

# DIVISION OF REAL ESTATE AND PROFESSIONAL LICENSING

## General information (COM)

### Duties

The Division of Real Estate and Professional Licensing is part of the Ohio Department of Commerce. The Division of Real Estate is responsible for licensing:

- Real Estate brokers, salespersons, and companies
- Appraisers and appraisal management companies
- Foreign real estate dealers and salespersons
- Manufactured homes dealers, brokers, and salespersons
- Home inspectors

Additionally, the Division registers:

- Ohio cemeteries
- Land professionals
- Real estate developments located in other states but marketed in Ohio
- Video Service Authorization (VSA)

### Membership *(Current members, chairperson and other officers, and selection process.)*

For many of the above listed programs, there is a board or commission, each addressed by a separate survey.

- Real Estate Commission
- Appraiser Board
- Cemetery Dispute Resolution Commission

**Budget** *(Current budget, description of budgeting process, sources of funding, and expected increases or decreases in budget or funding in future years.)*

There are 11 budgetary funds within the Division of Real Estate and Professional Licensing. Overall, the budget has remained flat with the exception of cost of living increases and pay raises.

**Workload** *(Assess current, past, and anticipated workload. Has the workload increased or decreased significantly in the preceding six years?)*

Over the last few years, the Division of Real Estate has taken on new programs, without increasing the staff size. In addition, the number of licensees has increased.

As of October 2022:

42,859 Active Brokers and Salespersons (compared to 41,617 in October 2021)

3,251 Active Appraisers and 132 Active Appraisal Management Companies (compared to 3,348 total in October 2021)

**Staffing** *(How many staff are currently employed by the Division? What are their roles? Are staffing levels proportionate to the Division's current and anticipated workload?)*

38 Full Time.

Superintendent, Assistant to Superintendent, Deputy Superintendent, Division Counsel, 3 Staff Attorneys, 4 Program Managers, 9 Licensing team members, 6 Customer Service team members, 6 Investigators, 1 Enforcement Supervisor, 1 Enforcement Assistant, 1 Cemetery Investigator, 1 VSA team member, 1 Hearing Officer

1 Intermittent (Customer Service.)

We Currently have 8 vacancies.

**Staffing** *(How many staff are currently employed by the Division? What are their roles? Are staffing levels proportionate to the Division's current and anticipated workload?)*

See above

**Administrative hearings and public complaints** *(Describe the Division's processes for administering discipline and addressing complaints. Assess the efficiency of the processes.)*

The Division has multiple programs that it administers. This question is addressed below for the Manufactured Homes Program and the Land Professional registration. Other surveys were completed for the Appraisal Program, the Real Estate Program and the Cemetery Program and the question was addressed on those surveys.

## **Manufactured housing dealer, broker, or salesperson**

### **Survey responses (COM)**

#### **Description**

The Division licenses and regulates Ohio's manufactured home dealers, brokers and salespeople. In this role the Division processes applications and answers questions from applicants, licensees, and the public. The Division receives and investigates complaints, takes part in hearings before a hearing officer, issues orders, and responds to public records requests. The Division also investigates, inspects, and approves the sites where manufactured homes may be sold to assist dealers and brokers with complying with Ohio laws and rules regarding these locations.

**Type** (License, specialty license for medical reimbursement, government certification, registration, bonding or insurance, inspection, or process regulation. See R.C. 4798.01 for relevant definitions.)

Manufactured home dealers, brokers and salespeople must be licensed to sell new or used manufactured homes. Dealers and brokers are also required to maintain bonds. Finally, dealer and broker locations must pass an inspection.

**If the regulation is a registration, certification, or license requirement, please complete the following:**

<b>Number issued annually</b>	Approximately 63 new sales licenses were issued in 2021 and 32 new dealer licenses.
<b>Number renewed annually</b>	Renewals occur biennially. In the year 2021, 231 sales licenses were renewed, and 243 dealer/broker licenses were renewed.
<b>Have there been significant increases or decreases in active registrations, certifications or licenses in the preceding six years?</b>	The Division has not seen increases that it would deem significant. As new licensees are added, some existing licensees fail to renew. Therefore, large increases or decreases are not typically seen.
<b>Education or training requirements</b>	N/A
<b>Experience requirements</b>	N/A

**If the regulation is a registration, certification, or license requirement, please complete the following:**

<p><b>Examination requirements</b> (<i>Who administers the exam? How is the exam and administrator selected? What fees are charged? Does the Division receive any proceeds of those fees? If so, how are the proceeds used?</i>)</p>	<p>N/A</p>
<p><b>Continuing education requirements</b> (<i>Including a description of the curriculum and the process of setting it.</i>)</p>	<p>N/A</p>
<p><b>Initial fee</b></p>	<p>The initial fee for sales applications is \$153.50. The initial fee for dealer and broker licenses is \$253.50</p>
<p><b>Duration</b></p>	<p>Licenses expire every two years on odd numbered years.</p>
<p><b>Renewal fee</b> (<i>If different from initial fee, please explain why.</i>)</p>	<p>The renewal fees are the same as the initial application fees.</p>
<p><b>Does the Division recognize uniform licensure requirements or allow for reciprocity?</b></p>	<p>The Division does not recognize uniform licensure or allow for reciprocity. However, an applicant whose principal place of business is located outside of Ohio can obtain a foreign business license in order to sell at retail, display, offer for sale, or deal in manufactured housing that is to be delivered into Ohio.</p>
<p><b>Are there any similar national registrations, certifications, or licenses? Could they be used as a substitute for the state regulation?</b></p>	<p>No. N/A</p>

**If the regulation is a registration, certification, or license requirement, please complete the following:**

<b>Are there any circumstances in which an individual may practice elements of the occupation without being regulated by the Division?</b>	Individual may complete five or less casual sales of manufactured homes in a twelve-month period without obtaining a license as a dealer. Real estate brokers may also broker the sale of manufactured homes without a manufactured home broker license.
<b>Is the Division permitted to exercise discretion in determining whether to register, certify, or license an individual?</b>	Applicants must meet certain qualifications and obtain a criminal background check prior to becoming licensed.
<b>Other information</b> ( <i>Significant attributes or prerequisites to licensure not addressed in this chart.</i> )	

**Oversight and disciplinary authority of the Division respecting individuals engaged in the occupation.**

The Division may, upon its own motion, and shall, upon the verified complaint in writing of any person, investigate the conduct of any manufactured home salesperson, dealer or broker. The division shall suspend, revoke, or refuse to renew any manufactured housing dealer's, manufactured housing broker's, or manufactured housing salesperson's license, if any ground existed upon which the license might have been refused, or if a ground exists that would be cause for refusal to issue a license.

**How much revenue is derived from fees charged by the Division to individuals engaged in the occupation (such as license and renewal fees)? How is that revenue used?**

The Division estimates \$175,000.00 in revenue from fees to individuals engaged in the occupation. The revenue is used for payroll and operating expenses for the program.

**Describe any federal regulations that apply to the occupation. Does federal law require the state to regulate the occupation?**

N/A

**What is the harm that the regulation seeks to prevent? (See, R.C. 4798.02(B).)**

Manufactured housing dealers, brokers, and salespersons assist members of the public with high dollar transactions involving the purchase, lease, and sale of manufactured homes. The consumer places trust in the manufactured housing licensee. During the course of the transaction, licensees may handle consumers' money such as the purchase price, earnest money deposits, rents, and security deposits. Consumers also often enter the business establishment of dealers and brokers. The rules provide for minimum guidelines for business locations, professional responsibility for the licensees and establish a code of ethics for the licensees. Further, the rules permit increased efficiency in the division processing license applications and investigating enforcement actions.

**Is the regulation effective at preventing the harm described above? Are there other, less restrictive ways to prevent the harm?**

The regulations are very minimal. There is not a less restrictive way to prevent the harm.

**Are there any changes the Division would like to see implemented?**

The Division would like to see a slight change to the confidentiality statute regarding license applications to permit the names, addresses and phone numbers of applicants who eventually become licensed to be published on the Division’s website for consumer access. The Division would also like to see the statutes amended to bring them into line with Ohio Revised Code Section 9.79 regarding the use and limitations on use of criminal history in license applications.

**Surrounding state comparison (LSC)**

Manufactured Housing Dealer, Manufactured Housing Broker, Manufactured Housing Salesperson						
	Ohio	Indiana	Kentucky	Michigan	Pennsylvania	West Virginia
Type of regulation	License ( <i>R.C. 4781.16</i> ).	License (dealer only) ( <i>Ind. Code 9-32-11-1</i> ).	License ( <i>Ky. Rev. Stat. 227.580</i> ).	License ( <i>Mich. Comp. Laws 125.2321</i> ).	License ( <i>63 Pa. Stat. 818.303</i> ).	License ( <i>W. Va. Code 21-9-9; W. Va. Code R. 42-19-5</i> ).
Education or training	N/A	Accreditation through the Quality Assurance Program of the	One employee must complete the Kentucky Department of	N/A	N/A	N/A



**Manufactured Housing Dealer, Manufactured Housing Broker, Manufactured Housing Salesperson**

	Ohio	Indiana	Kentucky	Michigan	Pennsylvania	West Virginia
		National Mobility Equipment Dealers Association ( <i>Ind. Code 9-32-11-8</i> ).	Housing, Buildings, and Construction licensing course and test for manufactured home installation ( <i>815 Ky. Admin. Regs. 25:060</i> ).			
Experience	N/A	N/A	N/A	N/A	N/A	N/A
Exam	N/A	N/A	Yes (retailers only) ( <i>Ky. Rev. Stat. 227.610</i> ).	N/A	N/A	N/A
Continuing education	N/A	N/A	N/A	N/A	N/A	Continuing education required under federal law every three years ( <i>W. Va. Code R. 42-19-5a</i> ).
Initial licensure fee	\$250 plus a \$3.50 system fee for a dealer or broker ( <i>Ohio Dept. of Commerce, <a href="#">Dealer/Broker Application</a></i> ); \$150	\$30 ( <i>Ind. Secretary of State, <a href="#">Guidance and Policy Documents</a></i> ).	\$250 ( <i>815 Ky. Admin. Regs. 25:060</i> ).	\$450 ( <i>Mich. Comp. Laws 125.2321</i> ).	\$65 for a dealer; \$25 for a salesperson ( <i>49 Pa. Code 19.4</i> ).	\$250 ( <i>W. Va. Code 21-9-9; W. Va. Code R. 42-19-5</i> ).

**Manufactured Housing Dealer, Manufactured Housing Broker, Manufactured Housing Salesperson**

	Ohio	Indiana	Kentucky	Michigan	Pennsylvania	West Virginia
	plus a \$3.50 system fee for a salesperson ( <i>Ohio Dept. of Commerce, <a href="#">Manufactured Home Salesperson Licensing Information (PDF)</a></i> ).					
License duration	Two years ( <i>R.C. 4781.19; O.A.C. 4781-11-05</i> ).	One year ( <i>Ind. Secretary of State, <a href="#">License and Plate Renewals</a></i> ).	One year ( <i>815 Ky. Admin. Regs. 25:060</i> ).	Three years ( <i>Mich. Comp. Laws 125.2321</i> ).	Two years ( <i>63 Pa. Stat. 818.304</i> ).	One year ( <i>W. Va. Code 21-9-9; W. Va. Code R. 42-19-5</i> ).
Renewal fee	\$250 plus a \$3.50 system fee for a dealer or broker ( <i>Ohio Dept. of Commerce, <a href="#">Dealer/Broker Application</a></i> ); \$150 plus a \$3.50 system fee for a salesperson ( <i>Ohio Dept. of Commerce, <a href="#">Manufactured Home Salesperson</a></i> ).	\$30 ( <i>75 Ind. Admin. Code 6-2-2.2; Ind. Secretary of State, <a href="#">Guidance and Policy Documents</a></i> ).	\$250 ( <i>815 Ky. Admin. Regs. 25:060</i> ).	\$450 ( <i>Mich. Comp. Laws 125.2321; Mich. Admin. Code R. 125.1212</i> ).	\$175 for a dealer; \$90 for a salesperson ( <i>49 Pa. Code 19.4</i> ).	\$250 ( <i>W. Va. Code 21-9-9; W. Va. Code R. 42-19-5</i> ).

Manufactured Housing Dealer, Manufactured Housing Broker, Manufactured Housing Salesperson						
	Ohio	Indiana	Kentucky	Michigan	Pennsylvania	West Virginia
	<a href="#"><u>Licensing Information</u></a>					

## Oil and gas land professional

### Survey responses (COM)

Description
<p>In order to sell, exchange, purchase, rent, lease, or negotiate real estate in Ohio, a person would either need to hold an Ohio real estate salesperson license, broker license or fall under one of the exemptions found in ORC 4735.01(I). Real estate “includes leaseholds as well as any and every interest or estate in land situated in this state, whether corporeal or incorporeal, whether freehold or non-freehold, and the improvements on the land, but does not include cemetery interment rights.” ORC 4735.01(B).</p> <p>One exemption under ORC 4735.01(I) is for oil and gas land professionals. ORC 4735.01(GG) defines an oil and gas land professional as “a person regularly engaged in the preparation and negotiation of agreements for the purpose of exploring for, transporting, producing, or developing oil and gas mineral interests, including, but not limited to, oil and gas leases and pipeline easements.”</p>
Type (License, specialty license for medical reimbursement, government certification, registration, bonding or insurance, inspection, or process regulation. See R.C. 4798.01 for relevant definitions.)
<p>Registration as an exemption to real estate licensure.</p>

If the regulation is a registration, certification, or license requirement, please complete the following:	
<b>Number issued annually</b>	As of October 11, 2022 there are 324 actively registered oil and gas land professionals.
<b>Number renewed annually</b>	For the 2022 renewal, 326 registered land professionals received a renewal notice.
<b>Have there been significant increases or decreases in active registrations, certifications or licenses in the preceding six years?</b>	No
<b>Education or training requirements</b>	N/A
<b>Experience requirements</b>	N/A
<b>Examination requirements</b> ( <i>Who administers the exam? How is the exam and administrator selected? What fees are charged? Does the Division receive any proceeds of those fees? If so, how are the proceeds used?</i> )	N/A
<b>Continuing education requirements</b> ( <i>Including a description of the curriculum and the process of setting it.</i> )	N/A
<b>Initial fee</b>	\$100
<b>Duration</b>	Registrations expire annually on April 30th.

If the regulation is a registration, certification, or license requirement, please complete the following:	
<b>Renewal fee</b> <i>(If different from initial fee, please explain why.)</i>	\$100
<b>Does the Division recognize uniform licensure requirements or allow for reciprocity?</b>	N/A
<b>Are there any similar national registrations, certifications, or licenses? Could they be used as a substitute for the state regulation?</b>	No. This registration is an exemption to holding a real estate salesperson license or broker license in Ohio under ORC 4735.
<b>Are there any circumstances in which an individual may practice elements of the occupation without being regulated by the Division?</b>	Only if they fall under another exemption listed in ORC 4735.01(I).
<b>Is the Division permitted to exercise discretion in determining whether to register, certify, or license an individual?</b>	If an applicant files a complete application pursuant to ORC 4735.023 there is no discretion in determining whether to register an oil and gas land professional.
<b>Other information</b> <i>(Significant attributes or prerequisites to licensure not addressed in this chart.)</i>	Pursuant to ORC 4735.023, to qualify for an oil & gas land professional registration exemption in Ohio you need to be a member in good standing with a national, state, or local professional organization that has been in existence for at least three years and developed a set of standards of performance and ethics specifically for oil and gas land professionals.

**Oversight and disciplinary authority of the Division respecting individuals engaged in the occupation.**

The Division maintains the registration of oil and gas land professionals. Any oil and gas land professional who does any activities listed in ORC 4735.01(A) related to oil and gas and fails to register with the Division is subject to the penalties for unlicensed activity as found in section 4735.052 of the Revised Code.

Any registered oil and gas land professional that ceases to be a member in good standing of an organization described in ORC 4735.023(A)(1)(a)(ii) is required to report the change to the superintendent within thirty days. A failure to report the change in membership status shall result in the automatic suspension of registration status and subject the registrant to the penalties for unlicensed activity as found in section 4735.052 of the Revised Code.

**How much revenue is derived from fees charged by the Division to individuals engaged in the occupation (such as license and renewal fees)? How is that revenue used?**

The Division estimates revenue of \$25,500.00 derived from fees charged by the Division to those engaged in the occupation. The revenue is used for payroll and operating expenses for the program.

**Describe any federal regulations that apply to the occupation. Does federal law require the state to regulate the occupation?**

N/A

**What is the harm that the regulation seeks to prevent? (See, R.C. 4798.02(B).)**

In *Dundics v. Eric Petro. Corp.*, 2018-Ohio-3826, the Ohio Supreme Court found that an oil and gas lease falls within the definition of ‘real estate’ in RC 4735.01(A) and 4735.02(A) and that by negotiating oil and gas leases for a fee, for another; the individual would need to hold a real estate salesperson license or a real estate broker license. Following this decision, Senate Bill 263 was enacted providing a specific exemption for oil and gas land professionals who are not otherwise permitted to engage in the activities described in ORC 4735.01(A) by creating the registration program.

**Is the regulation effective at preventing the harm described above? Are there other, less restrictive ways to prevent the harm?**

This regulation is effective and is the least restrictive way to allow oil and gas land professionals to conduct business in Ohio. The Division worked closely with industry leaders and professional organizations when the registration program was being crafted.

**Are there any changes the Division would like to see implemented?**

Not at this time.

## Surrounding state comparison (LSC)

Oil and Gas Land Professional						
	Ohio	Indiana	Kentucky	Michigan	Pennsylvania	West Virginia
Type of regulation	Registration ( <i>R.C. 4735.023</i> ).	No clear equivalent.	No clear equivalent.	No clear equivalent.	No clear equivalent.	No clear equivalent.
Education or training	Membership in a national, state, or local professional organization that has been established for at least three years ( <i>R.C. 4735.023</i> ).	N/A	N/A	N/A	N/A	N/A
Experience	N/A	N/A	N/A	N/A	N/A	N/A
Exam	N/A	N/A	N/A	N/A	N/A	N/A
Continuing education	N/A	N/A	N/A	N/A	N/A	N/A
Initial licensure fee	\$100 ( <i>Ohio Dept. of Commerce, <a href="#">Oil and Gas Land Professional Registration Form (PDF)</a></i> ).	N/A	N/A	N/A	N/A	N/A
License duration	One year ( <i>R.C. 4735.023</i> ).	N/A	N/A	N/A	N/A	N/A



Oil and Gas Land Professional						
	Ohio	Indiana	Kentucky	Michigan	Pennsylvania	West Virginia
Renewal fee	\$100 ( <i>Ohio Dept. of Commerce, <a href="#">Oil and Gas Land Professional Renewal Form (PDF)</a></i> ).	N/A	N/A	N/A	N/A	N/A

## Home inspector

### Surrounding state comparison (LSC)

Home Inspector License						
	Ohio	Indiana	Kentucky	Michigan	Pennsylvania	West Virginia
Type of regulation	License ( <i>R.C. 4764.02</i> ).	License ( <i>Ind. Code 25-20.2-5-1</i> ).	License ( <i>Ky. Rev. Stat. 198B.712</i> ).	No clear equivalent.	No clear equivalent.	Certification ( <i>W. Va. Code 15A-11-5; W. Va. Code R. 87-5-2</i> ).
Education or training	A high school diploma or equivalent and at least 80 hours of qualifying education approved by the Ohio Home Inspector Board,	A high school diploma or equivalent and 60 hours of qualifying education approved by the Indiana Home Inspectors	A high school diploma or equivalent and 64 credit hours of education approved by the Kentucky Board of Home Inspectors, which must	N/A	N/A	A high school diploma or equivalent and 80 hours of instruction approved by the State Fire Marshal or three years of experience as a

Home Inspector License						
	Ohio	Indiana	Kentucky	Michigan	Pennsylvania	West Virginia
	which may cover foundations, framing, building enclosure, roof systems, plumbing systems, electrical systems, HVAC (heating, ventilation, and air conditioning) systems, appliances, Ohio standards of practice, Ohio home inspector law, and Ohio report writing ( <i>R.C. 4764.07; O.A.C. 1301:17-1-07</i> ).	Licensing Board, which must cover heating, cooling, electrical, and plumbing systems as well as structural components, foundations, roof coverings, exterior and interior, and Indiana licensure law and report writing ( <i>Ind. Code 25-20.2-5-2; 878 Ind. Admin. Code 1-3-2</i> ).	include two hours of manufactured housing; 12 hours of Kentucky standards of practice, contracts, report writing, and communications; six hours of exterior, roofing, insulation, and ventilation; nine hours of structure and interior; nine hours of electrical and plumbing; six hours of heating and air conditioning; 16 hours of field training; three hours of general residential construction; and one hour of environmental hazards, mitigation, water quality, and			home inspector ( <i>W. Va. Code R. 87-5-4</i> ).

Home Inspector License						
	Ohio	Indiana	Kentucky	Michigan	Pennsylvania	West Virginia
			indoor air quality <i>(Ky. Rev. Stat. 198B.712; 831 Ky. Admin. Regs. 2:040).</i>			
Experience	At least 18 years of age. Completion of 40 hours of work in the home inspection field, a peer review session, and ten parallel inspections or equivalent experience. <i>(R.C. 4764.07; O.A.C. 1301:17-1-13 to 1301:17-1-15).</i>	At least 18 years of age. 12 hours of on-site inspection experience acquired during approved education course. <i>(878 Ind. Admin. Code 1-3-2.)</i>	At least 18 years of age. Three unpaid home inspections under supervision. <i>(Ky. Rev. Stat. 198B.712; 831 Ky. Admin. Regs. 2:040.)</i>	N/A	N/A	At least 18 years of age <i>(W. Va. Code R. 87-5-4).</i>
Exam	National Home Inspector Examination <i>(R.C. 4764.07).</i>	National Home Inspector Examination <i>(878 Ind. Admin. Code 1-3-3).</i>	Yes <i>(831 Ky. Admin. Regs. 2:040).</i>	N/A	N/A	National Home Inspector Examination <i>(W. Va. Code R. 87-5-4).</i>

Home Inspector License						
	Ohio	Indiana	Kentucky	Michigan	Pennsylvania	West Virginia
Continuing education	14 hours every year ( <i>R.C. 4764.08; O.A.C. 1301:17-1-10</i> ).	32 hours every two years ( <i>Ind. Code 25-20.2-6-4; 878 Ind. Admin. Code 1-5-1</i> ).	28 hours every two years ( <i>Ky. Rev. Stat. 198B.722; 831 Ky. Admin. Regs. 2:040</i> ).	N/A	N/A	16 hours every year ( <i>W. Va. Code R. 87-5-6</i> ).
Initial licensure fee	\$235 ( <i>R.C. 4764.05; O.A.C. 1301:17-1-03</i> ).	\$50 ( <i>878 Ind. Admin. Code 1-3-1</i> ).	\$250 ( <i>831 Ky. Admin. Regs. 2:020</i> ).	N/A	N/A	\$150 (\$125 certification fee plus \$25 application fee) ( <i>W. Va. Code R. 87-5-7</i> ).
License duration	Three years ( <i>R.C. 4764.09</i> ).	Two years ( <i>Ind. Code 25-20.2-6-1</i> ).	Two years ( <i>Ky. Rev. Stat. 198B.722</i> ).	N/A	N/A	One year ( <i>W. Va. Code R. 87-5-6</i> ).
Renewal fee	\$235 ( <i>R.C. 4764.05; O.A.C. 1301:17-1-03</i> ).	\$50 ( <i>878 Ind. Admin. Code 1-3-1</i> ).	\$400 ( <i>831 Ky. Admin. Regs. 2:020</i> ).	N/A	N/A	\$100 ( <i>W. Va. Code R. 87-5-7</i> ).

# OHIO CEMETERY DISPUTE RESOLUTION COMMISSION

## General information (COM)

### Duties

The Commission is vested with the authority to mediate and make recommendations on how to resolve complaints against registered cemeteries, to refer alleged violations of certain cemetery laws to a county prosecutor, or to refer matters to the Ohio Attorney General for possible violations of the Ohio Consumer Sales Practices Act. ORC 4767.08(A) permits the Commission to review the financial records of trust accounts required to be maintained pursuant to ORC Sections 1721.21 and 1721.211 to ensure compliance with the laws. Under ORC 4767.06(G), the Commission also reviews all proposed transfers of cemeteries that would transfer substantially all of the assets or stock of that cemetery. In addition, the Commission adopts and publishes suggested maintenance guidelines for all cemeteries registered in the state of Ohio.

### Membership *(Current members, chairperson and other officers, and selection process.)*

Current members are: Chairperson Kirk Roberts, Vice Chairperson Rick E. Meade, Secretary Ronald Puff, Jimmie J. Blevins, Mark A. Funke, Ann Meyer, Robert Winter. There are two vacant positions.

Nine Ohioans serve on the Commission representing religious, government, non-profit/company cemetery groups and two members of the public. Members of the Commission may serve two consecutive four year terms. According to ORC 4767.05(A), one member shall be the management authority of a municipal, township, or union cemetery recommended by the Ohio Township Association and the Ohio Municipal League; four members shall be individuals employed in a management position by a cemetery company or cemetery association and recommended by the Ohio Cemetery Association; two members shall be employed in a management position by a cemetery that is owned or operated by a religious, fraternal, or benevolent society and recommended by the Ohio Cemetery Association and two members, at least one of whom shall be at least sixty-five years of age, shall be representatives of the public with no financial interest in the death care industry. Each member of the commission, except for the two members who represent the public, shall, at the time of appointment, have had a minimum of five consecutive years of experience in the active administration and management of a cemetery in this state. They are appointed by the Governor of the State of Ohio with the advice and consent of the Ohio Senate.

**Budget** *(Current budget, description of budgeting process, sources of funding, and expected increases or decreases in budget or funding in future years.)*

There are two sources of funding for the Commission. One source is from the cemetery registration and renewal fees. ORC 4767.03(A)(1) sets the amount of this fee as twenty-five dollars for one cemetery, forty dollars for two cemeteries, and fifty dollars for three or more cemeteries. Political subdivisions do not pay a fee to register. All registration and renewal fees collected are paid into the state treasury to the credit of the Division to be used by the Division and the Commission to carry out its powers and duties under Chapter 4767 of the Revised Code. [RC 4767.03(D)]. The Cemetery Operating fund is estimated to have \$200,000 in revenue. The revenue varies on burial permit fees filed each year.

The registration and renewal fees generate approximately \$19,000.00 per fiscal year.

The second source of funding comes from the issuance of burial permit fees. ORC 3705.17 provides that:

“[w]hen a funeral director or other person obtains a burial permit from a local registrar or sub-registrar, the registrar or subregistrar shall charge a fee of three dollars for the issuance of the burial permit. Two dollars and fifty cents of each fee collected for a burial permit shall be paid into the state treasury to the credit of the Division of Real Estate in the Department of Commerce to be used by the Division in discharging its duties prescribed in Chapter 4767 of the Revised Code and the Ohio Cemetery Dispute Resolution Commission created by section 4767.05 of the Revised Code.”

Burial permit fees generate to the operating fund approximately \$181,000.00 per fiscal year to the Division. The cemetery grant program receives one dollar of every two dollars and fifty cents of each burial permit fee collected. The cemetery grant fund is estimated in \$125,000 in revenue.

**Workload** *(Assess current, past, and anticipated workload. Has the workload increased or decreased significantly in the preceding six years?)*

The workload has been increasing over the years. The number of cemeteries that are actively registered has increased as has the number of complaints filed with the Commission. There are currently 4,176 registered cemeteries. As of October 7, 2022, the Division has received 47 cemetery complaints – compared to 38 complaints in all of 2021.

Additionally, in 2018, Sub. House Bill 168 added additional duties. The Division now audits the financial records of approximately 400 cemeteries to ensure compliance with sections 1721.21 and 1721.211 of the Revised Code at least every five years, or more often as the section deems necessary. Sub. House Bill 168 also included the Cemetery Grant Fund. The fund defrays the costs of exceptional cemetery maintenance or training cemetery personnel in the maintenance and operation of a cemetery. The program offers annual grants on a state fiscal year timeline. Staff also handles over 1,100 phone calls a year. There has been a sharp increase in the number of emails with over 2,000 received and responded to in 2021.

**Staffing** *(How many staff are currently employed by the Commission? What are their roles? Are staffing levels proportionate to the Commission's current and anticipated workload?)*

Two full-time staff members; a Section Chief who is also an attorney, and an external auditor; handle the day-to-day administration of the program, registrations and renewals, audits, consumer complaints and the grant program.

In addition to the cemetery program, the Section Chief also handles the land professional registration program, any cemetery public records requests, cemetery rule-review, public speaking at stakeholder events and heads the mediation program for real estate/appraiser/home inspector enforcement sections. The external auditor is a trained mediator and also helps handle mediations for the enforcement section.

With the current and anticipated workload for the cemetery program and other duties previously mentioned, the staffing levels are strained for this program

**Administrative hearings and public complaints** *(Describe the Commission's processes for administering discipline and addressing complaints. Assess the efficiency of the processes.)*

This Commission is a non-adjudicatory body. The dual purpose of the Commission is to assist in resolving complaints against registered cemeteries by using informal techniques of mediation, conciliation and persuasion and to audit cemetery trust accounts to ensure compliance with the laws created to protect consumer funds. ORC Section 1721.21 has trust requirements for endowment care money and Section 1721.211 has trust requirements for merchandise and services sold pre-need by cemeteries.

Complaints are opened within 7 days of receipt. Division staff then works with the parties to try and resolve the complaint. Complaints are heard by the Commission within one hundred eighty days after filing unless it has been resolved by the parties or has been continued upon the request of the parties.

The Commission uses informal mediation techniques to resolve complaints. The Commission is required to meet at least four times a year; typically scheduled in the months of March, June, October and December. Additional meetings may be called. In addition to resolving consumer complaints, they also advise cemetery operators on best practices in the industry. The Commission can also refer alleged criminal violations of certain cemetery laws to the appropriate county prosecutor or matters to the Ohio Attorney General for possible violations of the Ohio Consumer Sales Practices Act.

## Cemetery registration and internment rights sales registration

### Survey responses for cemetery registration (COM)

Description	
<p>According to ORC 4767.02(A), no person, church, religious society, established fraternal organization or political subdivision of the state shall own, operate or maintain a cemetery unless the cemetery is registered with the Ohio Department of Commerce, Division of Real Estate and Professional Licensing. The only two exceptions to the registration requirement are for cemeteries in which there has not been a burial in the previous 25 years and for family cemeteries. A family cemetery is defined as a cemetery "...containing the human remains of persons at least three fourths of whom have a common ancestor or who are the spouse or adopted child of that common ancestor."</p>	
Type <i>(License, specialty license for medical reimbursement, government certification, registration, bonding or insurance, inspection, or process regulation. See R.C. 4798.01 for relevant definitions.)</i>	
<p>The following are all registrations:</p> <p>CEO - cemetery operators</p> <p>CGR - governmental cemeteries</p> <p>CBR - religious/benevolent/established fraternal organization cemeteries</p> <p>CRC - cemetery associations</p>	
If the regulation is a registration, certification, or license requirement, please complete the following:	
<b>Number issued annually</b>	There are 2,100 active cemetery operators as of October 7, 2022. Those operators have a total of 4,176 registered cemeteries.
<b>Number renewed annually</b>	For the 2022 renewal, 772 operators received a renewal notice. They operate 1,148 cemeteries. The remaining operators are political subdivisions and their cemetery registrations do not expire.



If the regulation is a registration, certification, or license requirement, please complete the following:	
<b>Have there been significant increases or decreases in active registrations, certifications or licenses in the preceding six years?</b>	There has been a slight increase in active registrations.
<b>Education or training requirements</b>	N/A
<b>Experience requirements</b>	N/A
<b>Examination requirements</b> ( <i>Who administers the exam? How is the exam and administrator selected? What fees are charged? Does the Commission receive any proceeds of those fees? If so, how are the proceeds used?</i> )	N/A
<b>Continuing education requirements</b> ( <i>Including a description of the curriculum and the process of setting it.</i> )	N/A
<b>Initial fee</b>	ORC 4767.03(A)(1) sets the amount of this fee based on the number of cemeteries an operator has registered: twenty-five dollars for one cemetery, forty dollars for two cemeteries, and fifty dollars for three or more cemeteries.  Political subdivisions do not pay a fee to register.
<b>Duration</b>	Political subdivisions' registration does not expire.  Association cemeteries and religious/benevolent cemeteries renewal annually.

If the regulation is a registration, certification, or license requirement, please complete the following:	
<b>Renewal fee</b> <i>(If different from initial fee, please explain why.)</i>	Same as initial fee.
<b>Does the Commission recognize uniform licensure requirements or allow for reciprocity?</b>	N/A
<b>Are there any similar national registrations, certifications, or licenses? Could they be used as a substitute for the state regulation?</b>	No.
<b>Are there any circumstances in which an individual may practice elements of the occupation without being regulated by the Commission?</b>	N/A
<b>Is the Commission permitted to exercise discretion in determining whether to register, certify, or license an individual?</b>	<p>If an applicant files a complete application pursuant to ORC Chapter 4767 there is no discretion in determining whether to register a cemetery operator.</p> <p>Pursuant to OAC1301:13-5-02, if a registered cemetery operator loses their registration due to a conviction under the trust laws found in ORC 1721.21 and/or 1721.211; they may attempt to reapply for registration and must prove that the operator is honest, truthful and of good reputation. However, the Division is not aware of a circumstance that this has occurred in at least 15 years.</p>
<b>Other information</b> <i>(Significant attributes or prerequisites to licensure not addressed in this chart.)</i>	N/A

**Oversight and disciplinary authority of the Commission respecting individuals engaged in the occupation.**

This Commission is a non-adjudicatory body.

**How much revenue is derived from fees charged by the Commission to individuals engaged in the occupation (such as license and renewal fees)? How is that revenue used?**

Please see budget answer above. The revenue received is used to cover the costs of labor and materials necessary for the administration of the program.

**Describe any federal regulations that apply to the occupation. Does federal law require the state to regulate the occupation?**

N/A

**What is the harm that the regulation seeks to prevent? (See, R.C. 4798.02(B).)**

The Commission was created in 1993 due, in part, to a rash of fraud and theft by cemetery operators around the Nation. The Commission works to assist in resolving complaints against registered cemeteries by using informal techniques of mediation, conciliation and persuasion and to audit cemetery trust accounts to ensure compliance with the laws created to protect consumer funds. ORC Section 1721.21 has trust requirements for endowment care money and Section 1721.211 has trust requirements for merchandise and services sold pre-need by cemeteries.

**Is the regulation effective at preventing the harm described above? Are there other, less restrictive ways to prevent the harm?**

The Commission's work helps to reduce and prevent theft and fraud in the Ohio cemetery industry. The Commission is also an important forum for the public and cemetery operators to air out grievances before a panel of cemetery experts and public advocates. The dispute resolution process is a valuable resource for Ohio cemetery operators to receive advice from the Commission regarding standard industry practices and procedures and provides both consumers and cemetery operators with an alternative to costly litigation.

This body has been highly successful in resolving disputes between the public and Ohio cemetery operators regarding the activities, practices, policies, and procedures of Ohio cemeteries. As a result of the complaint process, consumers have received full refunds, discounted services or merchandise for no cost. In addition, multiple consumers have seen monuments and memorials placed after they had suffered through year-long delays and minimal communication from the cemeteries; burial locations of loved ones were verified; many gravestones have been repaired or replaced; and there is improved overall maintenance at cemeteries around Ohio. The Commission frequently, because of complaints filed, advises cemetery operators about best cemetery practices including cemetery maintenance, drainage options to prevent flooding, decoration policies, rules and regulations, contracts and much more. Additionally, criminal referrals to county prosecutors have resulted in cemeteries coming back into compliance with cemetery laws and in criminal convictions related to the theft of trust money.

**Are there any changes the Commission would like to see implemented?**

Not at this time. Please see Division response.

## Survey responses for interment rights sales registration (COM)

Description	
<p>Pursuant to ORC 4767.031, a cemetery operator is responsible for providing to the Division a list of names and residence addresses of all people employed or authorized by that operator to sell interment rights. This form must be updated within the calendar quarter immediately following a change in the list of persons authorized to sell interment rights.</p>	
Type (License, specialty license for medical reimbursement, government certification, registration, bonding or insurance, inspection, or process regulation. See R.C. 4798.01 for relevant definitions.)	
<p>No registration is issued to the people listed on an operator's list.</p>	
If the regulation is a registration, certification, or license requirement, please complete the following:	
Number issued annually	N/A
Number renewed annually	N/A

**If the regulation is a registration, certification, or license requirement, please complete the following:**

<b>Have there been significant increases or decreases in active registrations, certifications or licenses in the preceding six years?</b>	N/A
<b>Education or training requirements</b>	N/A
<b>Experience requirements</b>	N/A
<b>Examination requirements</b> ( <i>Who administers the exam? How is the exam and administrator selected? What fees are charged? Does the Commission receive any proceeds of those fees? If so, how are the proceeds used?</i> )	N/A
<b>Continuing education requirements</b> ( <i>Including a description of the curriculum and the process of setting it.</i> )	N/A
<b>Initial fee</b>	N/A
<b>Duration</b>	N/A
<b>Renewal fee</b> ( <i>If different from initial fee, please explain why.</i> )	N/A

If the regulation is a registration, certification, or license requirement, please complete the following:	
Does the Commission recognize uniform licensure requirements or allow for reciprocity?	N/A
Are there any similar national registrations, certifications, or licenses? Could they be used as a substitute for the state regulation?	N/A
Are there any circumstances in which an individual may practice elements of the occupation without being regulated by the Commission?	N/A
Is the Commission permitted to exercise discretion in determining whether to register, certify, or license an individual?	N/A
<b>Other information</b> ( <i>Significant attributes or prerequisites to licensure not addressed in this chart.</i> )	N/A

**Oversight and disciplinary authority of the Commission respecting individuals engaged in the occupation.**

N/A. Any complaints filed must be filed against a registered cemetery or a cemetery that should be registered.

**How much revenue is derived from fees charged by the Commission to individuals engaged in the occupation (such as license and renewal fees)? How is that revenue used?**

N/A

**Describe any federal regulations that apply to the occupation. Does federal law require the state to regulate the occupation?**

N/A

**What is the harm that the regulation seeks to prevent? (See, R.C. 4798.02(B).)**

N/A



Is the regulation effective at preventing the harm described above? Are there other, less restrictive ways to prevent the harm?

N/A

Are there any changes the Commission would like to see implemented?

N/A

### Surrounding state comparison (LSC)

Cemetery Registration (Cemetery Registration and Internment-Rights Sales Registration)						
	Ohio	Indiana	Kentucky	Michigan	Pennsylvania	West Virginia
Type of regulation	Registration required to own a cemetery and to sell internment rights ( <i>R.C. 4767.02 and 4767.031</i> ).	Registration required to own a cemetery ( <i>Ind. Code 25-15-9-17</i> ).	Registration required to sell internment rights ( <i>Ky. Rev. Stat. 367.946</i> ).	Permit required to establish a cemetery; registration required to operate a cemetery ( <i>Mich.</i>	Registration required to sell internment rights ( <i>9 Pa. Cons. Stat. 304; 63 Pa. Stat. 455.301</i> ).	Registration required to own a cemetery and to sell internment rights ( <i>W. Va. Code 35-5B-2</i> ).

**Cemetery Registration (Cemetery Registration and Internment-Rights Sales Registration)**

	Ohio	Indiana	Kentucky	Michigan	Pennsylvania	West Virginia
				<i>Comp. Laws 456.532).</i>		
Education or training	N/A	N/A	N/A	N/A	N/A	N/A
Experience	N/A	N/A	N/A	N/A	N/A	N/A
Exam	N/A	N/A	N/A	N/A	N/A	N/A
Continuing education	N/A	N/A	N/A	N/A	N/A	N/A
Initial licensure fee	One cemetery: \$25; two cemeteries: \$40; three or more cemeteries: \$50 (R.C. 4767.03).	\$100 ( <i>Ind. Professional Licensing Agency, "Application for Cemetery Registration," <a href="#">Cemetery Applications</a></i> ).	\$50 ( <i>Ky. Rev. Stat. 367.946</i> ).	\$20 for registration; \$1,500 for permit ( <i>Mich. Comp. Laws 456.531 and 456.533</i> ).	\$25 ( <i>9 Pa. Cons. Stat. 304</i> ).	\$200 ( <i>W. Va. State Tax Dept., <a href="#">Business Registration – Cemeteries</a></i> ).
License duration	One year ( <i>R.C. 4767.03</i> ).	One year ( <i>see Ind. Code 30-2-13-31</i> ).	One year ( <i>Ky. Rev. Stat. 367.946</i> ).	One year (registration only) ( <i>Mich. Comp. Laws 456.531</i> ).	Two years ( <i>9 Pa. Cons. Stat. 304</i> ).	One year ( <i>W. Va. State Tax Dept., <a href="#">Business Registration – Cemeteries</a></i> ).

**Cemetery Registration (Cemetery Registration and Internment-Rights Sales Registration)**

	Ohio	Indiana	Kentucky	Michigan	Pennsylvania	West Virginia
Renewal fee	One cemetery: \$25; two cemeteries: \$40; three or more cemeteries: \$50 (R.C. 4767.03).	\$10 ( <i>Ind. Professional Licensing Agency, "Annual Report Pursuant to IC 30-2-13," <a href="#">Other Forms</a></i> ).	\$10 ( <i>Ky. Rev. Stat. 367.946</i> ).	\$20 (registration only) ( <i>Mich. Comp. Laws 456.531</i> ).	\$25 ( <i>9 Pa. Cons. Stat. 304</i> ).	\$200 ( <i>W. Va. State Tax Dept., <a href="#">Business Registration – Cemeteries</a></i> ).