

As Reported by the House Commerce and Labor Committee

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Representative Stewart, J.

Cosponsors: Representatives Szollosi, Luckie

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A B I L L

To amend sections 4740.01, 4740.02, 4740.04, and 1
4740.07 and to enact section 4740.16 of the 2
Revised Code to make changes to the construction 3
industry licensing laws to discipline unlicensed 4
contractors and eliminate unlicensed contractor 5
activity. 6

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 4740.01, 4740.02, 4740.04, and 7
4740.07 be amended and section 4740.16 of the Revised Code be 8
enacted to read as follows: 9

Sec. 4740.01. As used in this chapter: 10

(A) "License" means a license the Ohio construction industry 11
licensing board issues to an individual as a heating, ventilating, 12
and air conditioning contractor, refrigeration contractor, 13
electrical contractor, plumbing contractor, or hydronics 14
contractor. 15

(B) "Contractor" means any individual or business entity that 16
satisfies both of the following: 17

(1) ~~For compensation, directs~~ Directs, supervises, or has 18

responsibility for the means, method, and manner of construction, 19
improvement, renovation, repair, or maintenance on a construction 20
project with respect to one or more trades and who offers, 21
identifies, advertises, or otherwise holds out or represents that 22
the individual or business entity is permitted or qualified to 23
perform, direct, supervise, or have responsibility for the means, 24
method, and manner of construction, improvement, renovation, 25
repair, or maintenance with respect to one or more trades on a 26
construction project; 27

(2) Performs or ~~employs~~ has employees who are tradespersons 28
who perform construction, improvement, renovation, repair, or 29
maintenance on a construction project with respect to the 30
contractor's trades. 31

(C) "Licensed trade" means a trade performed by a heating, 32
ventilating, and air conditioning contractor, a refrigeration 33
contractor, an electrical contractor, a plumbing contractor, or a 34
hydronics contractor. 35

(D) "Tradesperson" means an individual employed by a 36
contractor who engages in construction, improvement, renovation, 37
repair, or maintenance of buildings or structures without assuming 38
responsibility for the means, method, or manner of that 39
construction, improvement, renovation, repair, or maintenance. 40

(E) "Construction project" means a construction project 41
involving a building or structure subject to Chapter 3781. of the 42
Revised Code and the rules adopted under that chapter, but not an 43
industrialized unit or a residential building as defined in 44
section 3781.06 of the Revised Code. 45

Sec. 4740.02. (A) There is hereby created within the 46
department of commerce, the Ohio construction industry licensing 47
board, consisting of seventeen residents of this state. The board 48
shall have an administrative section, a plumbing and hydronics 49

section, an electrical section, and a heating, ventilating, air 50
conditioning, and refrigeration section. The director of commerce 51
shall appoint all members of the board. The director or the 52
director's designee shall serve as a member of the administrative 53
section and the director shall appoint to the section to represent 54
the public, one member who is not a member of any group certified 55
by any section of the board. Each section, other than the 56
administrative section, shall annually elect a member of its 57
section to serve a one-year term on the administrative section. 58

(B) The plumbing and hydronics section consists of five 59
members, one of whom is a plumbing inspector employed by the 60
department of commerce, a municipal corporation, or a health 61
district, two of whom are plumbing contractors who have no 62
affiliation with any union representing plumbers, and two of whom 63
are plumbing contractors who are signatories to agreements with 64
unions representing plumbers. 65

The plumbing and hydronics section has primary responsibility 66
for the licensure of plumbing contractors and hydronics 67
contractors. 68

(C) The electrical section consists of five members, one of 69
whom is an electrical inspector employed by the department of 70
commerce, a municipal corporation, or a county, two of whom are 71
electrical contractors who have no affiliation with any union 72
representing electricians, and two of whom are electrical 73
contractors who are signatories to agreements with unions 74
representing electricians. 75

The electrical section has primary responsibility for the 76
licensure of electrical contractors. 77

(D) The heating, ventilating, air conditioning, and 78
refrigeration section consists of five members, one of whom is a 79
heating, ventilating, air conditioning, and refrigeration 80

inspector employed by either the department of commerce or a 81
municipal corporation; two of whom are heating, ventilating, and 82
air conditioning contractors or refrigeration contractors who have 83
no affiliation with any union representing heating, ventilating, 84
and air conditioning tradespersons or refrigeration tradespersons; 85
and two of whom are heating, ventilating, and air conditioning 86
contractors or refrigeration contractors who are signatories to 87
agreements with unions representing heating, ventilating, and air 88
conditioning tradespersons or refrigeration tradespersons. 89

The heating, ventilating, air conditioning, and refrigeration 90
section has primary responsibility for the licensure of heating, 91
ventilating, and air conditioning contractors and refrigeration 92
contractors. 93

(E) Within ninety days after July 31, 1992, initial 94
appointments shall be made to the board. Of the initial 95
appointments to the board, two appointments in each section, other 96
than the administrative section, are for terms ending one year 97
after July 31, 1992, and two are for terms ending two years after 98
July 31, 1992. All other appointments to the board are for terms 99
ending three years after July 31, 1992. Thereafter, terms of 100
office are for three years, each term ending on the same day of 101
the same month of the year as did the term that it succeeds. Each 102
member shall hold office from the date of appointment until the 103
end of the term for which the member was appointed. Members may be 104
reappointed. Vacancies shall be filled in the manner provided for 105
original appointments. Any member appointed to fill a vacancy 106
occurring prior to the expiration of the term for which the 107
member's predecessor was appointed shall hold office as a member 108
for the remainder of that term. A member shall continue in office 109
subsequent to the expiration of a term until a successor takes 110
office or until a period of sixty days has elapsed, whichever 111
occurs first. 112

(F) Before entering upon the discharge of official duties, 113
each member shall take, and file with the secretary of state, the 114
oath of office required by Section 7 of Article XV, Ohio 115
Constitution. 116

(G) Each member, except for the director or the director's 117
designee, shall receive a per diem amount fixed pursuant to 118
section 124.15 of the Revised Code when actually attending to 119
matters of the board and for the time spent in necessary travel, 120
and all actual and necessary expenses incurred in the discharge of 121
official duties. 122

(H) The director of commerce may remove any member of the 123
board the director appoints for malfeasance, misfeasance, or 124
nonfeasance. 125

(I) Membership on the board and holding any office of the 126
board does not constitute holding a public office or employment 127
within the meaning of any section of the Revised Code, or an 128
interest, either direct or indirect, in a contract or expenditure 129
of money by the state or any municipal corporation, township, 130
special district, school district, county, or other political 131
subdivision. No member or officer of the board is disqualified 132
from holding any public office or employment nor shall the officer 133
or member forfeit any public office or employment by reason of 134
holding a position as an officer or member of the board. 135

(J) The board, and each section of the board, shall meet only 136
after adequate advance notice of the meeting has been given to 137
each member of the board or section, as appropriate. 138

Sec. 4740.04. The administrative section of the Ohio 139
construction industry licensing board is responsible for the 140
administration of this chapter and shall do all of the following: 141

(A) Schedule the contractor examinations each of the other 142

sections of the board directs. Each type of examination shall be held at least four times per year.

(B) Select and contract with one or more persons to do all of the following relative to the examinations:

(1) Prepare, administer, score, and maintain the confidentiality of the examinations;

(2) Be responsible for all the expenses required to fulfill division (B)(1) of this section;

(3) Charge an applicant a fee in an amount the administrative section of the board authorizes for administering the examination;

(4) Design the examination for each type of contractor to determine an applicant's competence to perform that type of contracting.

(C) Issue and renew licenses as follows:

(1) Issue a license to any individual who the appropriate section of the board determines is qualified pursuant to section 4740.06 of the Revised Code to hold a license and has attained within the twelve months preceding the individual's application for licensure, a score on the examination that the appropriate section authorizes for the licensed trade.

(a) Each license shall include a license number and an expiration date.

(b) Each license issued to an individual who holds more than one valid license shall contain the same license number and expiration date as the original license issued to that individual.

(2) Renew licenses for individuals who meet the renewal requirements of section 4740.06 of the Revised Code.

(D) Make an annual written report to the director of commerce on proceedings had by or before the board for the previous year

and make an annual statement of all money received and expended by 173
the board during the year; 174

(E) Keep a record containing the name, address, the date on 175
which the board issues or renews a license to, and the license 176
number of, every heating, ventilating, and air conditioning 177
contractor, refrigeration contractor, electrical contractor, 178
plumbing contractor, and hydronics contractor issued a license 179
pursuant to this chapter; 180

(F) Regulate a contractor's use and display of a license 181
issued pursuant to this chapter and of any information contained 182
in that license; 183

(G) Adopt rules in accordance with Chapter 119. of the 184
Revised Code as necessary to properly discharge the administrative 185
section's duties under this chapter. The rules shall include, but 186
not be limited to, the following: 187

(1) Application procedures for examinations; 188

(2) Specifications for continuing education requirements for 189
license renewal that address all of the following: 190

(a) A requirement that an individual who holds any number of 191
valid and unexpired licenses accrue a total of ten hours of 192
continuing education courses per year; 193

(b) Fees the board charges to persons who provide continuing 194
education courses, in an amount of twenty-five dollars annually 195
for each person approved to provide courses, not more than ten 196
dollars plus one dollar per credit hour for each course offered, 197
and one dollar per credit hour of instruction per attendee; 198

(c) A provision limiting approval of continuing education 199
courses to one year. 200

(3) Requirements for criminal records checks of applicants 201
under section 4776.03 of the Revised Code. 202

(H) Adopt any continuing education curriculum as the other 203
sections of the board establish or approve pursuant to division 204
(C) of section 4740.05 of the Revised Code; 205

(I) Keep a record of its proceedings and do all things 206
necessary to carry out this chapter. 207

Sec. 4740.07. (A) Except as otherwise provided in this 208
section, the administrative section of the Ohio construction 209
industry licensing board shall issue and renew all licenses under 210
this chapter in the name of the individual who meets the 211
requirements of section 4740.06 of the Revised Code. 212

(B) ~~Any~~ An individual ~~may~~ shall request, at the time of 213
applying for a license ~~or at any time thereafter~~, that the 214
individual's license be assigned to a one business entity with 215
whom the individual is associated as a full-time officer, 216
proprietor, partner, or employee. If the individual is issued or 217
holds a license and meets the requirements of this section for the 218
assignment of the license to a business entity, the administrative 219
section shall assign the license to and issue a license in the 220
name of the business entity. The license assigned and issued to a 221
business entity under this division shall state the name and 222
position of the individual who assigned the license to the 223
business entity. 224

(C) During the period a business entity holds a license 225
issued under division (B) of this section, the administrative 226
section shall not issue another license to the individual who 227
assigned the license to the business entity for the same type of 228
contracting for which the business entity utilizes the assigned 229
license. 230

(D)(1) If an individual ~~who assigned a license to a business~~ 231
~~entity~~ ceases to be associated, for any reason, with the business 232
entity ~~for any reason, including the death of the individual to~~ 233

whom the individual's license had been assigned, the individual or 234
business entity immediately shall notify the appropriate section 235
of the board of the date on which the individual ceased to be 236
associated with the business entity. A license assigned to a 237
business entity is invalid ninety calendar days after the date on 238
which the individual who assigned the license ceases to be 239
associated with the business entity or at an earlier time to which 240
the business entity and the individual agree. 241

(2) If a license assigned to a business entity becomes 242
invalid pursuant to division (D)(1) of this section, an individual 243
shall do one of the following: 244

(a) At least ninety days before the date the license assigned 245
to the business entity becomes invalid, or, if the business entity 246
and the individual agree to an invalidation date that is prior to 247
the expiration of that ninety-day period as permitted under 248
division (D)(1) of this section, on that invalidation date, 249
request the appropriate section of the board to reassign the 250
individual's license to a business entity with whom the individual 251
is associated as described in division (B) of this section; 252

(b) If the individual is not associated with a business 254
entity as described in division (B) of this section on the date 255
the license assigned to the business entity becomes invalid, 256
request that the appropriate section of the board place the 257
individual's license in escrow until the date the individual 258
requests the appropriate section of the board to assign the 259
license to another business entity with whom the individual is 260
associated as described in division (B) of this section. 261

(3) If a license assigned to a business entity becomes 262
invalid pursuant to division (D)(1) of this section and another 263
individual has assigned a license to the business entity for the 264
same type of contracting for which the invalidated license had 265

been assigned, the business entity may continue to operate under 266
the other assigned license. 267

(E) Any work a business entity conducts under a license 268
assigned under this section is deemed to be conducted under the 269
personal supervision of the individual named in the license and 270
any violation of any term of the license is deemed to have been 271
committed by the individual named in the license. 272

For the period of time during which more than one license for 273
the same type of contracting is assigned to a business entity, any 274
work the business entity conducts under any of those licenses is 275
deemed to be conducted under the personal supervision of the 276
individuals named in those licenses and any violation of any term 277
of any license is deemed to have been committed by the individuals 278
named in all of the licenses. 279

(F) No individual who assigns a license to a business entity 280
shall assign a license for the same type of contracting to another 281
business entity until the original license assigned is invalid 282
pursuant to division (D)(1) of this section. 283

(G) Any individual who assigns a license to a business entity 284
under this section shall be actively engaged in business as the 285
type of contractor for which the license is issued and be readily 286
available for consultation with the business entity to which the 287
license is assigned. 288

(H) No license assigned under this section shall be assigned 289
to more than one business entity at a time. 290

Sec. 4740.16. (A) The appropriate section of the Ohio 291
construction industry licensing board may investigate any person 292
who allegedly has violated section 4740.13 of the Revised Code. 293
If, after an investigation pursuant to section 4740.05 of the 294
Revised Code, the appropriate section determines that reasonable 295

evidence exists that a person has violated section 4740.13 of the Revised Code, within seven days after that determination, the appropriate section shall send a written notice to that person in the same manner as prescribed in section 119.07 of the Revised Code for licensees, except that the notice shall specify that a hearing will be held and specify the date, time, and place of the hearing. 296
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(B) The appropriate section shall hold a hearing regarding the alleged violation in the same manner prescribed for an adjudication hearing under section 119.09 of the Revised Code. If the appropriate section, after the hearing, determines a violation has occurred, the appropriate section may impose a fine on the person, not exceeding one thousand dollars per violation per day. The appropriate section's determination is an order that the person may appeal in accordance with section 119.12 of the Revised Code. 303
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(C) If the person who allegedly committed a violation of section 4740.13 of the Revised Code fails to appear for a hearing, the appropriate section may request the court of common pleas of the county where the alleged violation occurred to compel the person to appear before the appropriate section for a hearing. 312
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(D) If the appropriate section assesses a person a civil penalty for a violation of section 4740.13 of the Revised Code and the person fails to pay that civil penalty within the time period prescribed by the appropriate section, the appropriate section shall 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. In addition to the civil penalty assessed pursuant to this section, the person also shall pay any fee assessed by the attorney general for collection of the civil penalty. 317
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Section 2. That existing sections 4740.01, 4740.02, 4740.04, 326

and 4740.07 of the Revised Code are hereby repealed.

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