
DEPARTMENT OF COMMERCE

Division of Financial Institutions: multistate licensing system

- Authorizes the Superintendent of Financial Institutions to participate in a multistate licensing system for all license or registration types overseen by the Superintendent.

Real estate licenses

- Increases several fees related to the licensing of real estate brokers and salespersons paid to the Division of Real Estate and Professional Licensing.
- Replaces the annual renewal fee for real estate brokers and real estate salespersons with a three-year renewal fee.
- Requires a person seeking a real estate broker or salesperson license to submit to a criminal records check, in addition to other continuing licensure requirements.
- Provides that licensed real estate brokers and salespersons are not subject to professional discipline solely because they provide real estate services to medical marijuana licensees.
- Expands the civil enforcement authority of the Superintendent of Real Estate and Professional Licensing relative to oil and gas land professionals.

Real Estate Recovery, Real Estate Appraiser Recovery Funds

- Replaces the current tiered assessments to fund the Real Estate Recovery Fund that the Real Estate Commission imposes on real estate broker and salesperson license renewals with a required assessment, up to \$10, if the fund falls below \$250,000.
- Authorizes the OBM Director, upon a request from the Director of Commerce during the biennium, to transfer funds, with Controlling Board approval, from the Real Estate Recovery Fund to the Division of Real Estate Operating Fund to reduce the former fund's balance to no less than \$250,000.
- Reduces from \$500,000 to \$200,000 the threshold balance in the Real Estate Recovery Fund that triggers the Director of Commerce's authority to request money be moved from the Real Estate Appraiser Operating Fund to the Real Estate Appraiser Recovery Fund and requires Controlling Board approval for such transfers.
- Authorizes the OBM Director, upon a request from the Director of Commerce during the biennium, to transfer funds, with Controlling Board approval, from the Real Estate Appraiser Recovery Fund to the Real Estate Appraiser Operating Fund to reduce the former fund's balance to no less than \$200,000.

Appraisers' removal from appraiser panels

- Requires an appraisal management company that wishes to remove an appraiser from its appraiser panel to provide the appraiser with a written explanation and an opportunity to respond in all cases.

Division of Liquor Control: D-5l liquor permit

- Authorizes the Division of Liquor Control to issue the D-5l liquor permit (for sales of beer and intoxicating liquor in a revitalization district) to a premises that is located in a municipal corporation with less than 10,000 people, provided the municipal corporation is located in a county with more than one million people.

Unclaimed funds

- Explicitly authorizes a notice of unclaimed funds to be published electronically.

Manufacturing Mentorship Program

- Creates the Manufacturing Mentorship Program to expose a 16- or 17-years old minor to manufacturing occupations in Ohio through temporary employment.
- Requires an employer employing a minor under the program to assign the minor a mentor, provide the minor with required training unless the minor has completed the training during the six-month period before beginning employment, and take other specified actions.
- Requires the Director of Commerce to specify a list of tools that a minor employed under the program may operate.
- Prohibits an employer from (1) permitting a minor to operate a tool described above unless the minor is employed under the Mentorship Program, and (2) permitting a minor who is employed under the program to operate a tool prohibited for use by minors of that age under federal and state law.
- Establishes a civil penalty for whoever violates the above prohibitions.
- Prohibits the Director from adopting any rule to prohibit a 16- or 17-year old minor employed under the program from being employed in a manufacturing occupation if the minor's employment in the occupation is permitted under federal law.

Division of Industrial Compliance: building code

- Authorizes the Superintendent of the Division of Industrial Compliance to administer and enforce the building code on behalf of political subdivisions, pursuant to contract.

Structural steel welding and inspection requirements

- Requires a contractor, subcontractor, or project manager who is responsible for the structural steel welding on a construction project to ensure that standards related to welding and welding inspections be met in construction projects.
- Exempts from the act's structural steel welding requirements certain buildings and any welding that is required by the American Society of Mechanical Engineers to have its own certification.

Fireworks license moratorium

- Extends the moratorium on issuing a fireworks manufacturer or wholesaler license and approving the geographic transfer of those licenses to December 31, 2020.

Mesh crib liners (VETOED)

- Would have removed a prohibition on the manufacture, sale, delivery, or possession of mesh crib liners in the absence of safety standards promulgated by the U.S. Consumer Product Safety Commission (VETOED).

Division of Financial Institutions: multistate licensing system

(R.C. 1181.23, 1321.73, 1349.43, 4712.02, 4727.03, and 4728.03)

The act authorizes the Superintendent of Financial Institutions to require persons licensed or registered by the Division of Financial Institutions¹⁶ to participate in a multistate licensing system. If the Superintendent chooses to use the system, the Superintendent may establish any requirements necessary to enable all statutorily required licensing and registration information to be submitted to the Superintendent through the system. Persons engaged in activity that requires licensure or registration are to utilize the system to apply for, renew, amend, or surrender their license or registration, and for any other activity determined by the Superintendent. They are also required to pay any related user fees.

The requirements established by the Superintendent cannot conflict with any statutory provision, but may add to the existing requirements that relate to:

- The manner of obtaining required criminal history records, civil or administrative records, or credit history records;
- The payment of fees required for the use of the multistate licensing system;
- The amending or surrender of a license or registration;
- The setting or resetting as necessary of renewal or reporting dates.

In light of this authority, the act expressly allows the Superintendent to set an annual renewal date that is different from the date provided in continuing law for licenses or registrations issued under the Insurance Premium Finance Company Law, Credit Services Organization Law, Pawnbrokers Law, and Precious Metals Dealers Law. If necessary for participation in the system, the Superintendent may also require annual license renewal for those pawnbrokers having two-year licenses.

¹⁶ These persons include licensees and registrants under the Check-cashing Businesses Law, Small Loan Law, Short-term Loan Law, General Loan Law, Consumer Installment Loan Act, Insurance Premium Finance Company Law, Residential Mortgage Loan Act, Credit Services Organization Law, Pawnbrokers Law, and Precious Metals Dealers Law.

The Superintendent is permitted to establish relationships or contacts with the multistate licensing system or other entities designated by the system to collect and maintain records and process transaction fees or other fees related to licensees and registrants. The Superintendent may use the materials or other information made available through the system in furtherance of any action brought by the Superintendent.

Under the act, any confidentiality or privilege arising under federal or state law relative to any information or material provided to the system continues to apply after it is provided to the system. That information or material may be released to any state or federal regulatory official with oversight authority without the loss of confidentiality or privilege protections provided by federal or state law.

Finally, the Department of Commerce is permitted to use the multistate licensing system to fulfill the Department's ongoing obligations to establish and maintain an electronic database accessible through the Internet that contains information on (1) the enforcement actions taken by the Superintendent under the Residential Mortgage Lending Act (RMLA), (2) the enforcement actions taken by the Attorney General under the Consumer Sales Practices Act (CSPA) against loan officers, mortgage brokers, and nonbank mortgage lenders, and (3) all judgments by Ohio courts finding a violation of the RMLA or finding that specific acts or practices by a loan officer, mortgage broker, or nonbank mortgage lender are unfair or deceptive trade practices under the CSPA.¹⁷

Real estate license fees

(R.C. 4735.06, 4735.09, 4735.13, 4735.15, 4735.182, 4735.27, and 4735.28)

The act increases by 35% (rounded to the nearest dollar) several fees related to the licensing of real estate brokers and real estate salespersons. The fee changes are as follows:

Fee	Former Law	The Act
Real estate broker license application	\$100	\$135
Real estate salesperson license application	\$60	\$81
Transfer from broker license to salesperson license	\$25	\$34
Notice of intention by real estate broker to join a business entity	\$25	\$34
Reactivation or transfer of a broker's license into or out of business entity	\$25	\$34

¹⁷ R.C. 1345.02, 1345.03, and 1345.031, not in the act.

Fee	Former Law	The Act
Reactivation or transfer of a salesperson's license	\$25	\$34
Branch office license	\$15	\$20
Foreign real estate salesperson's license and renewal	\$50	\$68
Additional fee for an education course provider or course provider applicant whose fee was returned	\$100	\$135
Foreign real estate dealer examination	\$75	\$101
Foreign real estate salesperson examination	\$50	\$68
Floor of foreign real estate dealer's fee for each salesperson employed by the dealer	\$150	\$203

In addition, the act replaces the annual renewal fee for real estate brokers and salespersons with a three-year renewal fee. The three-year fees likewise reflect a 35% increase, as follows:

Fee	Former – Annual	The Act – 3-Year
Renewal of real estate broker's license	\$60	\$243
Renewal of real estate salesperson's license	\$45	\$182
Additional 50% penalty for late renewal of real estate broker's license	\$30	\$121.50
Additional 50% penalty for late renewal of real estate salesperson's license	\$22.50	\$91

Real estate license criminal records check

(R.C. 109.572 and 4735.143)

One of the requirements under continuing law for a real estate broker or salesperson license is that the person not be convicted of a felony or crime of moral turpitude. The Superintendent of Real Estate and Professional Licensing may, if the Superintendent has reason to believe that an applicant has been convicted of a criminal offense, request the Bureau of Criminal Identification and Investigation (BCII) to conduct a criminal records check of the applicant.

The act requires that every applicant submit to a criminal records check to be licensed as a real estate broker or salesperson. The Superintendent must request BCII, or a vendor approved by BCII, to conduct a criminal records check based on fingerprints the applicant has submitted to BCII. Any fee must be paid by the applicant.

If the applicant discloses on the application that he or she has been convicted of a criminal offense, the applicant may take the examination only after the Superintendent has received the results and has made a determination to disregard the conviction. The Superintendent can disregard the conviction if the applicant has proven to the Superintendent that the applicant's activities and employment record since the conviction show that the applicant is honest, truthful, and of good reputation, and there is no basis in fact for believing that the applicant again will violate the laws involved.

If no conviction was indicated on the application and all other licensure requirements are met, the applicant may sit for the examination before the Superintendent receives the criminal records check results. If the applicant receives a passing score and meets the other licensure requirements, the Superintendent must issue a provisional license. If the criminal records check results subsequently confirm that the licensee has no conviction, the provisional status is removed. If it is determined that the licensee has been convicted of a criminal offense, the Superintendent may immediately suspend the license.

The act also requires any entity offering prelicensure education to notify a student, prior to enrollment in a class, (1) that a conviction of a criminal offense may disqualify an individual from obtaining a real estate license and (2) the student's rights to request a determination as to whether such a conviction will disqualify the student.

Real estate services to medical marijuana licensees

(R.C. 4735.18)

The act explicitly states that a licensed real estate broker or salesperson is not subject to disciplinary action by the Ohio Real Estate Commission solely for the reason that the broker or salesperson is (1) providing services for a sale, purchase, exchange, lease, or management of real estate that is or will be used in the cultivation, processing, dispensing, or testing of medical marijuana under the Medical Marijuana Control Program, or (2) receiving, holding, or disbursing funds from a real estate brokerage trust account in connection with such a transaction.

Oil and gas land professionals: civil penalties

(R.C. 4735.023 and 4735.052)

The act makes technical corrections to ensure the Superintendent of the Division of Real Estate and Professional Licensing is able to investigate and begin disciplinary proceedings against independent oil and gas land professionals who violate the Real Estate Licensing Law's requirements.

Oil and gas land professionals working as independent contractors (i.e., not as employees) can be exempt from real estate broker licensing under continuing law if they meet certain requirements, including registration with the Superintendent and membership in a qualifying professional organization. Continuing law, changed in part by the act, states that independent contractor oil and gas land professionals who fail to register with the Superintendent, or to notify the Superintendent of a lapse in necessary membership, are subject to penalties for unlicensed practice. The act maintains these provisions, but corrects two cross-references to reference the appropriate enforcement provisions – the oil and gas land professional enforcement provisions, rather than the general provisions.

Real Estate Recovery, Real Estate Appraiser Recovery Funds

(R.C. 4735.12 and 4763.16; Section 243.30)

Real Estate Recovery Fund assessments and transfers

Under continuing law, the Real Estate Recovery Fund is maintained to satisfy judgments against real estate brokers and salespeople who engage in professional misconduct. To support the fund, continuing law requires the Real Estate Commission to impose special assessments on brokers and salespersons renewing their licenses.

The act eliminates a tiered structure for assessments and instead requires an assessment, up to \$10, if the Real Estate Appraiser Recovery Fund's balance is less than \$250,000 on the July 1 preceding the license renewal and prohibiting assessments if the balance exceeds \$250,000 on that date. The act also grants the Director of Commerce authority to request, during the biennium, that the OBM Director transfer funds from the Real Estate Recovery Fund to the Real Estate Operating Fund if the Recovery Fund's balance exceeds \$250,000. Such a transfer may reduce the Recovery Fund's balance to no less than \$250,000 and must receive Controlling Board approval.

Real Estate Appraiser Recovery Fund transfers

Under continuing law, the Real Estate Appraiser Recovery Fund is maintained to satisfy judgments against real estate appraisers who violate the Real Estate Appraiser Law. The Superintendent of Real Estate is required to ascertain the fund's balance on October 1, every year.

Under prior law, if the Real Estate Appraiser Recovery Fund's balance was less than \$500,000, the Superintendent could request that the OBM Director transfer funds from the Real Estate Appraiser Operating Fund to the Real Estate Appraiser Recovery Fund to reestablish that balance. The act reduces the threshold at which a request may be made, and to which the

balance may be restored, to \$200,000, and specifies that the request may be made if the threshold is met at any time.

The act also grants the Director of Commerce authority, during the biennium, to request that the OBM Director transfer funds in the opposite direction, from the Real Estate Appraiser Recovery Fund to the Real Estate Appraiser Operating Fund if the Recovery Fund's balance exceeds \$200,000. Such a transfer may reduce the Recovery Fund's balance to no less than \$200,000.

Finally, the act requires Controlling Board approval before any transfers can be made between the Real Estate Appraiser Recovery Fund and Real Estate Appraiser Operating Fund.

Appraisers' removal from appraiser panels

(R.C. 4768.09)

If an appraisal management company wishes to remove an appraiser from its appraiser panel, the act requires the company to provide the appraiser with written notice that explains the reasons for removal and an opportunity to respond in all cases.

D-5I liquor permit

(R.C. 4303.181)

The act modifies the requirements for issuance of a D-5I liquor permit. The D-5I permit authorizes the sale of beer, wine, mixed beverages, and spirituous liquor for on-premises consumption, as well as beer, wine, and mixed beverages for off-premises consumption. The D-5I permit is not subject to the population quota restrictions that apply to regular D-5 permits.

Under continuing law, a D-5I permit may be issued to a premises to which all of the following apply:

- The premises has gross annual receipts from the sale of food and meals that constitute at least 75% of its total gross annual receipts;
- The premises is located within a revitalization district (an area designated by a municipal corporation or township that includes entertainment and other similar facilities);
- The premises is located in a municipal corporation or township in which the number of D-5 liquor permits issued equals or exceeds the population quota limit for those permits that may be issued in the municipal corporation or township; and
- The premises meets one of several population criteria.

The act adds a new population criterion by authorizing the Division of Liquor Control to issue the D-5I permit to a premises that meets the first three criteria and that is located in a municipal corporation with less than 10,000 people, provided the municipal corporation is located in a county with more than one million people.

Unclaimed funds

(R.C. 169.06)

The act allows the Director of Commerce to publish electronically notices of unclaimed funds. Under continuing law, the Director must publish a notice of unclaimed funds in a local newspaper in an attempt to notify the owner of the whereabouts of the owner's unclaimed funds and publish additional notices.

Manufacturing Mentorship Program

(R.C. 4109.22 and 4109.99)

The act creates the Manufacturing Mentorship Program to expose minors who are 16 or 17 years old to manufacturing occupations in Ohio through temporary employment. An employer employing a minor under the Mentorship Program must:

- Determine the duration of the minor's employment;
- Assign a mentor to provide direct and close supervision to the minor while the minor is engaged in any workplace activity;
- Provide the minor with the training described under "**Training**," below;
- Encourage the minor to participate in a career-technical education program if the minor is not participating in such a program when the minor begins employment; and
- Comply with all state and federal laws and regulations relating to the employment of minors.

A minor who is employed by an employer under the Mentorship Program may work in any manufacturing occupation that is not prohibited for minors of that age by Ohio's Minor Labor Law¹⁸ or rules adopted under the Law.

For purposes of the Mentorship Program, a "manufacturing occupation" is employment consisting of the mechanical, physical, or chemical transformation of materials, substances, or components into new products for sale, and includes assembling component parts into a finished product.

Training

The act requires an employer to provide a 16- or 17-year old minor employed in a manufacturing occupation under the Mentorship Program with training that includes:

- A ten-hour course in general industry safety and health hazard recognition and prevention approved by the U.S. Occupational Safety and Health Administration (OSHA) (the minor may participate in an OSHA-approved 30-hour course if the minor has already successfully completed a ten-hour course);

¹⁸ R.C. Chapter 4109.

- Instructions on how to operate the specific tools the minor will use;
- The general safety and health hazards that the minor may be exposed to at the minor's workplace;
- The value of safety and management commitment; and
- Information on the employer's drug testing policy.

The employer must pay any costs associated with providing a minor with the training. The employer is not required to provide the training if the minor shows proof of completing the training during the six-month period before beginning employment.

List of approved tools

The act requires the Director of Commerce, in consultation with employers, to adopt rules in accordance with the Administrative Procedures Act listing the tools that a minor employed under the Mentorship Program may operate. The Director must use the "Field Operations Handbook" issued by the U.S. Department of Labor for guidance. Nothing in the act requires the Director to include a tool on the list if the federal Fair Labor Standards Act¹⁹ (FLSA) hazardous occupation orders and Ohio's Minor Labor Law or rules adopted under it specifically permit 16- or 17- year olds to operate the tool.

Prohibitions

The act prohibits an employer from:

- Permitting a 16- or 17-year old minor to operate a tool a minor of that age is permitted to operate under the rules unless the minor is employed by the employer under the Mentorship Program;
- Permitting a 16- or 17-year old minor employed under the program to operate a tool that a minor of that age is prohibited from using by the FLSA and Ohio's Minor Labor Law or rules adopted under it.

An employer who violates the above prohibitions is assessed a civil penalty of up to \$1,730 for each violation.

Hazardous occupations prohibited for minors

(R.C. 4109.05)

Continuing law requires the Director, after consulting with the Director of Health, to adopt rules prohibiting the employment of minors in occupations that are hazardous or detrimental to the health and well-being of minors. The Director of Commerce must consider the hazardous occupation orders issued pursuant to the FLSA when adopting the rules. The act prohibits the Director from adopting any rule that would prohibit a minor who is 16 or 17 years

¹⁹ 29 U.S.C. 201 *et seq.*

old and employed under the Manufacturing Mentorship Program from being employed in a manufacturing occupation if the hazardous occupation orders issued pursuant to the FLSA permit the minor's employment in the manufacturing occupation.

Division of Industrial Compliance: building code

(R.C. 121.083 and 3781.10)

The act grants the Superintendent of the Division of Industrial Compliance new authority to contract with health districts and certified building departments to administer and enforce the building code on their behalf. It also adds certified officers and employees of the Division to the list of persons upon whom local governmental entities may rely for administration and enforcement.

Structural steel welding and inspection requirements

(R.C. 3781.40, 3781.06, and 3781.061)

Under the act, a contractor, subcontractor, or construction manager whose workers are welding the structural steel on a construction project must ensure that:

- The workers performing the structural steel welding have been tested by and hold a valid certification from an American Welding Society (AWS) accredited facility or individual.
- All structural steel welds performed for the project are listed in the project's job specifications and meet specifications, guidelines, tests, and other methods used to ensure that all structural steel welds satisfy, at minimum, the codes and standards for those welds established in the AWS Structural Steel Welding Code D1.1 and the Ohio Building Code (which governs commercial buildings).
- All structural steel welding inspections listed in the project's job specifications are completed by a certified welding inspector.

Except as described below, the requirements listed above apply to all construction projects that involve structural steel welding, which, under the act, is structural welds, weld repair, the structural system, and the welding of all primary steel members of a structure in accordance with the AWS Code D1.1.

Exempt welds and structures

The welding and inspection requirements do not apply to:

- Welding that is required by the American Society of Mechanical Engineers to have its own certification;
- A building or structure that is incidental to the agricultural use of the land on which the building or structure is located, provided the building or structure is not used to conduct retail business;

- An existing single-family, two-family, or three-family home for which the owner has applied to the Director of Job and Family Services for a license to operate a type A family day-care home as defined in continuing law; or
- Any building or structure for which a county zoning inspector or a township zoning inspector has issued a zoning certificate declaring the building or structure to be for agriculture use.

Other laws

The welding and inspection requirements may not be construed to limit the Division of Industrial Compliance's power to adopt rules governing manufactured home parks under the Manufactured Homes Law.

Penalty

A person who recklessly fails to comply with the act's structural steel welding requirements is subject to the following penalty:

- If the violation is not detrimental to the health, safety, or welfare of any person, a fine of not more than \$100;
- If the violation is detrimental to the health, safety, or welfare of any person, a minor misdemeanor.²⁰

Fireworks license moratorium

(R.C. 3743.75)

The act extends the moratorium on issuing a fireworks manufacturer or wholesaler license and approving the geographic transfer of those licenses from December 31, 2019, to December 31, 2020.

Mesh crib liners (VETOED)

(R.C. 3713.022 and 3713.99)

The Governor vetoed a provision that would have removed a prohibition on the manufacture, sale, delivery, or possession of mesh crib liners in the absence of safety standards promulgated by the U.S. Consumer Product Safety Commission. Under continuing law, the prohibition will take effect April 6, 2020.

²⁰ R.C. 3781.99, not in the act.