members. Not more than four members of the Board can be members of the same political party. The President of the Senate and the Speaker of the House of Representatives each must appoint one member who represents the public and has no financial interest in the home inspection industry. The bill requires the Governor to appoint five members who are licensed home inspectors. Persons appointed to the Board during the first year after the bill's effective date need not be licensed as required under the bill.

The Governor, President of the Senate, and Speaker of the House of Representatives must make the initial appointments to the Board not later than 90 days after the bill's effective date. Board members serve five-year terms, and the bill staggers the terms of the initial appointees. The bill includes the standard vacancy provisions. The bill permits a member to be removed for misconduct, neglect of duty, incapacity, or malfeasance by the person who, or office that, appointed the member. Board members are not compensated but must be reimbursed for actual expenses reasonably incurred in the performance of their duties as members.

The Board is part of the Department of Commerce for administrative purposes. The Director of Commerce is the *ex officio* executive officer. The Director may, however, designate the Superintendent as the executive officer.⁴⁰

Duties of the Board

The bill requires the Board, not later than 180 days after the bill's effective date, to adopt rules in accordance with the Administrative Procedure Act to do all of the following:

³⁸ R.C. Chapter 3951.

³⁹ R.C. Chapter 921. and R.C. 4764.03.

⁴⁰ R.C. 4764.04 and Section 6 of the bill.



(1) Establish standards to govern issuance, renewal, suspension, and revocation of licenses; other sanctions that can be imposed for violating the bill; disciplinary proceedings conducted in accordance with the bill (see "**Hearings and disciplinary action**," below); and the process of reactivating a license;

(2) In accordance with the bill's requirements, specify methods and procedures the Board must use to approve an education curriculum individuals must successfully complete to obtain a license;

(3) In accordance with the bill's requirements, specify methods and procedures the Board must use to approve an experience curriculum that an individual may elect to complete to satisfy the proof of experience requirement for obtaining a license;

(4) Establish the administrative reporting and review requirements for parallel inspections or field experience to assure that an applicant for a license satisfies the requirements to obtain a license;

(5) Establish a curriculum for continuing education that a licensed home inspector must complete to satisfy the requirements for continuing education specified in the bill and procedures to assure continuing education requirements are updated periodically to make those requirements consistent with home inspection industry practices;

(6) Establish requirements an institution or organization must satisfy to obtain approval to provide courses or programs that enable a licensed home inspector to satisfy the continuing education requirements and establish procedures that the Superintendent must use to approve an institution or organization that satisfies the Board's requirements;

(7) Establish procedures and standards that the Superintendent must use to approve courses and programs, including online courses and programs, offered by an institution or organization that is approved by the Superintendent to offer continuing education courses or programs;

(8) Establish the amount of the following fees in an amount that is sufficient to defray necessary expenses incurred in the administration of the bill: (a) the application and licensure fee and the special assessment for the Home Inspection Recovery Fund, which together must not exceed \$250, (b) the renewal fee and special assessment, which together must not exceed \$250, (c) the late renewal fee, (d) the fee an entity described in (6) above must pay to receive approval to offer continuing education courses and programs, (e) the fee an approved entity must pay for each continuing education course



or program that the entity wishes to have the Superintendent approve pursuant to the rules adopted by the Board, and (f) any other fees as required by the bill;

(9) Establish reporting requirements for a licensed home inspector to follow to demonstrate that the licensed home inspector successfully completed the continuing education requirements;

(10) Establish requirements for conducting home inspections and standards of practice for home inspectors and conflict of interest prohibitions to the extent that those provisions do not conflict with the prohibited activities described in (1) to (4) under "**Grounds for refusing to issue or renew a license**," below;

(11) Specify requirements for settlement agreements entered into between the Superintendent and a licensed home inspector pursuant to the procedure specified under "**Settlement agreements**," below.

(12) Establish procedures for providing a licensed home inspector with notice and applications for renewal;

(13) Establish a set of standards of practice and canons of ethics for the home inspection industry;

(14) Establish directions for the Superintendent to follow regarding the scheduling, instruction, and offerings of home inspection courses a person must successfully complete to obtain a license;

(15) Establish requirements a licensed home inspector must satisfy to obtain approval to prepare and conduct peer review sessions described under "**Examination and curriculum requirements**," below.⁴¹

The bill also requires the Board to do all of the following:

(1) On appeal by an affected party, or on its own motion, review orders and application determinations made by the Superintendent, and as the Board determines necessary, reverse, vacate, modify, or sustain the orders or determinations;

(2) Hear appeals from orders made by the Superintendent regarding claims against the Home Inspection Recovery Fund;

(3) Disseminate to licensees and the public information relative to the Board's activities and decisions;

⁴¹ R.C. 4764.05(A) and Section 7 of the bill.

(4) Notify licensees of changes in state and federal laws pertaining to home inspections and relevant case law and inform licensees that they are subject to disciplinary action if they do not comply with the changes.⁴²

Duties of the Superintendent of Real Estate and Professional Licensing

The bill requires the Superintendent to administer the bill and exercise the powers and perform the functions and duties delegated to the Superintendent under the bill. This responsibility includes all of the following:

(1) Specify the format and content of all affidavits and other documents required for the administration of the bill;

(2) Specify the information that must be provided on an application for a license;

(3) Establish procedures for processing, approving, and denying applications for licensure;

(4) Issue all orders necessary to implement the bill;

(5) Provide the Board with meeting space, staff services, and other technical assistance required by the Board to carry out its duties;

(6) Provide each applicant for a home inspector license with a copy of the requirements for home inspections specified in rules adopted by the Board (see "**Duties of the Board**," above), and make those requirements available to the public by posting them on the Department of Commerce website;

(7) Issue and renew licenses for any person who satisfies the requirements of the bill, and make a list of licensed home inspectors available to the public by posting the list on the Department's website;

(8) Establish procedures to have fingerprint-based criminal records checks conducted by the Bureau of Criminal Identification and Investigation on all applicants for a license in accordance with current law requirements for those checks;

(9) Investigate, in accordance with "**Enforcement**," below, complaints concerning an alleged violation of the bill or conduct of a licensee and subpoena witnesses in connection with those investigations;

⁴² R.C. 4764.05(B).



(10) Establish and maintain an investigation and audit section to investigate complaints and conduct inspections, audits, and other inquiries adjudged by the Superintendent to be appropriate to enforce the bill;

(11) Administer the Home Inspector Recovery Fund;

(12) Appoint a hearing officer for any proceeding involving a determination described under "**Child support orders**," "**Enforcement**," or "**Sanctions against unlicensed activity**," below.⁴³

Application for licensure

To obtain a license to perform home inspections, a person must submit an application on a form the Superintendent provides and the application and licensure fee established in rules adopted by the Board to the Superintendent.⁴⁴ Each person applying for a license also must submit one complete set of fingerprints to the Superintendent of the Bureau of Criminal Identification and Investigation (BCII) for a criminal records check. The applicant must provide the fingerprints in a manner prescribed by the BCII Superintendent and fill out a form prescribed by the BCII Superintendent under current law. On receiving an application for a license, the Superintendent of Real Estate and Professional Licensing must request a criminal records check based on the fingerprints from the BCII Superintendent or a vendor approved by BCII to conduct a criminal records check. The Superintendent of Real Estate and Professional Licensing must request criminal record information from the Federal Bureau of Investigation as part of the criminal records check. The fee related to the criminal records check must be paid by the applicant.⁴⁵

The applicant also must satisfy the following requirements and the application must include all of the following:

(1) A pledge the applicant signs, agreeing to comply with the rules adopted by the Board establishing requirements for conducting home inspections and standards of practice for home inspectors and conflict of interest prohibitions and a statement that the applicant understands the grounds for any disciplinary action that may be initiated under the bill;

⁴³ R.C. 121.08 and 4764.06.

⁴⁴ R.C. 4764.07(A).

⁴⁵ R.C. 109.572, 121.08, 4764.07(B), and 4776.10.



(2) Proof of holding a comprehensive general liability insurance policy or a commercial general liability insurance policy as described under "**Liability insurance policy requirements**," below;

(3) Proof of successfully passing, within two years before the application date, the National Home Inspector Examination offered by the Examination Board of Professional Home Inspectors;

(4) Proof of successfully completing an education curriculum approved by the Board;

(5) Proof that the applicant has experience in the field of home inspections by successfully completing an experience curriculum approved by the Board or by successfully completing ten parallel inspections or equivalent experience as determined by the Board;

(6) Proof that the applicant is at least 18 and has graduated from the 12th grade, received a general educational development diploma, or satisfactorily completed a program that is the equivalent to graduating from the 12th grade or receiving a general educational development diploma;

(7) Any other information the Board requires that the Board determines is relevant to receiving a license to practice as a licensed home inspector.⁴⁶

The bill prohibits the Superintendent from requiring an architect certified under the Architects Law or a professional engineer registered under the Professional Engineers and Professional Surveyors Law who wishes to obtain a license to perform home inspections to submit proof of education and experience as required under (4) and (5) immediately above. Such a person, however, must satisfy all other requirements specified to obtain a license and provide proof of licensure in good standing in order to receive a license.⁴⁷

The bill specifies that the act of submitting an application to the Superintendent does not create, must not be construed as creating, and is not intended to indicate licensure as a home inspector. The Superintendent must issue a license to an applicant who satisfies the requirements set forth in the bill.⁴⁸

⁴⁶ R.C. 4764.07(D).

⁴⁷ R.C. 4764.07(E).

⁴⁸ R.C. 4764.07(C) and (F).

Examination and curriculum requirements

The bill requires the Board to approve a curriculum of education that a person must successfully complete to obtain a license. The Board must approve only an education curriculum that satisfies all of the following requirements:

- The curriculum is offered by an accredited public or private institution of higher education or a professional organization that has been approved by the Board to offer a curriculum.
- The curriculum includes a requirement that a person, to successfully complete the curriculum, complete at least 80 hours of classroom or online prelicensing education, including instruction about compliance with the bill's requirements, inspection safety, report writing, and any other administrative matters required by the Board.
- The curriculum satisfies any other requirements the Board established in rules it adopts.⁴⁹

The Board must determine the equivalency of field experience that an individual may elect to complete to satisfy the proof of experience requirement. The Board must approve only a curriculum of experience that includes a requirement that, to successfully complete the curriculum, a person must perform at least 40 hours of work in the home inspection field that allows the person to obtain practical experience or training regarding home inspections. The Board must approve only a curriculum that includes a requirement that, to successfully complete the curriculum, a person must complete a peer review session with a licensed home inspector. The peer review session can be used as part of the required 80 hours of prelicensing education. A "peer review session" is a practical exercise in which a prospective applicant for a home inspector license identifies and reports defects in a residential building that contains previously identified defects for the purpose of evaluating the prospective applicant's ability to conduct a home inspection and prepare a home inspection report.⁵⁰

Issuing a license

The bill requires the Superintendent to issue a home inspector license to any person who satisfies the requirements for licensure. The Superintendent cannot, however, issue a license to a corporation, limited liability company, partnership, or association, but a licensed home inspector may sign a home inspection report in a

⁴⁹ R.C. 4764.05(C).

⁵⁰ R.C. 4764.01(I) and 4764.05(D).



representative capacity for any of those entities.⁵¹ A home inspector license issued or renewed pursuant to the bill expires three years after the date of issuance or renewal.⁵²

Grounds for refusing to issue or renew a license

The bill allows the Superintendent to refuse to issue or renew a license to anyone who has done any of the following:

(1) Accepted compensation or other valuable consideration from more than one interested party for the same service without the written consent of all interested parties;

(2) Accepted commissions, allowances, or other valuable consideration, directly or indirectly, from other parties who deal with a client in connection with the home inspection for which the home inspector is responsible or from other parties who are involved in any part of the real estate transaction involving a residential building for which that home inspector conducted a home inspection;

(3) Repaired, replaced, or upgraded, or solicited to repair, replace, or upgrade, for compensation or other valuable consideration, systems or components in a residential building after completing a home inspection of that residential building but before the close of the real estate transaction associated with the home inspection and resolution of all contingent issues involving the building and the transaction;

(4) Before entering into a written contract with a client, failed to disclose to the client information about any business interest of the home inspector that may affect the client in connection with the home inspection;

(5) Pleaded guilty to or been convicted of a crime of moral turpitude, a felony, or an equivalent offense under the laws of any state other than Ohio or the United States, or was required to register under Ohio Sexual Predators, Habitual Sex Offenders, and Sexually Oriented Offenders Law;⁵³

(6) Failed to maintain or provide copies of records to the Superintendent or failed to cooperate with an investigation conducted by the Superintendent as required by the bill (failure to provide a document related to services as a home inspector pursuant to a subpoena described under "**Subpoena powers**" below is prima facie evidence that the person did not retain the document in the manner required under the bill);

⁵¹ R.C. 4764.06(B) and 4764.07(C).

⁵² R.C. 4764.09(A).

⁵³ R.C. Chapter 2950.



(7) Failed to maintain, be covered by, or submit proof of a comprehensive general liability insurance policy or a commercial general liability insurance policy as described under "**Liability insurance policy requirements**," below;

(8) Violated rules adopted by the Board or otherwise failed to comply with the bill;

(9) Failed to establish to the satisfaction of the Superintendent that the applicant is honest, truthful, and of good reputation;

(10) Failed to submit proof of satisfying the bill's continuing education requirements.⁵⁴

Liability insurance policy requirements

The bill requires every licensed home inspector to maintain, or be covered by, a comprehensive general liability insurance policy or a commercial general liability insurance policy with coverage limits of not less than \$100,000 per occurrence and not less than a \$300,000 aggregate limit. The insurance policy must provide coverage against liability of the licensed home inspector for loss, damage, or expense as a result of an act that occurred while the licensed home inspector was on the premises performing a home inspection. If the employer of a licensed home inspector maintains the insurance policy covering the licensed home inspector, and the employer is not a licensed home inspector, the licensed home inspector is not required to maintain the licensed home inspector's own insurance policy.⁵⁵

Grandfathering provision

During the period of time beginning on the date the last initial Board member is appointed and ending 120 days after that date, the Superintendent must issue a home inspector license if an individual satisfies the requirements specified below. The individual must apply for a license on a form the Superintendent provides, pay the fee the Board establishes, and demonstrate proof of maintaining or being covered by a comprehensive general liability insurance policy or a commercial general liability insurance policy as described under "**Liability insurance policy requirements**," above. The applicant also must submit proof by direct documentation or signed affidavit attesting to having met any three of the following requirements to demonstrate participation in the home inspection field before the bill's effective date:

⁵⁴ R.C. 4764.14.

⁵⁵ R.C. 4764.11(A).



(1) Having performed at least 200 home inspections for clients for compensation or other valuable consideration;

(2) Having successfully passed the National Home Inspector Examination offered by the Examination Board of Professional Home Inspectors;

(3) Having actively operated a home inspection business in Ohio for three years before the bill's effective date under a business name officially registered with the Secretary of State;

(4) Having been employed as a home inspector for the consecutive 36 months before the bill's effective date by an inspection company or individual whose owner or manager meets the license requirement specified in the bill;

(5) Having successfully completed 80 hours of instruction of a type described under "**Continuing education**," below;

(6) Having a license, registration, or certification in good standing to perform the duties of a home inspector in another jurisdiction that has requirements for licensure, registration, or certification that are substantially similar to the bill;

(7) Having prepared at least five home inspection reports that have been verified as being in compliance with standards adopted by a national organization that consists of and represents home inspectors;

(8) Having completed, not more than one year before the bill's effective date, at least one peer review session conducted by a national organization that consists of and represents home inspectors.

The applicant also must submit proof of signing a pledge agreeing to comply with the requirements for conducting home inspections and standards of practice and conflict of interest prohibitions established in rules adopted by the Board, and, in a written statement, acknowledge that the individual understands the grounds for any disciplinary action that may be initiated under the bill. The Superintendent must have a fingerprint-based criminal records check conducted on any applicant who applies for a license under the grandfathering provision in accordance with the requirements specified in continuing law and the procedures the Board adopts in rules. A license issued under the grandfathering provision is valid for three years and can be renewed in accordance with the bill's renewal procedure.⁵⁶

⁵⁶ Section 8 of the bill.

Reciprocity

The bill permits the Superintendent to issue a home inspector license to an applicant who holds a license, registration, or certification as a home inspector in another jurisdiction if that applicant submits an application on a form the Superintendent provides, pays the fee the Board prescribes, and satisfies all of the following requirements:

(1) The applicant is licensed, registered, or certified as a home inspector in a jurisdiction the Board determines grants the same privileges to persons licensed under the bill as Ohio grants to persons in that jurisdiction, and that jurisdiction has licensing, registration, or certification requirements that are substantially similar to, or exceed, those of Ohio.

(2) The applicant attests that the applicant is familiar with and will comply with the bill.

(3) The applicant attests to all of the following in a written statement that the applicant submits to the Superintendent:

- To provide the Superintendent the name and address of an agent to receive service of process in Ohio or that the applicant authorizes the Superintendent to act as agent for that applicant;
- That service of process in accordance with Ohio law is proper and the applicant is subject to the jurisdiction of Ohio courts;
- That any cause of action arising out of the conduct of the applicant's business in Ohio must be filed in the county in which the events that gave rise to that cause of action occurred.⁵⁷

Real estate brokers and salespersons

The bill requires a real estate broker or salesperson who provides the name of a home inspector to a purchaser or seller of real estate to provide at least three names. Any home inspector named by the broker or salesperson at the request of a buyer or seller must be licensed under the bill. Providing a purchaser or seller with the names of licensed home inspectors does not constitute an endorsement or recommendation of those inspectors and does not obligate the broker or salesperson to satisfy any due diligence requirements with respect to the licensed home inspectors.

⁵⁷ R.C. 4764.10.



Under the bill, a broker or salesperson is not required to provide a purchaser or seller with information on home inspection services or home inspectors. No cause of action arises against a broker or salesperson for providing or failing to provide the names of licensed home inspectors or information on home inspection services or for failing to recommend a home inspector to a purchaser or seller.⁵⁸

If a real estate broker or salesperson provides a buyer or seller with the names of home inspectors, but fails to provide the names of at least three licensed home inspectors, the bill allows the Superintendent to initiate disciplinary action against the broker or salesperson or serve a citation and impose sanctions on the broker or salesperson.⁵⁹ Disciplinary actions, citations, and sanctions against brokers and salespersons are governed by the Real Estate Brokers Law.⁶⁰

Record keeping

Under the bill, a licensed home inspector must retain for a period of five years the original or a true copy of each written contract for the licensee's services relating to home inspection work, all home inspection reports, and all documentation and data assembled in preparing those reports. The retention period begins on the date the report is submitted to the client unless, before the retention period expires, the licensee is notified that the services or report is the subject of or is otherwise involved in pending investigation or litigation, in which case the retention period begins on the date of final disposition of the litigation. The licensee must make the records available for inspection and copying by the Superintendent on reasonable notice to the licensee.⁶¹

License renewal

Any home inspector license issued or renewed under the bill expires three years after the issuance or renewal date.⁶² To renew a home inspector license, a licensed home inspector must file all of the following with the Superintendent within the 90-day period immediately preceding the date the license expires:

- (1) A renewal application pursuant to the procedures established by the Board;

⁵⁸ R.C. 4735.22.

⁵⁹ R.C. 4735.181, with a conforming change in R.C. 4735.99.

⁶⁰ R.C. Chapter 4735.

⁶¹ R.C. 4764.11(B).

⁶² R.C. 4764.09(A).



(2) Proof of holding or being covered by a comprehensive general liability insurance policy or a commercial general liability insurance policy as described under "**Liability insurance policy requirements**," above;

(3) Proof of satisfying the bill's continuing education requirements.⁶³

The Superintendent must renew a home inspector license for any person who satisfies the bill's requirements for renewal.⁶⁴

A licensed home inspector who fails to renew a license before its expiration may, during the three months following the expiration, renew the license by paying a late fee in an amount the Board establishes in addition to meeting the criteria for license renewal. The bill prohibits a licensed home inspector who applies for a late renewal during the three-month period from engaging in any activities the license being renewed permits until the Superintendent notifies the licensed home inspector that the license has been renewed.⁶⁵

Under the bill, a licensed home inspector who fails to submit the proof of insurance or continuing education required or fails to renew during the required time periods may obtain a license by applying for a new license.⁶⁶

Continuing education

During each three-year period that a license is valid, the bill requires a licensed home inspector to successfully complete not less than 14 hours of continuing education instruction annually in courses or programs directly applicable to the standards of practice and requirements specified in rules adopted by the Board. The Superintendent must accept only those courses and programs the Superintendent approves in accordance with the requirements and procedures described below before the date the licensed home inspector completes the course or program. The bill prohibits the Superintendent from including parallel inspections completed by a person for credit toward satisfying the continuing education requirements.⁶⁷

The bill requires the Superintendent, in accordance with the procedures specified in rules adopted by the Board, to approve an institution or organization wishing to

⁶³ R.C. 4764.09(B)(1).

⁶⁴ R.C. 4764.06(A)(4).

⁶⁵ R.C. 4764.09(B)(2).

⁶⁶ R.C. 4764.09(C).

⁶⁷ R.C. 4764.08.

provide continuing education courses or programs if that institution or organization satisfies the requirements specified in those rules and pays the fee established in rules the Board adopts. Additionally, the Superintendent, in accordance with the procedures specified in rules adopted by the Board, must approve a course or program that a licensed home inspector may complete to satisfy the bill's continuing education requirements if all of the following are satisfied:

- The course or program is offered by an institution or organization approved by the Superintendent;
- The course or program satisfies the standards established in rules adopted by the Board;
- The institution or organization pays the fee established in rules adopted by the Board.⁶⁸

Enforcement

Preinvestigation settlements

Within five business days after a person files a complaint against a licensed home inspector with the Superintendent, the bill requires the Superintendent to provide to that person an acknowledgment of the receipt of the complaint and send a notice regarding that complaint to the licensee who is the subject of the complaint. The Superintendent must include in that notice a description of the activities in which the licensed home inspector allegedly engaged that violate the bill. Within 20 days after the Superintendent sends the notice to the complainant and that licensed home inspector, the complainant and the licensed home inspector may file with the Superintendent a request to have an informal mediation hearing. If both the complainant and the licensed home inspector file such a request, the Superintendent must notify the complainant and the licensed home inspector of the date and time of the informal mediation hearing.

A mediator employed by the Superintendent must conduct the informal mediation hearing. If the complainant and the licensed home inspector reach an accommodation during that informal mediation hearing, the mediator must send a written report describing the accommodation to the Superintendent, complainant, and licensee. Notwithstanding the bill's provision that allows the Superintendent to release information relating to licensees to specified parties for the purpose of administering continuing law, the written report describing the accommodation is confidential and is not a public record for purposes of Ohio's Public Records Law. The bill requires the

⁶⁸ R.C. 4764.06(A).

Superintendent to close the complaint on satisfactory completion of the accommodation. If the licensee or the complainant fails to file a request for an informal mediation hearing, or if the parties fail to agree on an accommodation during that informal mediation hearing, the Superintendent must proceed with an investigation of the complaint.⁶⁹

Investigations

Under the bill, the Superintendent may investigate complaints against licensed home inspectors on receipt of a written complaint concerning any alleged violation of the bill or on the Superintendent's or Board's motion and subpoena any witnesses in connection with those investigations. The investigators and auditors employed by the Superintendent may review and audit, during normal business hours, the licensed home inspector's business records that are directly related to complaints. The licensed home inspector must permit this review and audit.⁷⁰ As discussed above, the bill requires the Superintendent to establish and maintain an investigation and audit section to investigate complaints and conduct inspections, audits, and other inquiries as in the judgment of the Superintendent are appropriate to enforce the bill. The Superintendent may employ investigators and auditors to assist in investigating complaints and conducting investigations, audits, and other inquiries that the Superintendent considers appropriate to enforce the bill. Additionally, the bill permits the Superintendent to utilize the investigators and auditors employed pursuant to the Real Estate Broker Law or licensees to assist in performing the Superintendent's investigation and audit duties.⁷¹

The bill does not prohibit the Superintendent from releasing information relating to a licensed home inspector to the Superintendent of Financial Institutions, the Superintendent of Insurance, the Commissioner of Securities, a law enforcement officer, the Attorney General, or the appropriate prosecutorial authority. The information released remains confidential.⁷²

Subpoena powers

The bill permits the Board or the Superintendent to compel, by order or subpoena, the attendance of witnesses to testify in relation to any matter over which the Board or Superintendent has jurisdiction and that is the subject of inquiry and

⁶⁹ R.C. 4764.12(B) and R.C. 149.43, not in the bill.

⁷⁰ R.C. 4764.06(A)(10) and 4764.12(A).

⁷¹ R.C. 4767.06(A)(11).

⁷² R.C. 4764.12(C).



investigation by the Board or Superintendent, and require the production of any book, paper, or document pertaining to that matter. For that purpose, the bill grants the Board or Superintendent the same power as judges of county courts to administer oaths, compel the attendance of witnesses, and punish them for refusal to testify. The bill specifies procedures for the service of a subpoena and requires witnesses to receive the fees and mileage allowed in lawsuits in courts of common pleas. If two or more witnesses travel together in the same vehicle, only one witness receives the mileage fee, but the witnesses may agree to divide the fee in a manner they choose.⁷³ In addition to the powers granted to the Board and Superintendent described immediately above, in case any person fails to file any statement or report, obey any subpoena, give testimony, answer questions, or produce any books, records, or papers as required by the Board or Superintendent, the bill permits the court of common pleas of any county in Ohio, on application made to it by the Board or Superintendent setting forth such failure, to (1) make an order awarding process of subpoena or subpoena duces tecum for the person to appear and testify before the Board or Superintendent, and (2) order any person to give testimony and answer questions and to produce books, records, or papers, as required by the Board or Superintendent.

The bill specifies duties for the clerk of the court of common pleas that files that order regarding the process of the subpoena and issuing any additional orders. The subpoena may contain a direction that the witness bring to the examination any books, records, or papers mentioned in the subpoena. If any person summoned by subpoena fails to obey the subpoena, to give testimony, to answer questions as required, or to obey an order of the court, the bill permits the court, on motion supported by proof, to order an attachment for contempt to be issued against the person charged with disobedience of any order or injunction issued by the court under the bill. If the person is brought before the court by virtue of the attachment, and if on a hearing the disobedience appears, the court may order the offender to be committed and kept in close custody.⁷⁴

Hearings and disciplinary action

If, on examining the results of an investigation, the Superintendent determines that reasonable evidence exists that a licensed home inspector has violated the bill's provisions or engaged in an activity described in (1) to (6) and (9) under "**Grounds for refusing to issue or renew a license**," above, the bill requires the Superintendent to proceed in accordance with the notice and hearing requirements prescribed in the Administrative Procedure Act. After a hearing officer conducts a hearing and issues a

⁷³ R.C. 4764.12(D).

⁷⁴ R.C. 4764.12(E).



report and recommendations, the bill requires the Board to review the report and recommendations and order the disciplinary action the Board considers appropriate, which may include any one or more of the following:

- (1) A reprimand;
- (2) A fine not exceeding \$1,000 per violation;
- (3) Completion of hours of education in subjects related to the underlying cause of the violation in an amount determined by the Board;
- (4) Suspension of the license until the licensed home inspector complies with conditions the Board establishes;
- (5) Suspension of the license for a specific period of time;
- (6) Revocation of the license;
- (7) Surrender of license in lieu of discipline.⁷⁵

The bill prohibits the Superintendent from crediting any hours of education a licensed home inspector completes in accordance with (3) above toward satisfying the bill's continuing education requirements.

The bill requires the Superintendent to appoint a hearing officer to conduct adjudication hearings in accordance with the Administrative Procedure Act. In accordance with the Administrative Procedure Act, after conducting a hearing, a hearing officer must submit to the Board a report of the hearing and a recommendation for the action to be taken against the licensed home inspector. All parties may file objections to the report and recommendations as permitted under the Act. The Board must issue an order in accordance with the procedures prescribed by the Act.

If the Board assesses a licensee a fine for committing a prohibited act and the licensee fails to pay the fine in the time period prescribed by the Board, the Superintendent must forward the name of the licensee and the amount of the fine to the Attorney General to collect the fine. The licensee must additionally pay the fee assessed by the Attorney General for collection of the fine.⁷⁶

⁷⁵ R.C. 4764.13(A).

⁷⁶ R.C. 4764.13(B), (D), and (E).



Under the bill, the decision of the Board is final, subject to review under the Administrative Procedure Act and appeal to the Franklin County Court of Common Pleas.⁷⁷

Settlement agreements

Under the bill, at any time after the Superintendent notifies a licensed home inspector that a hearing will be held but before the date of the hearing, the licensed home inspector may apply to the Superintendent to enter into a settlement agreement regarding the alleged violation. The Superintendent and the licensed home inspector must comply with the requirements for settlement agreements established in rules adopted by the Board. If the parties enter into the settlement agreement and comply with all of the requirements set forth in that agreement, the bill states that the investigation regarding that alleged violation is considered closed. The settlement agreement is a public record for purposes of Ohio's Public Records Law.⁷⁸

Child support orders

On receipt of a notice that a licensed home inspector is in default under a child support order under the procedures established under existing law, the bill requires the Superintendent to comply with the requirements of that law and any rules adopted pursuant to it with respect to a license issued under the bill.⁷⁹

Human trafficking

The bill requires the Superintendent to comply with the current law procedures in the event a licensed home inspector is convicted of, or pleads guilty to, the offense of trafficking in persons.⁸⁰

Sanctions against unlicensed activity

The bill specifies an additional sanction against an unlicensed person who does any of the following:

- (1) Knowingly performs a home inspection;

⁷⁷ R.C. 4764.13(F).

⁷⁸ R.C. 4764.13(C).

⁷⁹ R.C. 4764.19.

⁸⁰ R.C. 4764.20 and 4776.20.



(2) Knowingly represents that the person is qualified to perform a home inspection;

(3) Knowingly makes a false representation concerning a material and relevant fact relating to the person's license (it is unclear whether this is unlicensed activity, or if this provision results in additional discipline against a licensee);

(4) Performs a home inspection in a manner that does not conform to Board rules;

(5) Performs a home inspection without entering into a contract.

On receipt of a written complaint or upon the motion of the Superintendent, the bill permits the Superintendent to investigate any unlicensed person who has allegedly violated those prohibitions.⁸¹

The bill grants the Superintendent the same powers to investigate an alleged violation of these prohibitions as those powers specified under "**Investigations**," above. If, after an investigation, the Superintendent determines that reasonable evidence exists that an unlicensed person has violated these prohibitions, within seven days after that determination, the Superintendent must send a written notice to that person by regular mail and must include in the notice the information specified in the Administrative Procedure Act for notices given to licensees, except that the notice must specify that a hearing will be held and specify the date, time, and place of the hearing.⁸²

The bill requires the Board to hold a hearing regarding the alleged violation in the same manner prescribed for an adjudication hearing under the Administrative Procedure Act. If the Board, after the hearing, determines a violation has occurred, the Board may impose a fine on the person, not exceeding \$500 per violation, which is distinct from any criminal fine imposed for violation of the bill. The bill specifies that each day a violation occurs or continues is a separate violation. The bill requires the Board to maintain a transcript of the proceedings of the hearing, and issue a written opinion to all parties, citing its findings and grounds for any action taken. The Board's determination is an order that the person may appeal in accordance with the Administrative Procedure Act. The Superintendent may approve a payment plan if the unlicensed person requests such a plan.⁸³

⁸¹ R.C. 4764.16(A).

⁸² R.C. 4764.16(B).

⁸³ R.C. 4768.16(C).

Under the bill, if the unlicensed person who allegedly committed a violation fails to appear for a hearing, the Board may request the court of common pleas of the county where the alleged violation occurred to compel the person to appear before the Board for a hearing. If the Board assesses an unlicensed person a civil penalty for a violation and the person fails to pay that civil penalty within the time period prescribed by the Board, the Superintendent must forward to the Attorney General the name of the person and the amount of the civil penalty for the purpose of collecting that civil penalty. The person also must pay any fee assessed by the Attorney General for collection of the civil penalty.

If the Board finds, or an unlicensed person admits to the Board, that the unlicensed person violated the prohibitions, the Superintendent must not issue the person a home inspector license without prior approval from the Board.⁸⁴

Civil actions

Except as provided below, the bill states that nothing in the bill can be construed to create or imply a private cause of action against a licensed home inspector for a violation of the bill if that action is not otherwise maintainable under common law.⁸⁵ The bill states that the remedies provided under "**Enforcement**," "**Hearings and disciplinary action**," and "**Grounds for refusing to issue or renew a license**," above are the exclusive remedies for alleged violations of the conflict of interest prohibitions specified in rules the Board adopts (see "**Duties of the Board**," above).⁸⁶

Under the bill, a lawsuit for damages that is based on professional services that were rendered or that should have been rendered by a licensed home inspector must be brought within one year after the date that the home inspection is performed. Before suing, a client must notify the licensed home inspector of the alleged deficiencies and must allow the licensed home inspector the opportunity to review and remedy the alleged deficiencies. The statute of limitations specified in the bill is tolled for the period that begins on the date the client notifies the licensed home inspector of the alleged deficiencies and that ends on the date that the licensed home inspector reviews, declines to review, remedies, or declines to remedy the alleged deficiencies, whichever comes later.⁸⁷

⁸⁴ R.C. 4768.16(D) and (E).

⁸⁵ R.C. 4764.17(A).

⁸⁶ R.C. 4764.17(D).

⁸⁷ R.C. 4764.17(B) and (C).

The bill states that nothing in the bill's provisions regarding lawsuits can be construed to prohibit the Superintendent from investigating, or prohibit the Board from taking action against a licensed home inspector for violations of the bill if the investigation commences more than one year after the date that the licensed home inspector conducts the home inspection that is the subject of the investigation and action.⁸⁸

Home Inspection Recovery Fund

The bill creates the Home Inspection Recovery Fund administered by the Superintendent. To defray the expense of administering the Fund, the Superintendent must collect from the Fund a service fee in an amount equivalent to the annual interest earned on the assets of the Fund multiplied by a rate specified in the continuing law generally governing interest. On July 1 each year the Superintendent must calculate the amounts collected for the Fund and the interest earned on the amounts.

The Board, in accordance with rules the Board adopts, must impose a special assessment for the Fund on each person applying for a license and each licensee applying for renewal. If the amount available in the Fund is less than \$250,000 on July 1 preceding an application for licensure or renewal, the assessment may not exceed \$5 per year for each year of a licensing period. If the amount in the Fund is greater than \$500,000, but less than \$1,000,000 on that date, the special assessment may not exceed \$3 per year for each year of a licensing period. If the amount in the Fund exceeds \$1,000,000, the Board cannot impose an assessment.⁸⁹

A person who obtains a final judgment against a licensed home inspector based on a transaction that can only be performed by a licensed home inspector may file an application in the Franklin County Court of Common Pleas requesting a payment from the Fund, provided the home inspector's conduct violated the bill or rules adopted by the Board. The applicant must describe in the application the nature of the act or transaction on which the underlying judgment was based, the actions the applicant took under continuing law to collect the judgment, the applicant's actual and direct losses, attorney's fees, and the applicant's court costs.⁹⁰

An applicant for a payment from the Fund must file notice of the application with the Superintendent. The Superintendent may defend any action on behalf of the Fund using any appropriate means of defense and review, including examination of

⁸⁸ R.C. 4764.17(E).

⁸⁹ R.C. 4764.21(A) and (I).

⁹⁰ R.C. 4764.21(B)(1) and (3).



witnesses, verification of actual and direct losses, and challenging the underlying judgment to determine whether the underlying judgment is based on activity only a licensed home inspector is permitted to perform. The Superintendent may ask the court to dismiss the application if it appears there are no triable issues and the application is without merit. The request for dismissal may be supported by an affidavit of any person having knowledge of the facts and may be made on the basis that the application, including the judgment referred to in it, does not merit recovery from the Fund. The Superintendent must give written notice to the applicant at least ten days before requesting a dismissal. The Superintendent may, subject to court approval, settle a claim based on the application. In the settlement, the Superintendent is not bound by any prior compromise or stipulation.⁹¹

Under the bill, a court must order the Superintendent to make a payment from the Fund when the applicant proves all of the following:

- (1) The applicant obtained a judgment;
- (2) All appeals from the judgment have been exhausted and the person has given notice to the Superintendent;
- (3) The person is not a spouse of the judgment debtor, or the personal representative of the spouse;
- (4) The applicant has diligently pursued the applicant's remedies against all the judgment debtors and all other persons liable to the applicant in the transaction for which the applicant seeks recovery from the Fund;
- (5) The application was filed not more than one year after termination of all proceedings connected to the judgment, including appeals.⁹²

An applicant cannot recover punitive damages, attorney's fees, or interest on a judgment from the Fund. Court costs can be recovered from the Fund only if the Superintendent authorizes the recovery. The Fund cannot be used to recover any of the following:

- (1) Judgments related to home inspections conducted by an unlicensed individual;

⁹¹ R.C. 4764.21(C).

⁹² R.C. 4764.21(B)(4).



(2) Losses incurred by a bonding company when the company is not a principal in the real estate transaction;

(3) Fees or other compensation for the performance of a home inspection or related services performed by a licensed home inspector;

(4) Losses incurred by a real estate investor if the applicant and the licensee are principals in the investment.⁹³

Under the bill, the Fund's liability cannot exceed \$40,000 per licensee. If \$40,000 is insufficient to pay all of the valid claims against a licensee, the bill requires the \$40,000 to be distributed among the persons entitled to it in the ratio that their respective claims bear to the total amount of valid claims or in any manner the court finds equitable. Distribution must be among all persons entitled to it, without regard to the order of priority in which their respective judgments were obtained or their claims were filed. The Superintendent may petition the court for an order requiring all claimants and prospective claimants against one licensee to be joined in one action for the purpose of equitably adjudicating and settling the respective rights of all the claimants.⁹⁴

If, at any time, the money deposited in the Fund is insufficient to satisfy an authorized claim or portion of a claim, the Superintendent must, when sufficient money has been deposited in the Fund, satisfy the unpaid claims or portions, in the order that the claims or portions were originally filed. Authorized payments that are delayed because of insufficient money in the Fund accrue interest at a rate specified in the continuing law generally governing interest.⁹⁵

When the Superintendent has paid money from the Fund to a judgment creditor in accordance with a court order, the Superintendent is subrogated to all of the rights of the judgment creditor to the extent of the amount paid. The judgment creditor must assign all the judgment creditor's right, title, and interest in the judgment to the Superintendent to the extent of the amount paid. Any money, including interest, recovered by the Superintendent as a subrogee must be deposited into the Fund.⁹⁶

If the Superintendent pays money from the Fund to settle a claim or to satisfy a judgment against a licensed home inspector, the Superintendent may suspend the home inspector's license. The bill prohibits the Superintendent from reactivating the license

⁹³ R.C. 4764.21(B)(2) and (5).

⁹⁴ R.C. 4764.21(D).

⁹⁵ R.C. 4764.21(F).

⁹⁶ R.C. 4764.21(G).

until the home inspector repays the amount paid from the Fund on the home inspector's account, plus yearly interest at a rate specified in continuing law. A discharge in bankruptcy does not relieve the licensee from the suspension unless the underlying judgment was included in the discharge and the licensee has not reaffirmed the judgment. If a home inspector repays the Fund and reactivates the inspector's license, the liability of the Fund returns to \$40,000 for that licensee, but only for transactions that occur after the time of the reactivation.⁹⁷

The Superintendent's authority with respect to the Fund does not limit the Superintendent's authority to take additional disciplinary action against a licensee under the bill. In addition, the repayment of obligations to the Fund by a licensee does not nullify or modify the effect of any other disciplinary proceeding brought pursuant to the bill.⁹⁸

Home Inspectors Fund

The bill also creates the Home Inspectors Fund in the state treasury. Except as described under "**Home Inspection Recovery Fund**," above the Superintendent must deposit all money collected under the bill into that fund and use it solely to pay costs associated with administering and enforcing the bill.⁹⁹

Definitions

The bill also defines the following terms:

(1) "Home inspection report" means a written report prepared by a licensed home inspector for compensation and issued after an onsite inspection of a residential property. A report must include all of the following:

(a) Information on any system or component inspected that, in the professional opinion of the inspector, is deficient to the degree that it is deficient;

(b) The inspector's recommendation to repair or monitor deficiencies reported under the bill;

(c) A list of any systems or components that were designated for inspection in the standards of practice adopted by the Board but that were not inspected;

⁹⁷ R.C. 4764.21(E).

⁹⁸ R.C. 4764.21(H).

⁹⁹ R.C. 4764.18.



(d) The reason a system or component was not inspected.

(2) "Parallel inspection" means a home inspection performed by an applicant for a home inspector license at which both of the following take place concurrently:

- A licensed home inspector observes and evaluates the applicant during the inspection to verify the applicant's compliance with the standards of practice specified in rules adopted by the Board (see "**Duties of the Board**," above).
- The inspection is an onsite inspection of a residential building for the licensed home inspector's client.

(3) "Readily accessible" means available for visual inspection without requiring a person to move or dismantle personal property, take destructive measures, or take any other action that will involve risk to a person or to the property.

(4) "Residential building" means a one-family, two-family, or three-family dwelling house, and any accessory structure incidental to a dwelling house, and includes individual dwelling units within an apartment or condominium complex containing four or more dwelling units.¹⁰⁰

ADMINISTRATION

Central Service Agency

The bill requires the Central Service Agency (CSA) of the Department of Administrative Services (DAS) to perform certain routine support services (see "**Routine services**," below) for nine specified boards and commissions. The CSA currently is authorized to perform those services for numerous other boards and commissions that are specifically enumerated in the CSA law.¹⁰¹

Boards authorized by the bill to receive services

- (1) Ohio Air Quality Development Authority;
- (2) Ohio Athletic Commission;
- (3) State Board of Career Colleges and Schools;
- (4) Liquor Control Commission;

¹⁰⁰ R.C. 4764.01.

¹⁰¹ R.C. 125.22.



- (5) Commission on Minority Health;
- (6) Motor Vehicle Repair Board;
- (7) State Employment Relations Board;
- (8) Ohio Commission on Service and Volunteerism;
- (9) Board of Tax Appeals.¹⁰²

Routine services

The CSA must perform the following routine support services for the boards and commissions enumerated unless the Controlling Board exempts a board or commission on the recommendation of the DAS Director:

- Preparing and processing payroll and other personnel documents;
- Preparing and processing vouchers, purchase orders, encumbrances, and other accounting documents;
- Maintaining ledgers of accounts and balances;
- Preparing and monitoring budgets and allotment plans in consultation with the boards and commissions;
- Other routine support services that the DAS Director considers appropriate to achieve efficiency.¹⁰³

The CSA also may perform other services that an enumerated board or commission delegates to the CSA and the CSA accepts.¹⁰⁴

Under continuing law, the CSA must charge boards and commissions in proportion to the services performed. A board or commission must pay fees to the CSA from its general revenue fund maintenance account or from the fund out of which it pays operating expenses. Any amounts a board or commission sets aside for a fiscal

¹⁰² R.C. 125.22(A)(17) through (25).

¹⁰³ R.C. 125.22(B)(1).

¹⁰⁴ R.C. 125.22(B)(2).



year to pay these fees must be used only for the services performed by the CSA in that fiscal year.¹⁰⁵

LICENSING LAW CHANGES

State Speech and Hearing Professionals Board

Biennial license renewal

The bill requires a hearing aid dealer's or fitter's license issued under the Hearing Aid Dealers Law¹⁰⁶ to be renewed biennially, rather than annually as required under current law. Under the bill, a license generally expires on December 31 of the even-numbered year that follows the date it was issued. The license must be renewed in accordance with the Standard Renewal Procedure on or before that date. However, a license issued less than 100 days before December 31 of an even-numbered year expires on December 31 of the immediately following even-numbered year and must be renewed on or before that date. After the license is renewed the first time, it must be renewed biennially in the same manner as a license issued more than 100 days before December 31 of an even-numbered year. Under current law, a license expires on January 30 of the year following the year it was issued, and it must be renewed annually.¹⁰⁷

Continuing education

Continuing law requires each licensee to complete continuing professional education as a condition of renewing a license. Under the bill, a licensee must complete no less than 20 hours of continuing education during a two-year license period. Currently, a licensee must complete no less than ten hours during the one-year licensing period.¹⁰⁸

The bill specifies that continuing education provided or certified by the International Hearing Society is permissible, whereas under current law, the continuing education must be provided or certified specifically by the Society's National Institute of Hearing Instruments Studies Committee.¹⁰⁹

¹⁰⁵ R.C. 125.22(D) and (E).

¹⁰⁶ R.C. Chapter 4747.

¹⁰⁷ R.C. 4747.05(C) and 4747.06(A), by reference to R.C. Chapter 4745.

¹⁰⁸ R.C. 4747.06(B).

¹⁰⁹ R.C. 4747.06(B)(1).



Current licensees

The bill requires a licensee who intends to renew a license issued before the change from annual to biennial renewal to certify to the State Speech and Hearing Professionals (SHP) Board, not later than January 30, 2020, and on a form provided by the Board, that the licensee has completed no less than ten hours of approved continuing education between January 1, 2019, and January 30, 2020. If the licensee completes the certification and provides any additional information about the continuing education that the SHP Board requires, the licensee's license remains valid until December 31, 2021.

A licensee who has a license issued before the change who does not intend to renew the license must certify to the SHP Board by January 30, 2020, that the licensee does not intend to renew. If the licensee certifies the licensee's intent not to renew, the license expires January 31, 2020.

A license held by any person who fails to submit the required certification of either intention expires on January 31, 2020. The person may apply for a new license using the procedures for initial licensure.

The bill requires the SHP Board, no later than November 1, 2019, to notify all licensees of the requirement to certify the licensees' intention to renew or not renew to the Board.¹¹⁰

Fees

The bill requires the SHP Board to adopt rules establishing the amount of the fees required under the Hearing Aid Dealers Law and eliminates the statutory fees prescribed under current law.¹¹¹ The following table summarizes the amounts specified in current law:

Type of fee	Current amount	Citation
Hearing aid dealer's or fitter's license application fee	\$200	R.C. 4747.05
Hearing aid dealer's or fitter's trainee permit application fee	\$150	R.C. 4747.10
Hearing aid dealer's or fitter's license renewal fee	\$157 - \$210 (depends on renewal date)	R.C. 4747.06

¹¹⁰ Section 11 of the bill.

¹¹¹ R.C. 4747.04(B).



Type of fee	Current amount	Citation
Hearing aid dealer's or fitter's trainee permit renewal fee	\$105	R.C. 4747.10
Hearing aid dealer's or fitter's license duplicate copy fee	\$16	R.C. 4747.07

Investigations

Under the bill, the SHP Board must investigate both of the following:

- Alleged irregularities in the sale or practice of dealing in or fitting hearing aids by a licensee or temporary permit holder;
- Violations of the Hearing Aid Dealers Law or rules adopted by the Board.

The bill prohibits the SHP Board from investigating a licensed physician, a licensed audiologist, or any person who measures human hearing for the purpose of selecting a hearing aid without conducting an actual sale. Current law appears to only permit the Board to investigate specific complaints filed with the Board.

When conducting an investigation under the bill, the SHP Board may administer oaths, order depositions, issue subpoenas, and compel witnesses to produce documents and testify. If a person disobeys or neglects a subpoena served by the Board or refuses to testify to a matter within the Board's investigation, the Board may apply for a court order compelling the person to cooperate. The application must be filed in the court of common pleas for the county in which the disobedience, neglect, or refusal occurred.¹¹²

Discipline

Reasons for discipline

The bill revises the list of reasons for which the Board may discipline a licensee or trainee permit holder. The table below compares the current list of reasons for discipline to the list under the bill:

Current law (R.C. 4747.12)	The bill (R.C. 4747.12)
Being convicted of a "disqualifying offense" or a "crime of moral turpitude" as defined in continuing law.	Retains reason for discipline, but eliminates a provision making the record of conviction or a certified copy of the record conclusive evidence of the conviction.

¹¹² R.C. 4747.13.



Current law (R.C. 4747.12)	The bill (R.C. 4747.12)
Procuring a license or permit through fraud or deceit on the Board.	Same.
Obtaining a fee or selling a hearing aid through fraud or misrepresentation.	Same.
Employing a person to fit or sell hearing aids knowing that the person's license was suspended or revoked.	No provision.
Using or causing or promoting the use of misleading, deceptive, or untruthful advertising, literature, testimonials, guarantees, warranties, labels, brands, insignias, or other representations.	Same.
Advertising a model or type of hearing aid for sale when purchasers or prospective purchasers responding to the advertisement cannot purchase the model or type of hearing aid.	Same.
Representing or advertising falsely that the service or advice of a licensed physician will be used or made available during the process of purchasing, maintaining, or repairing a hearing aid or falsely using words, abbreviations, or symbols that indicate the licensee or permit holder is a medical professional.	Same.
Being found by the Board to be a person of habitual intemperance or gross immorality.	Providing professional services while mentally incompetent or under the influence of alcohol or while using any narcotic or controlled substance or other drug in excess of therapeutic amounts or without valid medical indication.
Advertising a manufacturer's product or using a manufacturer's name or trademark in a manner that falsely suggests the existence of a relationship with the manufacturer.	Same.
Fitting or selling, or attempting to fit or sell, a hearing aid to a person without first using appropriate procedures and instruments required for proper fitting.	Same.
Fitting and selling hearing aids under a false name or an alias.	Same.



Current law (R.C. 4747.12)	The bill (R.C. 4747.12)
Dealing in or fitting hearing aids while suffering from a contagious or infectious disease.	Same.
Being found by the Board to be guilty of gross incompetence or negligence in the fitting or selling of hearing aids.	Same.
Permitting another person to use the licensee's license.	Same.
Violating the code of ethical practice adopted by the Board under continuing law.	Same.
No provision.	Making or filing a false report or record in the sale or dispensing of a hearing aide.
No provision.	Aiding or abetting the unlicensed sale, fitting, or dispensing of a hearing aid.
No provision.	Committing an act of dishonorable, immoral, or unprofessional conduct while selling or fitting a hearing aid.
No provision.	Engaging in illegal, incompetent, or habitually negligent practice.
No provision.	Violating the Hearing Aid Dealers Law or any lawful order given or rule adopted by the Board.
No provision.	Being disciplined by a licensing or disciplinary authority in Ohio or any other state or country or being convicted or disciplined by an Ohio court of another state or country court for an act that would be grounds for discipline under the Hearing Aid Dealers Law.

In addition to the reasons for discipline listed in the table above, the bill requires the Board to adopt rules identifying additional conduct for which the Board may discipline a licensee or trainee permit holder. The Board may discipline a licensee or trainee permit holder for any reason identified in the adopted rules.¹¹³

¹¹³ R.C. 4747.04(B) and 4747.12(A).

Disciplinary procedures

The bill requires the SHP Board to act in accordance with the Administrative Procedure Act¹¹⁴ (APA) before disciplining a licensee or permit holder.¹¹⁵ Under the APA, the Board must provide a notice to the licensee or trainee permit holder by registered mail, return receipt requested, informing the licensee or trainee permit holder that the licensee or permit holder has the right to a hearing before being disciplined. The notice must include all of the following:

- The charges or other reasons for the proposed discipline;
- The law or rule directly involved;
- A statement informing the licensee or permit holder that the licensee or permit holder may request a hearing within 30 days after the time of mailing the notice;
- A statement that the licensee or permit holder may present positions, arguments, or contentions in writing and present evidence and examine witness either in person or through a legal representative permitted to practice before the Board.

A copy of the notice must be mailed to any representatives of record representing the licensee or trainee permit holder. If the licensee or trainee permit holder requests a hearing in accordance with the notice, the Board must immediately set a date, time, and place for the hearing. Unless otherwise agreed, the hearing date must be within 15 days after the licensee or trainee permit holder requests the hearing, but it cannot be earlier than seven days after the request. The Board must immediately notify the licensee or trainee permit holder of the date, time, and place of the hearing. Before the hearing, the Board may take depositions and issue subpoenas for witnesses and documents. The Board also must issue subpoenas for witnesses and documents when requested to do so by a party to the hearing. The Board may require the witnesses to attend the hearing and produce the documents. After the hearing, the Board must issue an order or approve, modify, or disapprove a recommendation from a referee or examiner that conducted the hearing on the Board's behalf. The Board must serve the order on the licensee or trainee permit holder by certified mail, return receipt requested,

¹¹⁴ R.C. Chapter 119.

¹¹⁵ R.C. 4747.04(A), 4747.12(A), and 4747.13(A).



and include a statement of the time and method by which the licensee or permit holder can appeal the order to a court.¹¹⁶

Current law requires the Board to follow a process similar to the APA before disciplining a licensee or trainee permit holder, subject to the following differences:

- The Board must set the date, time, and place for a disciplinary hearing before sending notice;
- The Board must deliver the notice, either in person or by registered mail, at least 20 days before the hearing date;
- Each party may take depositions before the hearing but must give the other party notice of the time, date, and place where the deposition will be taken at least five days before the deposition date.¹¹⁷

Types of discipline

Under the bill, the SHP Board may revoke, suspend, place on probation, or refuse to issue or renew a license or trainee permit or reprimand a licensee or trainee permit holder for the reasons listed under "**Reasons for discipline**," above. Under current law, the Board may only revoke or suspend a license or permit.¹¹⁸

Reinstatement after revocation

If the SHP Board revokes a person's license, the bill allows the person to apply for reinstatement. The Board may require the applicant to complete an examination or additional continuing education as a condition of the reinstatement.¹¹⁹

Customer receipts

The bill requires the SHP Board to adopt rules establishing the information that must be included in a hearing aid receipt.¹²⁰ Continuing law requires each licensed hearing aid dealer or fitter to furnish each person supplied with a hearing aid a receipt. Current law repealed by the bill requires the receipt to include all of the following information:

¹¹⁶ R.C. 119.06, 119.07, 119.09, and 119.12, not in the bill.

¹¹⁷ R.C. 4747.04(A) and 4747.13(A).

¹¹⁸ R.C. 4747.12(A).

¹¹⁹ R.C. 4747.12(B).

¹²⁰ R.C. 4747.04(B).



- The licensee's signature, business address, and license certificate number;
- A complete description of the make and model of the furnished hearing aid;
- The full terms of sale, including the terms of any guarantee;
- If the hearing aid sold is not new, a clear marking that the hearing aid is "used" or "reconditioned";
- In type no smaller than that used in the body of the receipt, the following statement:

The purchaser is advised that any examination, fitting, recommendation, or representation made by a licensed hearing aid dealer or fitter in connection with the sale of this hearing aid is not an examination, diagnosis, or prescription made by a person licensed to practice medicine in this state and therefore must not be regarded as medical opinion or advice.¹²¹

Change of address notice

The bill requires the SHP Board to adopt rules governing the amount of time a licensee or permit holder has to notify the Board of a change in address or addresses. The Board must also adopt rules for any other requirements relating to the notice.¹²²

Continuing law requires a licensee or trainee permit holder to notify the Board in writing of the place where the person engages or intends to engage in the business of dealing and fitting hearing aids. A licensee or trainee permit holder also must notify the SHP Board in writing of any change in address. Current law eliminated by the bill requires a licensee or trainee permit holder to immediately inform the Board of the change. It also requires the Board to keep a record of past and current places of business for each licensee and permit holder. The bill eliminates that the Board, with respect to notices the Board is required to send to a licensee or permit holder under the Hearing Aid Dealers Law, must mail the notice to the licensee or trainee permit holder by certified mail at the licensee's or holder's current or most recent business address as revealed by the Board's records.¹²³

¹²¹ R.C. 4747.09.

¹²² R.C. 4747.04(B).

¹²³ R.C. 4747.11.



Qualifying examination

Under the bill, the SHP Board must establish the nature and scope of the qualifying examination for a hearing aid dealer's or fitter's license rather than design, prepare, and revise the examination as under current law.¹²⁴ Continuing law requires an applicant for licensure to take and pass the examination. The examination has a written and a practical portion. It tests all of the following subject areas:

- Basic physics of sound;
- The anatomy and physiology of the human ear;
- The function and purpose of hearing aids;
- Pure tone audiometry, including air conduction and bone conduction testing;
- Live voice or recorded voice speech audiometry, including speech reception threshold testing and speech discrimination testing;
- Masking techniques;
- Recording and evaluation of audiograms and speech audiometry to determine proper selection and adaption of hearing aids;
- Earmold impression techniques.

The examination must thoroughly test the knowledge required for the proper selecting, fitting, and sale of hearing aids, but it may not be so difficult as to require a medical or surgical education for successful completion.¹²⁵

Public records exemption

The bill specifies that test materials, examinations, answer keys, or evaluation tools used in the Hearing Aid Dealers Law or Speech-Language Pathologists and Audiologists Law, whether administered by the SHP Board or by a private or government entity pursuant to a contract, are not public records under the Public Records Law (R.C. Chapter 149).¹²⁶

¹²⁴ R.C. 4747.04(A) and 4747.08.

¹²⁵ R.C. 4747.08

¹²⁶ R.C. 4747.08 and 4753.05(B).



Additional rules

The bill requires the Board to adopt any other reasonable rules necessary for the administration of the Hearing Aid Dealers Law in accordance with the APA.¹²⁷

Counselor education

The bill allows the Counselor, Social Worker, and Marriage and Family Therapist Board to temporarily approve a counseling education program created after January 1, 2018, that has not been accredited by the Council for Accreditation of Counseling and Related Educational Programs (CACREP). A degree from a temporarily approved program satisfies the degree and counselor training requirements for a clinical counselor's license or a professional counselor's license (a "counselor's license") during the time period specified by the Board.¹²⁸

Under continuing law, a person seeking a counselor's license from the Board must hold a graduate degree in counseling, complete specific counselor training, and satisfy other requirements. Current law requires a counseling graduate degree from an Ohio mental health counseling program created after January 1, 2018, to be from a clinical mental health counseling program, a clinical rehabilitation counseling program, or an addiction counseling program accredited by CACREP.¹²⁹

Current law also requires all counselor training programs either to be CACREP accredited or approved by the Board in accordance with rules the Board must adopt. Under the bill, the Board may adopt rules to approve a non-CACREP accredited counselor training program, but the Board is not required to do so.¹³⁰ If the Board adopts rules to approve a program, the bill requires the Board to do all of the following in the rules:

- Create an application process under which the program's administrator may apply for Board approval;
- Identify the educational requirements that an individual must satisfy to receive a graduate degree in counseling from the program;

¹²⁷ R.C. 4747.04(B).

¹²⁸ R.C. 4757.22(G) and 4757.23(G).

¹²⁹ R.C. 4757.22(B)(1) and (2) and 4757.23(B)(1) and (2).

¹³⁰ R.C. 4757.22(B)(3) and (F) and 4757.23(B)(3) and (F).



- Establish a time period during which an individual may use an unaccredited degree granted under the program to satisfy the degree and training requirements for a counselor's license;
- Specify that, if the program is denied accreditation, a student enrolled in the program before the accreditation is denied may apply for licensure before completing the program and, on receiving a degree from the program, be considered to satisfy the degree and training requirements for a counselor's license.¹³¹

Optical dispensing

Persons who wish to engage in optical dispensing must file an application for examination with the State Vision Professionals Board or with a testing service with which the Board has contracted. The bill requires the application to be made using a form provided by the Board, instead of permitting either the Board or the testing service to provide the form, as under existing law. Under the bill, the Board must provide to each applicant all forms required to apply for examination.¹³²

The bill eliminates a requirement that the application be returned to the Board or the testing service at least 60 days before the examination is administered.¹³³

A licensed dispensing optician may supervise up to three apprentices who are permitted to engage in optical dispensing under the optician's authority. To serve as an apprentice, the bill requires a person to register with the Board on a form provided by the Board and also requires a statement giving the supervising optician's name and address, the location at which the apprentice will be employed, and any other information required by the Board. The apprentice must register annually for the duration of the apprenticeship both using the provided form and the statement. Under current law, an apprentice can complete both the initial and annual registration either by registering on a Board-provided form or with a statement giving the required information.¹³⁴

¹³¹ R.C. 4757.22(G)(1) and 4757.23(G)(1).

¹³² R.C. 4725.48 and 4725.49.

¹³³ R.C. 4725.48.

¹³⁴ R.C. 4725.52.



APPOINTMENT AUTHORITY

State Council on Educational Opportunity for Military Children

The bill changes who appoints two voting members of the State Council on Educational Opportunity for Military Children. The superintendent of a school district with a high concentration of children of military families and the representative of a military installation located in the state are currently appointed by the Governor. The bill changes the appointing authority from the Governor to the Superintendent of Public Instruction.¹³⁵

The Governor continues to appoint a representative from the Governor's office to the council. Other voting members include the Superintendent of Public Instruction and the Director of Veterans Services or designee. Four members of the General Assembly, the state Compact Commissioner (appointed by the Governor), the military family education liaison (appointed by the council), and other members appointed by the council in its discretion are nonvoting members.

The State Council on Education Opportunity for Military Children oversees and coordinates the state's participation in and compliance with the Interstate Compact on Educational Opportunity for Military Children. The compact controls matters when the child of a military parent leaves a public school of one member state and enrolls in a public school of another member state because the family must relocate or the child must reside with someone other than a parent, due to military assignments.

Historical Boilers Licensing Board

The bill transfers to the Director of Commerce the Governor's authority to appoint three of the seven members to the Historical Boilers Licensing Board with the advice and consent of the Senate. The qualifications of the appointees remains unchanged: one Division of Boiler Inspection employee, one independent mechanical engineer not involved in selling or inspecting historical boilers, and one active member of a managers of fairs or festivals association. The bill also removes outdated provisions governing initial appointments.¹³⁶

State Board of Emergency Medical, Fire, and Transportation Services

Under current law, various organizations are authorized to nominate individuals that the Governor must consider when making appointments to the State Board of

¹³⁵ R.C. 3301.61(A)(3) and (4).

¹³⁶ R.C. 4104.33.



Medical, Fire, and Transportation Services. The bill permits the Governor, if a nomination has not been received within 30 days after a vacancy occurs, to make an appointment consistent with the qualifications that apply to that member's position on the Board. Under law unchanged by the bill, the Governor, with the advice and consent of the Senate, appoints all Board members other than the Department of Public Safety employee designated as a member by the Public Safety Director.¹³⁷

MEMBERSHIP CHANGES

Board of Executives of Long-Term Services and Supports

The bill revises the membership of the Board of Executives of Long-Term Services and Supports, which is part of the Department of Aging. The Board has 11 members, one of whom current law requires to be a consumer of services offered in a long-term services and supports setting. The bill instead requires that this member be such a consumer, a family member of such a consumer, or an advocate for such consumers.¹³⁸

Law unaffected by the bill defines "long-term services and supports settings" as any institutional or community-based setting in which medical, health, psycho-social, habilitative, rehabilitative, or personal care services are provided to individuals on a post-acute care basis.¹³⁹

Board of Nursing membership

The following table describes the changes made by the bill to the Board of Nursing's membership.¹⁴⁰ In general, it reduces the number of members from 13 to 11.

Type of member	Under current law	Under the bill
Total membership	13	11
Registered nurse (RN) members ¹⁴¹	8 (two of whom must be APRNs.)	5 (none may be APRNs.)
Advanced practice registered nurse (APRN) members	2 (Of the 8 RNs, two must be APRNs.)	2

¹³⁷ R.C. 4765.02.

¹³⁸ R.C. 4751.03.

¹³⁹ R.C. 4751.01(A), not in the bill.

¹⁴⁰ R.C. 4723.02.

¹⁴¹ Under Ohio law, an advanced practice registered nurse must be a registered nurse (R.C. 4723.41).



Type of member	Under current law	Under the bill
Licensed practical nurse (LPN) members	4	1
Consumer members	1	2
Remaining member	0	1 (The remaining member may be either an RN or an LPN.)

The bill specifies that the membership reduction does not affect those members holding office on its effective date. The Board is to implement the reduction by not filling vacancies that correspond with the bill's changes.¹⁴²

The bill also reduces the number of Board members needed for a quorum. Under current law, seven members constitute a quorum, including at least four RNs and 1 LPN. Six members – of any type – constitute a quorum under the bill.

Advisory Committee on Advanced Practice Registered Nursing

The bill revises the law governing the Board of Nursing's Advisory Committee on Advanced Practice Registered Nursing, including by reducing the Advisory Committee's membership from eight to five.¹⁴³ The following table highlights the membership changes.

Type of member	Under current law	Under the bill
Total membership	8	5
APRN members	7 (Of the 7, one must practice primary care, one must be a certified registered nurse anesthetist, one must be a certified nurse midwife, two must be faculty members, and one must be a member of the Board of Nursing.)	5
Representative of an entity employing ten or more APRNs	1	0

Under current law, the Board of Nursing appoints the members of the Advisory Committee. The bill instead requires the Governor to make appointments and, when doing so, to consider the recommendations of organizations representing the interests

¹⁴² Sections 9 and 10 of the bill.

¹⁴³ R.C. 4723.493.



of APRNs in Ohio. It also eliminates the authority of the Advisory Committee to recommend to the Board that an individual with expertise in an APRN specialty be appointed as an additional Advisory Committee member.

The Board is to implement the change in membership to the Advisory Committee by removing the three members with the shortest remaining terms of office. The bill requires this removal to take place on its effective date. Of the remaining five members, each continues in office until the member's term expires. Members appointed after the bill's effective date must meet the qualifications described in the bill.¹⁴⁴

In addition to reducing the total number of Advisory Committee members, the bill makes corresponding changes.

Chemical Dependency Professionals Board

As shown in the table below, the bill reduces the voting members of the Chemical Dependency Professionals Board, from 12 to 7.¹⁴⁵

	Current law	The bill
Counselors	Seven counselors as follows: four individuals holding independent chemical dependency counselor-clinical supervisor licenses or independent chemical dependency counselor licenses (including at least two with related master's degrees); two individuals holding chemical dependency counselor III licenses; and one individual holding a chemical dependency counselor II license.	Four counselors, each of whom holds an independent chemical dependency counselor-clinical supervisor license, independent chemical dependency counselor license, chemical dependency counselor III license, or chemical dependency counselor II license.
Prevention consultants and prevention specialists	Two individuals holding a valid prevention consultant certificate or prevention specialist certificate.	One individual holding a valid prevention consultant certificate or prevention specialist certificate.
Medical professionals	One physician who has experience practicing in a field related to chemical dependency counseling.	One physician, advanced practice registered nurse, or pharmacist.
Public members	Two members of the public, at least one of whom is 50 or older.	One member of the public.

¹⁴⁴ Section 10 of the bill.

¹⁴⁵ R.C. 4758.10(B).



The bill specifies that no more than two voting members may hold the same license. It also permits the Board to appoint additional nonvoting members.¹⁴⁶

The bill's reduction in Board membership is to be implemented by not filling vacancies that correspond with the bill's changes. The bill does not affect the members holding office on the bill's effective date.¹⁴⁷

ABOLISHMENTS

Co-op/Internship Program Advisory Committee

The bill eliminates the Co-op/Internship Program Advisory Committee.¹⁴⁸ However, it does not affect the continuing authorization of the program.

The Ohio Co-op/Internship Program makes awards to state institutions of higher education for programs and initiatives that encourage cooperative education and internships.¹⁴⁹ The committee eliminated by the bill advises the Chancellor of Higher Education on growing industries well-suited for awards under the Program. Further, the Chancellor must consult with the committee and receive the committee's advice prior to issuing requests for applications and during the review and decision-making process.

The committee consists of 16 members, as follows:

- (1) The Director of Development Services;
- (2) Five members appointed by the Governor, including two representatives of academia, two representatives of private industry, and one member of the public;
- (3) Five members appointed by the Senate President, including three members of the Senate, but not more than two from the same political party, one representative of academia, and one member of the public; and
- (4) Five members appointed by the Speaker of the House, including three members of the House, but not more than two from the same political party, one representative of private industry, and one member of the public.

¹⁴⁶ R.C. 4758.10(D) and (E).

¹⁴⁷ Section 12 of the bill.

¹⁴⁸ Repealed R.C. 3333.731; conforming change in R.C. 3333.74.

¹⁴⁹ R.C. 3333.72, not in the bill.



Members of the House and Senate who are appointed to the committee serve for four years or until their legislative terms expire, whichever is sooner. Other members appointed by the Governor, Senate President, and Speaker of the House serve staggered, three-year terms and may be reappointed.

Healthier Buckeye Advisory Council

The bill abolishes the Healthier Buckeye Advisory Council in the Department of Job and Family Services. Current law requires the Council to do all of the following:

- Assist in establishing local healthier buckeye councils;
- Develop means by which the local councils can reduce individual reliance on publicly funded programs;
- Identify barriers to families achieving greater financial independence;
- Collect, analyze, and report performance measure information.¹⁵⁰

Continuing law, unchanged by the bill, permits a board of county commissioners to establish a local healthier buckeye council to promote individual health and independence and reduce reliance on publicly funded assistance programs.¹⁵¹

Ohio Water Advisory Council

The bill eliminates the defunct and disbanded Ohio Water Advisory Council.¹⁵² The Council ceased functioning in 2010. The Council consisted of seven members appointed by the Governor with the advice and consent of the Senate. The Council was responsible for all of the following:

(1) Advising the Chief of the Division of Water Resources in carrying out the duties of the Division of Water Resources;

(2) Recommending policy and legislation with respect to water management and conservation to promote the economic, industrial, and social development of Ohio while minimizing threats to Ohio's natural environment;

(3) Reviewing and making recommendations on the development of plans and programs for long-term, comprehensive water management; and

¹⁵⁰ R.C. 5101.91 and 5101.92 (repealed), with conforming changes in R.C. 355.02, 355.03, and 355.04.

¹⁵¹ R.C. 355.01 to 355.04.

¹⁵² R.C. 1521.031.



(4) Recommending ways to enhance cooperation among governmental agencies having an interest in water to encourage wise use and protection of ground and surface waters.

Unemployment Compensation Advisory Council

The bill abolishes the Unemployment Compensation Advisory Council (UCAC), which is charged with recommending changes to Ohio's Unemployment Compensation Law.¹⁵³ The UCAC currently has no members and has not met since 2010.¹⁵⁴ The bill requires continuing law reports that would otherwise be submitted to the UCAC to instead be submitted to the Speaker of the House of Representatives and the President of the Senate.¹⁵⁵

Makeup artistry

Under the bill, "makeup artistry" is newly defined as "the application of cosmetics for the purpose of skin beautification."¹⁵⁶ The definition further specifies that makeup artistry "does not include any other services described in the practice of any branch of cosmetology." The bill also adds makeup artistry to the definition of boutique services, which under current law includes only braiding, threading, and shampooing. Under continuing law, a person engaging in the practice of boutique services must obtain a registration from the State Cosmetology and Barber Board but does not need to be licensed in cosmetology or a branch of cosmetology.¹⁵⁷

In addition, the bill states that an applicant for a boutique services registration may prove formal training or apprenticeship under an individual providing such services sufficient for the registration by presenting an affidavit or certificate as proof of sufficient formal training or apprenticeship.¹⁵⁸ Current law allows an applicant for a boutique services registration to submit only an affidavit to prove sufficient training or apprenticeship.

¹⁵³ R.C. 4141.08 (repealed), with conforming changes in R.C. 145.012 and 4141.25.

¹⁵⁴ Catherine Candisky, *Unemployment Compensation Advisory Council has no members, hasn't met in 4 years*, The Columbus Dispatch, available at <http://www.dispatch.com/content/stories/local/2014/07/04/panel-has-no-members-hasnt-met.html>.

¹⁵⁵ R.C. 4141.131 and 4141.292 and R.C. 4141.06, not in the bill.

¹⁵⁶ R.C. 4713.01.

¹⁵⁷ R.C. 4713.35, not in the bill.

¹⁵⁸ R.C. 4713.69.



HISTORY

ACTION	DATE
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Reported, S. Gov't Oversight & Reform	06-27-18
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