

# AN ACT

To amend sections 4740.01, 4740.02, 4740.04, 4740.05, 4740.06, 4740.07, 4740.08, 4740.09, 4740.13, and 4740.16, to enact new section 4740.10 and section 4740.131, and to repeal section 4740.10 of the Revised Code to make changes to the law regulating specialty construction contractors.

*Be it enacted by the General Assembly of the State of Ohio:*

SECTION 1. That sections 4740.01, 4740.02, 4740.04, 4740.05, 4740.06, 4740.07, 4740.08, 4740.09, 4740.13, and 4740.16 be amended and new section 4740.10 and section 4740.131 of the Revised Code be enacted to read as follows:

Sec. 4740.01. As used in this chapter:

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

(B) "Contractor" means any individual or ~~business entity~~ contracting company that satisfies both of the following:

(1) ~~Directs, supervises, or has~~ Has responsibility for the means, method, and manner of construction, improvement, renovation, repair, or maintenance on a construction project with respect to one or more trades and who offers, identifies, advertises, or otherwise holds out or represents that the individual or ~~business entity~~ contracting company is permitted or qualified to perform, ~~direct, supervise,~~ or have responsibility for the means, method, and manner of construction, improvement, renovation, repair, or maintenance with respect to one or more trades on a construction project;

(2) ~~Performs or otherwise supervises or directs~~ Does either of the following:

(a) Performs construction, improvement, or renovation on a construction project with respect to the individual's or contracting company's trade;

(b) Employs tradespersons who perform construction, improvement, or renovation, ~~repair, or maintenance~~ on a construction project with respect to

the ~~contractor's~~ individual's or contracting company's trades.

(C) "Contracting company" means a company in the construction industry working on construction projects.

(D) "Licensed trade" means a trade performed by a heating, ventilating, and air conditioning contractor, a refrigeration contractor, an electrical contractor, a plumbing contractor, or a hydronics contractor.

~~(D)~~(E) "Tradesperson" means any individual who is ~~supervised or directed by a contractor or who is otherwise~~ employed by a contractor and who engages in construction, improvement, renovation, repair, or maintenance of buildings or structures without assuming responsibility for the means, method, or manner of that construction, improvement, renovation, repair, or maintenance.

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

(G) "Training agency" means an entity approved by the administrative section of the board to provide continuing education courses.

Sec. 4740.02. (A) There is hereby created within the department of commerce, the Ohio construction industry licensing board, consisting of seventeen residents of this state. The board shall have an administrative section, and three specialty sections: a plumbing and hydronics section, an electrical section, and a heating, ventilating, air conditioning, and refrigeration section. The director of commerce shall appoint all members of the board. The director or the director's designee shall serve as a member of the administrative section and the director shall appoint to the section to represent the public, one member who is not a member of any group certified by any section of the board. Each section, other than the administrative section, shall annually elect a member of its section to serve a one-year term on the administrative section.

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

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

(C) The electrical section consists of five members, one of whom is an electrical inspector employed by the department of commerce, a municipal

corporation, or a county, two of whom are electrical contractors who have no affiliation with any union representing electricians, and two of whom are electrical contractors who are signatories to agreements with unions representing electricians.

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

(D) The heating, ventilating, air conditioning, and refrigeration section consists of five members, one of whom is a heating, ventilating, air conditioning, and refrigeration inspector employed by either the department of commerce or a municipal corporation; two of whom are heating, ventilating, and air conditioning contractors or refrigeration contractors who have no affiliation with any union representing heating, ventilating, and air conditioning tradespersons or refrigeration tradespersons; and two of whom are heating, ventilating, and air conditioning contractors or refrigeration contractors who are signatories to agreements with unions representing heating, ventilating, and air conditioning tradespersons or refrigeration tradespersons.

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

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

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

(G) Each member, except for the director or the director's designee,

shall receive a per diem amount fixed pursuant to section 124.15 of the Revised Code when actually attending to matters of the board and for the time spent in necessary travel, and all actual and necessary expenses incurred in the discharge of official duties.

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

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

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

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

(A) Schedule the contractor examinations each of the other 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 specialty 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 specialty section authorizes for the licensed

trade.

(a) Each license shall include ~~a~~ the contractor's name, license number and an expiration date, and the name of the contracting company associated with the individual, as applicable.

(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 the board during the year;

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

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

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

(1) Application procedures for examinations;

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

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

(b) Fees the board charges to persons who provide continuing education courses, in an amount of twenty-five dollars annually for each person approved to provide courses, not more than ten dollars plus one dollar per credit hour for each course ~~offered~~ submitted to a specialty section of the board for approval according to division (F) of section 4740.05 of the Revised Code, and one dollar per credit hour of instruction per attendee;

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

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

(H) Adopt any continuing education curriculum as the other sections of

the board establish or approve pursuant to division ~~(C)~~(F) of section 4740.05 of the Revised Code;

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

Sec. 4740.05. ~~(A)~~ Each specialty section of the Ohio construction industry licensing board, other than the administrative section, shall do all of the following:

~~(1)~~(A) Adopt rules in accordance with Chapter 119. of the Revised Code that are limited to the following:

~~(a)~~(1) Criteria for the section to use in evaluating the qualifications of an individual;

~~(b)~~(2) Criteria for the section to use in deciding whether to ~~authorize the administrative section to~~ issue, renew, suspend, revoke, or refuse to issue or renew a license;

~~(c)~~(3) The determinations and approvals the section makes under the reciprocity provision of section 4740.08 of the Revised Code;

~~(d)~~(4) Criteria for continuing education courses conducted pursuant to this chapter;

~~(e)~~(5) A requirement that ~~persons~~ any training agency seeking approval to provide continuing education courses submit the required information to the appropriate specialty section of the board at least thirty days, but not more than one year, prior to the date on which the course is proposed to be offered;

~~(f)~~(6) A prohibition against any ~~person~~ training agency providing a continuing education course unless the administrative section of the board approved that ~~person~~ training agency not more than one year prior to the date the course is offered;

~~(g)~~(7) A list of disqualifying offenses pursuant to sections 4740.06, 4740.10, and 4776.10 of the Revised Code.

~~(2)~~(B) Investigate allegations in reference to violations of this chapter and the rules adopted pursuant to it that pertain to the specialty section and determine by rule a procedure to conduct investigations and hearings on these allegations;

~~(3)~~(C) Maintain a record of its proceedings;

~~(4)~~(D) Grant approval to a ~~person~~ training agency to offer continuing education courses pursuant to rules the board adopts;

~~(5)~~(E) As required, do all things necessary to carry out this chapter-

~~(B) In accordance with rules they establish, the trade sections of the board shall authorize the administrative section to issue, renew, suspend, revoke, or refuse to issue or renew licenses for the classes of contractors for~~

~~which each has primary responsibility as set forth in section 4740.02 of the Revised Code.~~

~~(C) Each trade section of the board shall establish;~~

(F) Establish or approve a continuing education curriculum for license renewal for each class of contractors for which the section has primary responsibility. No curriculum may require more than five hours per year in specific course requirements. No contractor may be required to take more than ten hours per year in continuing education courses. The ten hours shall be the aggregate of hours of continuing education for all licenses the contractor holds.

(G) Design the examination for the type of contractor the specialty section licenses to determine an applicant's competence to perform that type of contracting.

Sec. 4740.06. (A) Any individual who applies for a license shall file a written application with the appropriate specialty section of the Ohio construction industry licensing board, accompanied with the application fee as determined pursuant to section 4740.09 of the Revised Code. ~~The individual shall file the application not more than sixty days nor less than thirty days prior to the date of the examination.~~ The application shall be on the form the section prescribes and verified by the applicant's oath. The applicant shall provide information satisfactory to the section showing that the applicant meets the requirements of division (B) of this section.

(B) To qualify to take an examination, an individual shall:

(1) Be at least eighteen years of age;

(2) Be a United States citizen or legal alien who produces valid documentation to demonstrate the individual is a legal resident of the United States;

(3) Either have been a tradesperson in the type of licensed trade for which the application is filed for not less than five years immediately prior to the date the application is filed, be a currently registered engineer in this state with three years of business experience in the construction industry in the trade for which the engineer is applying to take an examination, or have other experience acceptable to the appropriate specialty section of the board;

(4) Maintain contractor's liability insurance, ~~including without limitation, complete operations coverage,~~ in an amount the appropriate specialty section of the board determines and only in one contracting company name;

(5) Not have done any of the following:

(a) Been convicted of or pleaded guilty to a crime of moral turpitude or a disqualifying offense as those terms are defined in section 4776.10 of the

Revised Code;

(b) Violated this chapter or any rule adopted pursuant to it;

(c) Obtained or renewed a license issued pursuant to this chapter, or any order, ruling, or authorization of the board or a section of the board by fraud, misrepresentation, or deception;

(d) Engaged in fraud, misrepresentation, or deception in the conduct of business.

(C) When an applicant for licensure as a contractor in a licensed trade meets the qualifications set forth in division (B) of this section and passes the required examination, the appropriate specialty section of the board, within ninety days after the application was filed, shall authorize the administrative section of the board to license the applicant for the type of contractor's license for which the applicant qualifies. A specialty section of the board may withdraw its authorization to the administrative section for issuance of a license for good cause shown, on the condition that notice of that withdrawal is given prior to the administrative section's issuance of the license.

(D)(1) Except as provided in division (D)(2) of this section, if an applicant does not pass the required examination, the applicant may retake the examination not less than sixty days after the applicant's most recent examination.

(2) An applicant who does not pass the required examination after taking the examination five times under this section shall reapply for a license under division (A) of this section before retaking the required examination any subsequent time.

(E) All licenses a contractor holds pursuant to this chapter shall expire annually on the same date, which shall be the expiration date of the original license the contractor holds. An individual holding a valid, unexpired license may renew the license, without reexamination, by submitting an application to the appropriate specialty section of the board not more than ninety calendar days before the expiration of the license, along with the renewal fee the specialty section requires and proof of compliance with the applicable continuing education requirements. The applicant shall provide information in the renewal application satisfactory to demonstrate to the appropriate specialty section that the applicant continues to meet the requirements of division (B) of this section.

Upon application and within one calendar year after a license has expired, a section may waive any of the requirements for renewal of a license upon finding that an applicant substantially meets the renewal requirements or that failure to timely apply for renewal is due to excusable



neglect. A section that waives requirements for renewal of a license may impose conditions upon the licensee and assess a late filing fee of not more than double the usual renewal fee. An applicant shall satisfy any condition the section imposes before a license is reissued.

~~(E)~~(F) An individual holding a valid license may request the section of the board that authorized that license to place the license in inactive status under conditions, and for a period of time, as that section determines.

~~(F)~~(G) Except for the ninety-day extension provided for a license assigned to a ~~business entity~~ contracting company under division (D) of section 4740.07 of the Revised Code, a license held by an individual immediately terminates upon the death of the individual.

~~(G)~~(H) Nothing in any license issued by the Ohio construction industry licensing board shall be construed to limit or eliminate any requirement of or any license issued by the Ohio fire marshal.

~~(H)~~(I)(1) Subject to divisions ~~(H)~~(I)(2), (3), and (4) of this section, no ~~trade~~ specialty section of the board shall adopt, maintain, renew, or enforce any rule, or otherwise preclude in any way, an individual from receiving or renewing a license under this chapter due to any past criminal activity or interpretation of moral character, except as pursuant to division (B)(5)(a) of this section. If the specialty section denies an individual a license or license renewal, the reasons for such denial shall be put in writing.

(2) Except as otherwise provided in this division, if an individual applying for a license has been convicted of or pleaded guilty to a misdemeanor that is not a crime of moral turpitude or a disqualifying offense less than one year prior to making the application, the section may use its discretion in granting or denying the individual a license. Except as otherwise provided in this division, if an individual applying for a license has been convicted of or pleaded guilty to a felony that is not a crime of moral turpitude or a disqualifying offense less than three years prior to making the application, the section may use its discretion in granting or denying the individual a license. The provisions in this paragraph do not apply with respect to any offense unless the section, prior to the effective date of this amendment, was required or authorized to deny the application based on that offense.

In all other circumstances, the section shall follow the procedures it adopts by rule that conform to division ~~(H)~~(I)(1) of this section.

(3) In considering a renewal of an individual's license, the section shall not consider any conviction or plea of guilty prior to the initial licensing. However, the board may consider a conviction or plea of guilty if it occurred after the individual was initially licensed, or after the most recent

license renewal.

(4) The section may grant an individual a conditional license that lasts for one year. After the one-year period has expired, the license is no longer considered conditional, and the individual shall be considered fully licensed.

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

(B) ~~Any individual may~~ All individuals applying for a license under this chapter shall request, at the time of applying for a license ~~or at any time thereafter,~~ that the individual's license be assigned to a ~~business entity contracting company~~ with whom the individual is ~~associated as a full-time officer, proprietor, partner, or employee~~ employed. If the individual is issued ~~or holds~~ a license and meets the requirements of this section for the assignment of the license to a ~~business entity contracting company~~, the administrative section shall assign the license to and issue a license in the name of the ~~business entity contracting company~~. The license assigned and issued to a ~~business entity contracting company~~ under this division shall state the name and position of the individual who assigned the license to the ~~business entity contracting company~~. If a license is not assigned to a contracting company in accordance with this division, the appropriate specialty section of the board shall place that license in inactive status.

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

(D)(1) ~~If an individual a contractor~~ who assigned a license to a ~~business entity contracting company~~ under division (B) of this section ceases to be associated with the ~~business entity contracting company~~ for any reason, including the death of the ~~individual contractor, the individual contractor or business entity contracting company~~ immediately shall notify the appropriate ~~specialty~~ section of the board of the date on which the ~~individual contractor~~ ceased to be associated with the ~~business entity contracting company~~. A ~~Such a~~ license assigned to a business entity assignment is invalid ~~ninety~~ according to the following, as applicable:

(a) ~~Ninety~~ calendar days after the ~~date on which the individual who assigned the license ceases to be associated with the business entity or at death of the contractor;~~

(b) Ninety calendar days after the contractor completes a change of company form:

(c) At an earlier time to which the ~~business entity~~ contracting company and the individual contractor agree.

(2) If a license ~~assigned~~ assignment made to a ~~business entity~~ contracting company becomes invalid pursuant to division (D)(1) of this section and another individual has assigned a license to the ~~business entity~~ contracting company for the same type of contracting for which the invalidated license assignment had been ~~assigned~~ made, the ~~business entity~~ contracting company may continue to operate under the other assigned license.

(E) Any work a ~~business entity~~ contracting company conducts under a the license assigned under this section or displayed under division (F) of section 4740.04 of the Revised Code is deemed to be conducted under the personal supervision of the individual named in the license and any violation of any term of the license is deemed to have been committed by the individual named in the license.

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

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

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

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

Sec. 4740.08. When a written reciprocity agreement between the states exists, and an individual who is registered, licensed, or certified in another state applies to the appropriate specialty section of the Ohio construction industry licensing board submits a copy of the reciprocity agreement, and pays the licensure fee determined pursuant to section 4740.09 of the Revised Code, the appropriate specialty section of the board shall authorize the

administrative section to issue, without examination, a license to that individual if the appropriate specialty section of the board determines, pursuant to rules it adopts, that the requirements for registration, licensure, or certification under the laws of the other state are substantially equal to the requirements for licensure in this state and that the other state extends similar reciprocity to persons licensed under this chapter. The appropriate specialty section of the board may withdraw its authorization to the administrative section for issuance of a license for good cause prior to the administrative section's issuance of the license.

Sec. 4740.09. The fees for licenses and their renewal, including late fees, subject to the approval of the controlling board, shall be determined by each respective specialty section of the Ohio construction industry ~~examining~~ licensing board. Each respective specialty section of the board may increase these fees, provided that no increase exceeds fifty per cent of the lowest fee determined by that section of the board during the three-year period immediately preceding an increase, and further provided that no increase is made more than once a year.

Sec. 4740.10. (A) A specialty section of the Ohio construction industry licensing board may impose any of the following, or any combination of the following, disciplinary actions against an applicant or license holder for committing an act listed in division (B) of this section:

(1) Suspend, revoke, or refuse to issue any license;

(2) Require additional continuing education hours;

(3) Issue a fine.

(B)(1) An applicant or licensee shall be subject to disciplinary action as prescribed under division (A) of this section for any of the following:

(a) Having been convicted of or pleading guilty to a crime of moral turpitude or disqualifying offense as those terms are defined in section 4776.10 of the Revised Code;

(b) Violating any provision of this chapter;

(c) Violating any rule adopted pursuant to this chapter;

(d) Obtaining or attempting to obtain a license or a renewal of such license pursuant to this chapter by means of fraud, deception, or misrepresentation;

(e) Obtaining an order, ruling, or authorization from any section of the board by means of fraud or misrepresentation;

(f) Engaging in fraud, misrepresentation, or deception in the conduct of business;

(g) Transferring the person's license to another person without the approval of the appropriate specialty section;

(h)(i) Allowing the person's license to be used by an unlicensed person or entity;

(ii) Division (B)(1)(h)(i) of this section does not apply to a contracting company that has been assigned a license under section 4740.07 of the Revised Code.

(i) Failing to comply with a disciplinary action imposed by the appropriate specialty section;

(j) Failing to maintain insurance throughout the license year, unless the license has properly been placed in inactive status under section 4740.06 of the Revised Code.

(2) The appropriate specialty section of the board may take disciplinary action against an applicant or license holder as prescribed under division (A) of this section upon receiving notice that a municipal corporation or any other governmental agency has suspended or revoked the local contracting license or registration of an individual or contracting company that also holds a license pursuant to this chapter.

(C) The appropriate specialty sections shall direct the administrative section to refuse to issue any license to an applicant upon a finding by the appropriate specialty section that the applicant has done either of the following:

(1) Had another person take the required examination for the applicant;

(2) Failed to pass the required examination.

(D) If an individual fails to request a hearing within thirty days after the date a specialty section, in accordance with section 119.07 of the Revised Code, notifies the individual of the board's intent to impose a disciplinary action against the individual under division (A) of this section, the specialty section, by a majority vote of a quorum of the section members, may impose the action against the individual without holding an adjudication hearing.

Sec. 4740.13. (A) No person shall act as or claim to be a type of contractor that this chapter licenses unless that person holds or has been assigned a license issued pursuant to this chapter for the type of contractor that person is acting as or claiming to be.

(B) Upon the request of the appropriate specialty section of the Ohio construction industry licensing board, the attorney general may bring a civil action for appropriate relief, including but not limited to a temporary restraining order or permanent injunction in the court of common pleas of the county where the unlicensed person resides or is acting as or claiming to be a licensed contractor.

(C) A contractor licensed under this chapter may install, service, and maintain the related or interfaced control wiring for equipment and devices

related to their specific license, on the condition that the control wiring is less than twenty-five volts.

(D) A person is not an electrical contractor subject to licensure under this chapter for work that is limited to the construction, improvement, renovation, repair, testing, or maintenance of the following systems using less than fifty volts of electricity: fire alarm or burglar alarm, cabling, tele-data sound, communication, and landscape lighting and irrigation.

Sec. 4740.131. Nothing in this chapter shall be construed to prohibit a contractor from leasing, on a temporary or permanent basis, an employee from a professional employer organization, as defined by section 4125.01 of the Revised Code, or from a temporary agency to perform work under the direct supervision of the contractor.

Sec. 4740.16. (A) ~~The~~ An investigator appointed by the director of commerce, on behalf of the appropriate specialty section of the Ohio construction industry licensing board may investigate any person who allegedly has violated section 4740.13 of the Revised Code. If, after an investigation pursuant to section 4740.05 of the Revised Code, the appropriate specialty section determines that reasonable evidence exists that a person has violated section 4740.13 of the Revised Code, ~~within seven days after that determination,~~ the appropriate specialty 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.~~

(B) The appropriate specialty 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 specialty section, after the hearing, determines a violation has occurred, the appropriate specialty section, upon an affirmative vote of ~~four~~ a majority of its members, may impose a fine on the person, not exceeding one thousand dollars per violation per day and may file a complaint against the person with the appropriate local prosecutor for criminal prosecution. The appropriate specialty section's determination is an order that the person may appeal in accordance with section 119.12 of the Revised Code.

~~(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.~~

~~(D)~~ If the appropriate specialty 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 specialty section, the appropriate specialty 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.

(D) If a person fails to request a hearing within thirty days after the date the appropriate specialty section, in accordance with section 119.07 of the Revised Code, notifies the person of the section's intent to act against the person under division (A) of this section, the section, by majority vote of a quorum of the section members, may take the action against a person without holding an adjudication hearing.

SECTION 2. That existing sections 4740.01, 4740.02, 4740.04, 4740.05, 4740.06, 4740.07, 4740.08, 4740.09, 4740.13, and 4740.16 and section 4740.10 of the Revised Code are hereby repealed.

SECTION 3. Notwithstanding division (B) of section 4740.07 of the Revised Code, as amended by this act, an individual who is licensed as a speciality contractor pursuant to section 4740.06 of the Revised Code on the effective date of this act and who has not assigned the individual's license to a contracting company shall have sixty days after the effective date of this act to assign the license to a contracting company in accordance with section 4740.07 of the Revised Code, as amended by this act. If a license is not assigned to a contracting company within sixty days after the effective date of this act, the appropriate specialty section of the Ohio Construction Industry Licensing Board shall place the license in inactive status.

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*Speaker* \_\_\_\_\_ *of the House of Representatives.*

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*President* \_\_\_\_\_ *of the Senate.*

Passed \_\_\_\_\_, 20\_\_\_\_

Approved \_\_\_\_\_, 20\_\_\_\_

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*Governor.*



Sub. S. B. No. 78

130th G.A.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

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*Director, Legislative Service Commission.*

Filed in the office of the Secretary of State at Columbus, Ohio, on the \_\_\_ day of \_\_\_\_\_, A. D. 20\_\_\_\_.

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*Secretary of State.*

File No. \_\_\_\_\_ Effective Date \_\_\_\_\_