



## *Bill Analysis*

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### **H.B. 659**

124th General Assembly  
(As Introduced)

**Reps. Buehrer, Clancy, Olman, Setzer, Husted**

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#### **BILL SUMMARY**

- Requires the Board of Building Standards to adopt a statewide uniform residential building code, separate from the nonresidential building code, for one-, two-, and three-family dwelling houses and accessory structures incidental to those dwelling houses.
- Requires the Residential Construction Advisory Committee to recommend a residential building code to the Board of Building Standards.
- Provides that the statewide uniform building codes supersede the rules of other state agencies, and regulations of municipal corporations, townships, and counties in case of conflict, or if the rules or regulations address the same subject matter as the statewide uniform building codes.
- Permits a certified building department established by a county, township, or municipal corporation to administer and enforce the residential building code, the nonresidential building code, or both.
- Specifies that the Division of Industrial Compliance may receive and approve plans and specifications for nonresidential buildings only, and specifies that an owner of a residential building in an area without a local building department certified to enforce the residential building code is not required to receive approval of the plans and specifications for the building.
- Permits a municipal corporation, county, or township to adopt additional building regulations or property maintenance regulations if the regulations are not in conflict with the statewide building codes and

address subject matter that is not addressed in the statewide building codes.

- Provides procedures for a determination by the Board of Building Standards as to whether a conflict exists with a local regulation, and provides for the incorporation of a local regulation into the statewide building code if the regulation conflicts with the statewide code but is necessary for health, safety, or welfare.
- Removes the requirement that the Board of Building Standards adopt energy conservation and thermal efficiency standards for residential structures.
- Adds penalty provisions for violations of the Building Standards Law.
- Removes the requirement that, prior to January 1, 1986, a natural gas company or a gas company may not refuse to extend service to an otherwise eligible residential consumer with a residence equipped with a solar heating system that meets energy conservation standards adopted by the Board of Building Standards.
- Removes the authority of a county or municipal corporation to require license examinations and license fees for certain specialty contractors for residential work.
- Permits a municipal corporation or a county board of commissioners to impose a registration fee on residential contractors.
- Requires the Board of Building Standards to adopt a statewide uniform residential building code.
- Requires residential contractors to be licensed.
- Increases the Board of Building Standards from 17 to 22 members by adding a five-member residential construction section to the Board.
- Modifies the composition of the Residential Construction Advisory Committee.



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## CONTENT AND OPERATION

### Background

Chapters 3781. and 3791. of the Revised Code authorize the Board of Building Standards (the BBS) to adopt rules requiring that places of resort, assembly, education, entertainment, lodging, dwelling, trade, manufacture, repair, storage, traffic, or occupancy used by the public be so constructed and maintained as to ensure they are safe and sanitary for their intended use and occupancy. Pursuant to this authority, the BBS has adopted various rules compiled in the Ohio Building Code (OBC). By statute, the OBC does not apply to single-, two-, and three-family dwellings that are not constructed as industrialized units, or to certain family day-care homes or certain agricultural buildings. BBS rules do not apply to single-, two-, and three-family dwellings and are considered only model provisions with no force and effect with respect to those dwellings. A municipal corporation, township, or county may choose to adopt and enforce regulations for such residential buildings.

As a general matter, the OBC does not apply retroactively except in the case where the General Assembly has mandated that any new requirements apply, such as in the case with the retrofitting of fire suppression systems in nursing and rest homes and day-care centers. Two other instances where an owner must "bring a building up" to current OBC rules, with specified exceptions, are: (1) when an existing building is altered, added to, or renovated, or (2) usually when there is a change in the intended use of a building caused from a renovation.

### Statewide uniform standards

Under current law, the BBS is required to adopt rules that set forth the lawful *minimum* requirements specified for buildings or industrialized units under the purview of the BBS. These minimum requirements include the plumbing code (sec. 3703.01). Under the bill, the BBS is required to adopt rules that establish statewide *uniform* standards and requirements, rather than minimum requirements. In addition, the bill requires the BBS to adopt a residential building code, which is to be separate from the nonresidential building code. Under the bill, a residential building code applies to residential buildings, which are defined as one-, two-, and three-family dwelling houses, and accessory structures incidental to those dwelling houses. A nonresidential building is any building that is not a residential building. The BBS is required to receive the residential building code recommended by the Residential Construction Advisory Committee, and to adopt it if it is satisfactory (sec. 3781.10(H)) (see "Statewide uniform residential building code" below). (Secs. 3781.06(C), 3781.10(A), and 3781.11(A)(1).)

Under current law, wherever in the Building Standards Law (R.C. Chapters 3781. and 3791.) or rules or regulations adopted pursuant to those chapters, particular fixtures, devices, materials, systems, method of manufacture, product of a manufacturing process, or methods or manners of construction or installation are described, the description prescribes *minimum* standards of safety and sanitary conditions exemplified by those particular fixtures, devices, materials, systems, method of manufacture, product of a manufacturing process, or methods or manners of construction or installation. Where the use of another fixture, device, material, system, industrialized unit, newly designed product, or method, or manner of construction or installation is desired, which is at variance with what is described in that law, that use is permissible, if the other fixture, device, material, system, manufactured component or unit, product, method, or manner of construction complies with performance standards as determined by the BBS. Under the bill, those standards are no longer minimum, but instead prescribe uniform standards for statewide application. (Sec. 3781.18.)

Current law also specifies that rules of the BBS supersede and govern an order, standard, or rule of the Division of Industrial Compliance in the Department of Commerce, the Division of the Fire Marshal, the Department of Health, and of counties and townships when they are in conflict with the rules of the BBS, except for rules adopted by the Fire Marshal to regulate fireworks. The bill adds that the rules, orders, and standards of a municipal corporation also are superseded by those of the BBS. The bill also specifies that the rules, orders, and standards of the agencies and political subdivisions listed above are superseded if they address the same subject matter as the rules of the BBS. (Sec. 3781.11(B).)

### **County and township enforcement and administration of the residential building code**

Under current law, a board of county commissioners may adopt and enforce regulations pertaining to the erection, construction, repair, alteration, redevelopment, and maintenance of single-, two-, and three-family dwellings within the unincorporated areas of the county, or within certain districts in the unincorporated areas of the county. A township may adopt and enforce a building code in the unincorporated areas of the township for these types of residential structures as well, except that the code must be adopted by reference to the state model code, a code promulgated by any other state agency, or a code adopted by a municipal corporation or county in Ohio. The bill removes the authority of a county and a township to adopt a residential building code, but permits a county and a township to administer and enforce the residential or nonresidential statewide uniform building code, or both, within the unincorporated areas of the county or township. (Secs. 307.37(A) and 505.75(A)(1).)

The bill specifies that a county building department may enforce the residential building code if it is certified by the BBS for that purpose, and that the board may assign the duties of the county building inspector to an existing county officer if the officer is certified by the BBS (sec. 307.38). Parallel authority is granted to a certified township building department and a certified township building inspector (sec. 505.77).

### **County board of building appeals**

Current law permits a board of county commissioners of any county that adopts regulations for residential structures, and that has a certified county building department that is not certified through a contract with another political subdivision, to establish a county board of building appeals. The bill modifies the criteria for establishing a board of building appeals by removing the requirement that a county adopt residential regulations in order to establish such a board (sec. 307.381).

### **Adoption of building regulations by political subdivisions**

Under current law, the Building Standards Law does not prevent the legislative authority of a municipal corporation from making further and additional rules that are not in conflict with the Building Standards Law or with rules adopted by the BBS (sec. 3781.01). The bill further limits powers of a municipal corporation by requiring that the additional regulation address a subject matter that is not addressed by the Building Standards Law or BBS standards. With this same limitation as to subject matter, the bill also permits a board of county commissioners and a board of township trustees to adopt residential and nonresidential building code regulations. (Secs. 3781.01(A), 307.37(A)(1), and 505.75(A)(1).)

### **Property maintenance regulations**

The bill permits a county to adopt regulations, separate from building code regulations, that govern property maintenance if the regulations address subject matter that is not addressed by and is not in conflict with the statewide uniform building code (sec. 307.37(A)(1)). The bill gives the same authority to a board of township trustees in a county in which the board of county commissioners has not adopted property maintenance regulations (sec. 505.75(A)(3) and (4)).

### **Effective date for the application of regulations or the building code**

Under current law, regulations or amendments to a building code adopted by a board of township trustees do not affect buildings that exist or on which construction has begun on or before the date on which the regulations or



amendments are adopted by the board. The bill retains this provision with respect to regulations but additionally specifies that the building code does not affect buildings that exist or on which construction began prior to the date on which the building department begins enforcement of the building code. (Sec. 505.77.)

### **Procedures for the adoption of regulations by a township**

Current law specifies that proposed regulations or amendments must be made available to the public at the office of the board of township trustees before the trustees vote on whether to adopt the regulations or amendments. The bill removes the reference to amendments. (Sec. 505.75(B).)

Current law provides that the building code and any amendments to it become effective 30 days after their adoption by the board of township trustees, unless a referendum petition is presented to the board. The referendum must take place at the next primary or general election. The bill removes procedures related to a referendum. (Sec. 505.75(B).)

### **Determination of possible conflict between local regulations and the Ohio Building Code**

Under the bill, in the event that a "local governing authority" (county, township, or municipal corporation) makes a regulation, the bill specifies that the governing authority must notify the BBS of the regulation and request that the BBS make a determination regarding a possible conflict with the state building code. The bill also requires the BBS to make a determination upon notice given by any person. (Sec. 3781.01(B)(1) and (C).)

Under the bill, the BBS must determine whether the regulation conflicts with the building code adopted by the BBS and inform the local governing authority or person who submitted the request for a determination within 60 days after the notice was received (sec. 3781.01(B)(2)).

Under the bill, if the BBS determines that a conflict does not exist, then the BBS is not required to take further action. If the BBS determines that a conflict does exist, and also determines that the regulation is not necessary to protect the health or safety of the persons within the jurisdiction of the local governing authority that made the regulation, then the regulation is not valid or enforceable by the local governing authority. If the BBS determines that a conflict does exist but also determines that the regulation is necessary to protect the health or safety of the persons within the jurisdiction of the local governing authority that made the regulation, then the BBS must adopt a rule to incorporate the regulation into the statewide uniform standards and requirements. Until the time that the rule becomes part of the statewide uniform standards and requirements, the BBS is

required to grant a variance to the appropriate jurisdiction and to all similarly situated political subdivisions to which the board determines the variance should apply. (Sec. 3781.01(B)(3).)

### **Certification procedures for local building departments**

Under current law, the BBS certifies municipal, township, and county building departments, and the personnel of these departments, to exercise enforcement authority, to accept and approve plans and specifications, and to make inspections. Current law also permits these functions to be exercised by persons, firms, corporations, or a political subdivision under contract with the municipal corporation, township, or county. The BBS specifies the standards for the certification of building departments and other code enforcement personnel. (Sec. 3781.10(E).)

The bill adjusts the certification procedures for local building departments in light of the adoption of a statewide residential building code. Under the bill, a building department and other organizations that must be certified, and their employees that must be certified in order to enforce building codes, may apply for certification as residential, nonresidential, or both. The type of certification requested must be stated on the application for certification (sec. 3781.10(E)(4)(a)). An entity or individual only may enforce the type of building code for which the entity or individual is certified. Under the bill, the BBS must specify the qualifications and requirements for certification of entities and individuals. These qualifications and requirements may differ for residential and nonresidential certifications. The bill prohibits the BBS from requiring a building department or its personnel, or any other person or personnel, to be certified for residential buildings if the building department for which the personnel or persons are employed does not enforce the residential building code. (Sec. 3781.10(E)(8).)

### **Revocation of certification**

Current law provides that a certification may be revoked or suspended by the BBS with respect to any or all of the building occupancies to which it relates. The bill instead specifies that the BBS may suspend or revoke certifications with respect to enforcement of the residential or nonresidential building code, or for enforcement of both codes. (Sec. 3781.10(E)(6).)

### **Submission of plans for approval**

Under current law, before beginning the construction, erection, or manufacture of any building to which the OBC applies, the owner must submit all plans, drawings, and other data required by law to a certified municipal, township,

or county building department for approval. If no certified local building department exists, then the documentation must be submitted to the Superintendent of the Division of Industrial Compliance in the Department of Commerce. (Sec. 3791.04(A).)

The bill requires an owner of a building subject to the residential building code to submit the plans for approval in the same manner as existing law, except that if there is no appropriate certified local building department to which to make submissions for a residential building, the owner is not required to submit plans for approval. (Sec. 3791.04(A)(3).)

### **Energy conservation rules for residential structures**

Current law requires the BBS to adopt rules in accordance with the Administrative Procedure Act to establish building code standards relating to the conservation of energy for all newly constructed one-family, two-family, and three-family dwellings. The BBS is required to review the rules annually to determine whether new technologies have made the rules obsolete or inadequate, in which case the BBS must amend the rules. Current law also requires the BBS to make an annual report to the General Assembly concerning its review of energy conservation rules and the current state of the art in energy conservation in buildings. BBS energy conservation rules do not apply to manufactured homes. Instead, manufactured homes are subject to federal energy conservation regulations. (Sec. 3781.181.)

Under current law, a person who constructs a new building in violation of BBS energy conservation rules is subject to a fine of not more than \$1,000 (sec. 3781.182).

The bill removes this *specific* requirement that the BBS adopt energy conservation rules for one-, two-, and three-family dwellings, and also removes the associated penalty for violation of these rules. Nevertheless, ongoing law requires that the building code adopted by the BBS relate to energy conservation (sec. 3781.10(A)). Therefore, it appears that the residential building code that must be adopted by the BBS under the bill remains subject to an energy conservation requirement.

### **Thermal efficiency standards**

Current law also requires the BBS to adopt thermal efficiency standards in accordance with the Administrative Procedure Act for one-, two-, and three-family dwellings. The approval and implementation of these standards are delegated to the local authority responsible for approving such residential dwellings. (Sec. 3781.21.)

The bill repeals this *specific* requirement, but, as noted above, the statewide residential building code required by the bill is subject to a general energy conservation requirement.

**Gas company service to new customers with solar heating**

Under current law, prior to January 1, 1986, a natural gas company and a gas company may not refuse to extend service to an otherwise eligible residential consumer whose residence has not previously received natural gas service if (1) the residence meets the energy conservation standards adopted by the BBS, and (2) the residence is equipped with a solar heating system (sec. 4933.31). The bill removes this provision.

**Penalties for violations of the building code**

The bill adds two new penalties to the Building Standards Law. These penalties apply to any person who violates the Building Standards Law or any rule adopted or order issued pursuant thereto, which violation relates to the construction, alteration, or repair of any building. The severity of the penalty depends on whether the violation is detrimental to the health, safety, or welfare of any person. If the violation is detrimental to health, safety, or welfare, then the violation is classified as a misdemeanor of the fourth degree, punishable by imprisonment for not more than 30 days and a fine of not more than \$250. If the violation is not detrimental, then the penalty is classified as a minor misdemeanor, punishable by a fine of not more than \$100. (Sec. 3781.99; sec. 2929.21, not in the bill.)

The bill adds equivalent penalties for a violation of requirements related to the submission of plans for approval by the BBS or a certified building department (sec. 3791.99; sec. 3791.04).

**County licensing of specialty contractors for residential work**

Under current law, a board of county commissioners may adopt, by resolution, rules establishing standards and providing for the licensing of (1) electrical contractors, and (2) heating, ventilating, and air conditioning (HVAC) contractors who perform work only on residential structures, and therefore are not required to hold a license issued by the Ohio Construction Industry Examining BBS (sec. 3781.102). The standards adopted by the board of county commissioners apply to the unincorporated areas of the county, unless a municipal corporation contracts with the board for the enforcement of the county rules within the municipality. Under its licensing authority in current law, a board of county commissioners may require electrical contractors and HVAC contractors who do not hold a valid and unexpired license issued by the Ohio Construction Industry

Examining Board to complete an examination, test, or demonstration of technical skills, and may impose a fee and additional requirements in order to obtain a license. A board of county commissioners may accept a license issued by the Ohio Construction Industry Examining Board in lieu of the completion of its own requirements for licensure. (Sec. 3781.102(B) and (G).)

The bill removes the authority of a board of county commissioners to license these specialty contractors. As explained below, the bill creates a statewide license for residential contractors.

Current law also prohibits a board of county commissioners from requiring any HVAC contractor, refrigeration contractor, electrical contractor, plumbing contractor, or hydronics contractor who holds a valid and unexpired license issued by the Ohio Construction Industry Examining Board to take an examination, test, or demonstration of technical skills in order to engage in the type of contracting for which the license is held. The bill modifies the definition of a specialty contractor to include a residential contractor, and therefore additionally prohibits a board of county commissioners from imposing examination requirements on a licensed residential contractor. (Sec. 3781.102(C) and (G).)

Although current law does not permit a board of county commissioners to impose examination requirements on a licensed specialty contractor, the board may impose a registration fee. The bill permits a board of county commissioners to collect a registration fee from the licensed residential contractor. (Sec. 3781.102(D) and (G).)

### **Municipal licensing of specialty contractors for residential work**

Current law permits a municipal corporation to require all specialty contractors who do not hold a valid license granted by the Ohio Construction Industry Examining Board (residential contractors) to obtain a license and successfully complete an examination or test. A municipal corporation can accept a license issued by the Ohio Construction Industry Examining Board in lieu of its own requirements. In addition, the municipal corporation may impose a fee and additional requirements for a license for residential contractors to engage in their respective professions within municipal limits (sec. 715.27(A)(3)). The bill removes this authority.

The bill makes a residential contractor subject to municipal registration requirements, however (sec. 715.27(C)).

## **Construction Industry Examining Board**

### **Board authority and terminology**

Under current law, the Ohio Construction Industry Examining Board has the authority to issue a statewide license to an individual as a heating, ventilating, and air conditioning contractor, refrigeration contractor, electrical contractor, plumbing contractor, or hydronics contractor. The bill authorizes the Board to issue a license to a residential contractor as well. (Sec. 4740.04.)

Under the bill, a residential contractor is any individual or business entity who, for compensation, directs, supervises, or has responsibility for the means, method, and manner of residential construction, and identifies, advertises, or otherwise holds out or represents that the individual or business entity is permitted or qualified to perform, direct, or supervise or have responsibility for the means, method, or manner of residential construction. Under the bill, residential construction means the construction or renovation of buildings used or intended to be used as a single-, two-, or three-family detached dwelling house, and accessory structures incidental to that house. (Sec. 4740.01.)

### **Board members**

Under current law, the Board consists of 17 residents of Ohio appointed by the Director of Commerce. The Board is made up of an administrative section (two members), a plumbing section (five members), an electrical section (five members), and a heating, ventilating, air conditioning, and refrigeration section (five members). Annually, each section elects a member of its own respective section to serve a one-year term on the administrative section along with the two regular members of that section. (Sec. 4740.02(A), (B), (C), and (D).)

The bill adds a residential construction section to the Board. Members of the residential construction section are appointed by the Director of Commerce in the same manner as members of the other sections. This section, as the other sections, must appoint a member to serve a one-year term on the administrative section. On or before 90 days after the bill's effective date, the Director must appoint five members to the section as follows:

(1) One member who is a building official employed by a municipal corporation or a county, with experience administering or enforcing a residential building code, to an initial term ending on July 31, 2004;

(2) One member who is a residential contractor who has recognized ability and experience in the remodeling of residential buildings, to a term ending on July 31, 2005;



(3) One member who is a registered architect with recognized ability and experience in the architecture of residential buildings, to a term ending on July 31, 2005;

(4) Two members who are residential contractors with recognized ability and experience in the construction of residential buildings, to a term ending on July 31, 2006.

After the initial terms are served, terms are for a period of three years. (Sec. 4740.02(E) and Section 4.)

#### **Duties of the administrative section**

Under current law, the administrative section of the Board is responsible for scheduling examinations as directed by the contractor sections of the Board and contracting with one or more persons to fulfill specified duties relative to the examinations. The administrative section also issues and renews licenses for each section in accordance with parameters established under the law and by each section. Under the bill, the administrative section would perform for the residential construction section, the same duties that it performs for the other sections under current law. (Sec. 4740.04.)

#### **Duties of the contractor sections**

Under current law, each contractor section of the Board is required to investigate allegations of violations, maintain records of its proceedings, grant approval to persons to offer continuing education courses, do things necessary to carry out the contractor licensing law, and to adopt rules, in accordance with the Administrative Procedure Act, limited to the following:

- (1) Application procedures for examinations;
- (2) Specifications concerning continuing education requirements for license renewal;
- (3) Criteria the section of the Board is required to use in evaluating the qualifications of an individual;
- (4) Criteria the section of the Board is required to use in deciding whether to issue, renew, suspend, revoke, or refuse to issue or renew a license;
- (5) Determinations and approvals made under the law's reciprocity provisions.

The bill requires the residential construction section to perform the same duties required of the other contractor sections and adds that each contractor section, as appropriate, is required to adopt a rule to establish guidelines, requirements, and limitations regarding the issuance of a license to a heating, ventilating, and air conditioning, refrigeration, plumbing, electrical, or hydronics contractor who requests to be licensed only for construction projects involving residential buildings. Each section is then required to issue a license that is limited to construction projects involving residential buildings to a contractor who requests the limited license in accordance with rules adopted by the appropriate section. (Sec. 4740.05(A)(6) and (E).)

### **Obtaining a license**

Under current law, a person who wishes to obtain a license as a heating, ventilating, and air conditioning, refrigeration, plumbing, electrical, or hydronics contractor is required to file a written application with the appropriate section of the Board along with a fee. To qualify to take an examination for licensure, the individual must be 18 years of age; a U.S. citizen; either have been a tradesperson for the type of contractor for which the application is filed for not less than five years immediately prior to the date the application is filed, be an engineer, have three years of business experience in the construction industry, or have other experience acceptable to the section of the Board that authorizes the issuance of the license being sought; maintain contractor's liability insurance, including complete operations coverage, in an amount determined to be appropriate by the appropriate section of the Board; and not have been convicted of or pleaded guilty to a misdemeanor involving moral turpitude or any felony, violated the laws or rules governing contractor licensing, or engaged in fraud, misrepresentation, or deception against the Board or in the conduct of business.

Also under current law, if an applicant meets the qualifications for licensure and passes the required examination, the appropriate contractor section is required to authorize the administrative section of the Board to issue to the individual the appropriate license. A contractor section is allowed to withdraw its authorization for good cause shown on the condition that the withdrawal is given prior to the issuance of the license.

Under the bill, an individual applying for a license as a residential contractor is required to meet the qualifications and pass the appropriate examination in order to obtain a license in the same way that an individual would apply for and obtain a license to act as any of the other types of contractors licensed by the Board. (Sec. 4740.06.)

### **Grandfathering provision**

The bill requires the residential construction section of the Board to issue a license to any individual as a residential contractor who meets the following criteria:

- (1) Applies to the residential construction section of the Board on or before 180 days after the bill's effective date;
- (2) Pays the appropriate fee determined by the residential construction section of the Board;
- (3) Has been actively engaged as a residential contractor in Ohio for at least three years immediately prior to the bill's effective date;
- (4) Furnishes business records or other evidence to verify the experience required under number three, above, to the satisfaction of the residential construction section of the Board;
- (5) Provides evidence of all of the following:
  - (a) Current contractor's liability insurance, including without limitation, complete operations coverage, in the amount of \$300,000;
  - (b) Compliance with Ohio's Workers' Compensation Law;
  - (c) Compliance with any other applicable legal requirements to do business in Ohio, as determined by the Board,

An individual also may qualify for a license if the individual applies to the residential construction section of the Board on or before one year after the bill's effective date, pays the appropriate fee determined by the appropriate section of the Board and demonstrates that the individual satisfies qualification requirements as determined by the Board and to the Board's satisfaction.

In the case of more than one individual who is affiliated with a business entity who seeks licensure, those individuals collectively must provide evidence to the residential construction section of the Board of current contractor's liability coverage, including complete operations coverage, in the total amount of \$300,000. (Section 5.)

### **Discipline**

Under current law, the contractor sections of the Board may suspend or revoke a license and may direct the administrative section of the Board to refuse to

issue or renew a license if the section of the Board finds that an applicant or licensee has been convicted of a misdemeanor involving moral turpitude or any felony, violated the laws or rules governing contractor licensing, or engaged in fraud, misrepresentation, or deception against the Board or in the conduct of business. (Sec. 4740.10.)

The same disciplinary actions apply in the case of applicants for a residential contractor license and for residential contractor licensees. (Sec. 4740.10.)

### **Prohibitions**

Current law prohibits any person from acting as or claiming to be a heating, ventilating, and air conditioning, refrigeration, plumbing, electrical, or hydronics contractor unless that person holds or has been assigned a license issued for the type of contractor that the person is acting as or claiming to be. The bill adds the same prohibition against acting as or claiming to be a residential contractor. (Sec. 4740.13.)

Current law stipulates that the law licensing heating, ventilating, and air conditioning, refrigeration, plumbing, electrical, and hydronics contractors does not limit the operation of any statute or rule or any ordinance or rule of any political subdivision, district, or agency of the state that requires the registration and assessment of a registration or license fee from tradespersons who are performing heating, ventilating, and air conditioning, refrigeration, plumbing, electrical, or hydronics construction, improvement, renovation, repair, or maintenance. The bill adds that the same is true regarding that type of work for residential structures. (Sec. 4740.12.)

### **Residential Construction Advisory Committee**

Currently, the Residential Construction Advisory Committee, within the Department of Commerce, consists of eight members, three of whom are contractors who have recognized ability and experience in the construction of residential buildings. The bill requires that those three members be *general* contractors with the same recognized ability and experience. (Sec. 4740.14(A).)

Current law also requires one member of the Committee to be a registered architect. The bill requires the registered architect to have recognized ability and experience in the architecture of residential buildings.

Under current law, one member must be a contractor who has recognized ability and experience in the remodeling of residential buildings. The bill instead requires that the contractor be a *residential* contractor who has recognized ability

and experience in the construction, instead of remodeling, of residential buildings. (Sec. 4740.14(A).) The Director of Commerce is required by the bill to replace the member who, on the bill's effective date, is serving as the contractor experienced in the remodeling of residential buildings with a residential contractor experienced in the construction of residential buildings. The Director must make this appointment on or after September 18 of the year of expiration of the term of the contractor who is being replaced. (Section 7.)

**Statewide uniform residential building code**

Under current law the Committee is charged with the duty to recommend a model building code for residential buildings to the Board of Building Standards (BBS).

The bill requires that on or before 90 days after the bill's effective date, the Residential Construction Advisory Committee recommend to the BBS a building code for residential buildings to replace the model code recommended under current law. The Committee must recommend a code that is modeled after a residential building code issued by national model code organizations, with adaptations necessary for implementation of the code in Ohio. The Committee must recommend a code that does not address zoning, statutory requirements concerning the percentage of contracts to be awarded to any specifically identified type of disadvantaged contractors, or architectural preferences that are not integral to the safety of residential buildings. If the BBS decides not to adopt a code as recommended by the Committee, the Committee is required to revise the code and resubmit the code until the BBS agrees to adopt a code recommended by the Committee as the statewide uniform residential building code.

Upon receipt of a recommendation that is acceptable to the BBS, the BBS is required to adopt rules establishing that code as the statewide uniform residential building code. The Committee and the BBS must agree to a code on or before 120 days after the bill's effective date and the BBS must adopt rules establishing that code as the statewide uniform residential building code on or before 180 days after the bill's effective date.

The rules the BBS adopts with regard to the uniform residential building code have no force or effect until nine months after the bill's effective date. (Sec. 4740.14(C) and Section 8.)

The bill also adds the requirement that the Committee advise the BBS regarding the interpretation of the residential building code adopted by the BBS. The bill also removes all references to "model" building codes to account for the implementation of a uniform residential building code established by the bill. (Sec. 4740.14.)

### **Notice requirements**

The bill requires, on or before 90 days after the bill's effective date, that the Ohio Construction Industry Examining Board send notice by regular mail to the legislative authority of a municipal corporation and to the board of county commissioners of every county that, prior to the bill's effective date, provided for the licensing or registration of residential contractors, informing the municipal corporation and board of county commissioners of the provisions of the bill. Also on or before 90 days after the bill's effective date, the Ohio Construction Industry Examining Board is required to publish notice of the provisions of the bill in appropriate trade publications and in a newspaper of general circulation in each of the nine most populous metropolitan areas of this state, once a week for three consecutive weeks. (Section 3.)

### **Enforcement**

For a building department that currently enforces a residential building code (local) to be authorized to enforce the residential building code established under the bill (statewide), the building department must become certified by the BBS not later than one year after the BBS adopts the residential building code. Prior to that time, that building department need not be certified in order to enforce the residential building code. (Section 9.)

### **Effective date**

The provisions of the bill establishing a statewide uniform residential building code and statewide residential contractor licensing take effect nine months after the bill's effective date. (Section 6.)

### **Intent**

The bill contains an intent clause stating that the provisions of the bill are general laws created in the exercise of the state's police power, arising out of matters of statewide concern, and are designed for the health, safety, and welfare of contractors, their employees, and the public and that the provisions of the bill eliminate duplicative bureaucracies to create a system under which an affected contractor may obtain a single license to permit the contractor to do business in all parts of this state and to obtain authorization to do business in other states. (Section 10.)

### **Architects and engineers**

Under current law, registration laws for architects and professional engineers do not prevent anyone who is not subject to those laws from preparing plans, drawings, specifications, or data, filing applications for building permits, or

obtaining those permits for buildings or structures exempted from the general requirements of the Building Standards Law or buildings that are erected as one-, two-, or three-family units or structures determined to be industrialized units.

The bill retains these provisions, however, it refers to the types of buildings described above simply as "residential" buildings as that term is newly defined in the bill. (Secs. 3791.04, 4703.18, and 4733.18.)

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## **HISTORY**

ACTION	DATE	JOURNAL ENTRY
Introduced	11-07-02	p. 2025

H0659-I.124/jc

