
DEPARTMENT OF COMMERCE

Medical Marijuana

- Creates the Division of Marijuana Control (DMC) within the Department of Commerce (COM) and requires the State Board of Pharmacy (PRX) and COM to transfer the Medical Marijuana Control Program to DMC no later than December 31, 2023.
- Establishes a Superintendent of Marijuana Control to oversee DMC.
- Specifies that licenses and registrations issued by COM and PRX remain in effect for the remainder of their term and that forms of medical marijuana approved by PRX remain approved unless that approval is later revoked by DMC.
- Specifies that COM and PRX rules related to the Medical Marijuana Control Program remain in effect until repealed or amended by DMC, but requires DMC to review and propose revisions to existing rules on retail dispensaries by March 1, 2024.
- Allows DMC to investigate alleged violations of the Medical Marijuana Law, including by subpoenaing documents and witnesses.
- Requires PRX to allow DMC to access the Ohio Automated Rx Reporting System (OARRS) as needed to ensure compliance with the Medical Marijuana Law.
- Makes conforming changes throughout the Revised Code.

Division of Financial Institutions

- Replaces the requirement that the Superintendent of Financial Institutions obtain a criminal records check in relation to a person who controls a bank, or has a substantial interest in or participates in managing a bank, with a requirement that the Superintendent request a criminal records check of a person who exercises “control” of a bank.
- Defines “control” as the power to vote, directly or indirectly, at least 25% of the voting shares or interests or the power to elect or appoint a majority of executive officers or directors.
- Rebuttably presumes a person to exercise control when the person holds the power to vote, directly or indirectly, at least 10% of the voting shares or interests.

State Fire Marshal

- Eliminates the Underground Storage Tank Revolving Loan Program under which the State Fire Marshal may issue loans to political subdivisions to assist with costs in removing underground storage tank systems that store petroleum and hazardous substances.
- Repeals the law establishing the Underground Storage Tank Revolving Loan Fund, which is used for purposes of the program.

Division of Industrial Compliance

Manufactured homes

- Expands the scope of manufactured home installation inspections by requiring the Division of Industrial Compliance, local building departments, or certified private entities to conduct the inspections anywhere in Ohio, not just in manufactured home parks.

Board of Building Standards

- Requires the Board of Building Standards to establish a grant program for local building departments to increase recruitment, training, and retention of qualified personnel.
- Specifies that money for the grant program is to come from the Industrial Compliance Operating Fund.

Division of Liquor Control

Duplicate liquor permits

- Does both of the following regarding duplicate liquor permits issued by the Division of Liquor Control:
 - Requires all liquor permit holders that may serve alcohol for on-premises consumption, rather than only certain permit holders as in current law, to obtain a duplicate permit in order to serve alcohol from an additional bar at the permit premises beyond the two bars authorized by the original permit; and
 - Requires the duplicate permit fee for each added bar to be the higher of \$100 or 20% of the fee payable for the original permit issued for the premises, rather than specific fee amounts depending on the type of permit issued as in current law.

Micro-distillery surety bond

- Requires an A-3a liquor permit holder (micro-distillery) to execute a surety bond in an amount established by the Division that is conditioned on the faithful performance of the permit holder's duties.

Liquor permit cancellations

- Repeals the law that requires the Liquor Control Commission to cancel liquor permits for certain reasons, including the permit holder's death or bankruptcy.

Division of Real Estate and Professional Licensing

Real estate brokers

- Modifies the prerequisites to take the real estate broker's examination by:
 - Requiring that an applicant have worked as a licensed real estate broker or salesperson for at least two of the five years preceding the application; and
 - Removing the requirement that the applicant have worked as a licensed real estate broker or salesperson for an average of 30 hours per week.

- Requires the Superintendent of Real Estate and Professional Licensing to forward any identifying information to the Attorney General if a person fails to pay a civil penalty for certain unlicensed or unregistered activity.

Disciplinary actions

- Limits to state or federally chartered institutions where a person holding a real estate broker or salespersons license must, for the purpose of receiving escrow funds and security deposits, or for the purpose of depositing and maintaining funds in the course of real property management on the behalf of others, maintain a special or trust bank account.
- Permits the Superintendent to take disciplinary action against a license holder for having been judged incompetent in any capacity, as opposed to simply for the purpose of holding a real estate license.

Administration of funds

- Creates the Cemetery Registration Fund and requires burial permit fees to be deposited into the new fund, instead of to the Division generally, but with the same purpose.
- Eliminates the Cemetery Grant Fund and redirects deposits to the Cemetery Registration Fund and eliminates a restriction on the total value of grants permitted to be issued in a single fiscal year.
- Eliminates the Real Estate Education and Research Fund, Manufactured Homes Regulatory Fund, Home Inspectors Fund, and Real Estate Appraiser Operating Fund, and redirects deposits going to these funds under existing law to the existing Division of Real Estate Operating Fund.
- Expands the purposes for which the Real Estate Operating Fund may be used to include the purposes for which the eliminated funds may be used.
- Allows instead of requires, as in current law, the Ohio Real Estate Commission to use operating funds (instead of the Real Estate Education and Research Fund) for education and research.
- Allows the Superintendent to collect a service fee from the Real Estate Recovery Fund to defray the cost of administering the fund, rather than requiring the Superintendent to collect the service fee.

Confidentiality of investigatory information

- Expands the Division of Real Estate and Professional Licensing's ability to share investigatory information with the Division of Securities, Division of Industrial Compliance, and any law enforcement agency.
- Makes a technical correction.

Home Inspector Board

- Requires the Ohio Home Inspector Board annually to elect a chair and vice chair from among its membership by majority vote.
- Requires the Board to meet at least once quarterly.
- Specifies that a quorum consists of a majority of the members of the Board and requires a quorum in order for the Board to conduct its business.
- Allows the Board to adopt any rules necessary to further the Home Inspector Law, in addition to the rule topics specified in the Revised Code.
- Authorizes the Board to request the Superintendent of Real Estate and Professional Licensing to initiate investigations of possible violations of the Home Inspector Law.
- Requires, rather than allows, the Board to impose a special assessment, not to exceed \$5 per year, on each person applying for a license to perform home inspections (or renewal of such a license) whenever the balance of the Home Inspection Recovery Fund is less than \$1 million.
- Eliminates the Board's authority to hear appeals from orders of the Superintendent regarding claims against the Home Inspector Recovery Fund.

Home inspectors

- Modifies the deadline by which a licensed home inspector must complete continuing education hours by requiring 42 hours to be completed every three years, rather than 14 hours annually during each three-year period the home inspector's license is valid as under current law.

Division of Securities

- Requires that prosecutions and acts by the Division of Securities or the Director of Commerce for a violation of Securities Law commence within six years after the commission of the alleged violation.
- Provides that, if the period of limitation has expired and an element of the offense is fraud or breach of fiduciary duty, prosecution commences within one year after the discovery of the offense by the aggrieved person or the aggrieved person's legal representative.
- Specifies that an offense is committed when every element of the offense occurs.
- Provides that the period of limitation does not run during any time when the *corpus delicti* (physical element of a crime) remains undiscovered.

Medical Marijuana

(R.C. 121.04, 121.08, 3796.02, 3796.03, 3796.032, 3796.04 (repealed), 3796.05, 3796.06, 3796.061, 3796.08, 3796.10, 3796.11, 3796.12, 3796.13, 3796.14, 3796.15, 3796.16, 3796.17, 3796.19, 3796.20, 3796.22, 3796.23, 3796.27, 3796.30, 3796.32, and 4776.01; Section 525.20; conforming changes in R.C. 109.572, 1321.37, 1321.53, 1321.64, 4735.143, 4763.05, 4764.06, 4764.07, 4768.03, and 4768.06)

Transfer to Division of Marijuana Control (DMC)

The bill consolidates oversight of the Medical Marijuana Control Program within the Division of Marijuana Control (DMC), which the bill creates within the Department of Commerce (COM). To oversee DMC, the bill establishes a Superintendent of Marijuana Control who reports to the Director of Commerce. Currently, oversight of the Medical Marijuana Control Program is split between COM and the State Board of Pharmacy (PRX), with COM being responsible for licensing and oversight of cultivators, processors, and testing laboratories and PRX being responsible for licensing and oversight of medical marijuana patients, caregivers, and dispensaries. Accordingly, the bill transfers all assets, liabilities, and obligations of COM and PRX related to medical marijuana to DMC.

The bill requires the transfer to be complete no later than December 31, 2023. Until then, PRX and COM retain their respective marijuana licensing and oversight responsibilities. Persons seeking registration as a medical marijuana patient or caregiver must apply to PRX until the 180th day following the effective date of the bill's changes. After that date, such applications must be submitted to DMC. Consequently, it appears that PRX will continue to receive applications for patient and caregiver registrations for a least three months after the Medical Marijuana Control Program is fully transferred to DMC. Presumably, PRX would send those applications to DMC for processing.

The bill specifies that medical marijuana licenses and registrations issued by PRX and COM remain in effect for the remainder of their term. If a license or registration expires before the program transfer is complete, the original issuer (PRX or COM) may renew it under the law as it existed before the bill's effective date. Forms of medical marijuana previously approved by PRX remain approved unless DMC later revokes the approval.

Rules

DMC is required to adopt rules, standards, and procedures for the Medical Marijuana Control Program. The topics of those rules closely mirror those mandated for COM and PRX under current law. COM and PRX rules continue in effect unless they are repealed or amended by DMC. However, the bill requires DMC to review and propose revisions to the PRX rules concerning medical marijuana retail dispensaries no later than March 1, 2024.

Investigations

The bill allows DMC to initiate and conduct an investigation, and subpoena witnesses and documents, whenever there appears to be a violation of the Medical Marijuana Law, or when DMC otherwise believes it to be in the best interest of medical marijuana patients or the general

public. A person that fails to comply with a DMC order or subpoena may be held in contempt by a court of common pleas of appropriate jurisdiction.

Drug database usage

The bill requires PRX to grant DMC access to the Ohio Automated Rx Reporting System (OARRS) as needed to ensure compliance with the Medical Marijuana Law. OARRS is a drug database used by PRX to prevent the misuse of controlled substances and other dangerous drugs.

Division of Financial Institutions

Criminal records checks

(R.C. 1121.23)

The bill replaces the requirement that the Superintendent of Financial Institutions obtain a criminal records check in relation to a person who directly or indirectly controls a bank, or has a substantial interest in or participates in the management of a bank, with a requirement that the Superintendent request a criminal records check of a person who exercises “control” of a bank. The bill defines “control” as the power to vote, directly or indirectly, at least 25% of outstanding voting shares or voting interests of a licensee or person in control of a licensee, or the power to elect or appoint a majority of executive officers or directors.

The bill creates a presumption that a person exercises control when that person holds the power to vote, directly or indirectly, at least 10% of outstanding voting shares or voting interests of a licensee or a person in control of a licensee. However, this presumption can be rebutted by establishing that the person is a passive investor by a preponderance of the evidence. To determine the percentage of a person controlled by any person, that person’s interest is aggregated with any other immediate family member. This includes a spouse, parents, children, siblings, in-laws, and any other person who shares their home.

The bill also provides definitions for several terms that are not defined for purposes of this provision.

“**Director**” means an individual elected to serve as the director of a for-profit corporation or a nonprofit corporation.

“**Executive officer**” means president, treasurer, secretary, any individual at or above the senior vice-president level or its functional equivalent, any individual at the vice-president level or its functional equivalent if the organization does not have senior vice-presidents, and “manager” as that term is defined in the Ohio Revised Limited Liability Company Act (LLC Law) (a person designated by the LLC or its members with the authority to manage all or part of the activities or affairs of the LLC on its behalf, regardless of their title).

“**Incorporator**” has the same meaning as in Ohio’s General Corporation Law: a person who signed the original articles of incorporation.

“**Organizer**” has the same meaning as in the LLC Law: a person executing the initial articles of organization.¹⁷

Because continuing law requires the Superintendent to request a criminal records check for someone to serve as an organizer, incorporator, director, or executive officer, the bills adds these definitions to clarify precisely who that includes in this context.

State Fire Marshal

Underground Storage Tank Revolving Loan Program

(R.C. 3737.02, 3737.88, and 3737.882; repealed R.C. 3737.883)

The bill eliminates the Underground Storage Tank Revolving Loan Program and the accompanying Underground Storage Tank Revolving Loan Fund. Under the program, a political subdivision may apply for a loan from the State Fire Marshal to assist with the costs of removing underground storage tank systems that store petroleum and hazardous substances. The loans are for sites where a responsible party is unknown or unable to financially pay for the removal of the storage tank. The State Fire Marshal must adopt rules to administer and operate the program, including establishing qualifying criteria for loan recipients. The fund is used to make underground storage tank revolving loans. The fund currently has no cash balance.

Division of Industrial Compliance

Manufactured homes

(R.C. 4781.04)

The bill expands the scope of inspections relating to the installation of manufactured housing by requiring the Division of Industrial Compliance to adopt rules requiring the Division, local building departments, or certified private third parties to conduct such inspections anywhere in Ohio.

Current law requires the Division, local building departments, or certified private third party entities to conduct these inspections for manufactured housing located in manufactured home parks. Under current law, manufactured homes that are installed on any tract of land that is subdivided, even if those lots are sold for the purpose of installing a manufactured home, are beyond the scope of installation inspections. Similarly, manufactured homes installed on their own individual tracts of land are beyond the scope of these inspections.

¹⁷ R.C. 1701.01, 1701.55, 1702.26, and 1706.01, not in the bill.

Board of Building Standards

Grant program

(R.C. 3781.10 and 3781.102)

The bill requires the Board of Building Standards to establish a grant program for local building departments to increase recruitment, training, and retention of qualified personnel. Currently, the Board:

- Formulates, adopts, and amends relevant building standard law;
- Certifies municipal, county, and township building departments to exercise authority, approve plans, and conduct inspections; and
- Conducts hearings.

The bill specifies that the money for the grant program is to come from the Industrial Compliance Operating Fund. The Industrial Compliance Operating Fund receives a variety of fees collected by the Division of Industrial Compliance and is maintained by COM.¹⁸

Division of Liquor Control

Duplicate liquor permits

(R.C. 4303.30)

Current law requires certain liquor permit holders that serve alcohol for on-premises consumption to obtain a duplicate permit if the permit holder wishes to add an additional bar at the permit premises beyond the two bars authorized by the original permit. The liquor permit holders subject to this requirement are the D-2, D-3, D-3a, D-4, D-4a, D-5, D-5a, D-5b, D-5e to D-5o, and D-6 permit holders. According to the Division of Liquor Control, a D-1, D-2x, or D-3x permit holder is not required to obtain a duplicate permit if the additional bar is exclusively used for the sale of beer. Further a D-3x permit holder is not required to obtain a duplicate permit if the additional bar is exclusively used for the sale of wine. An A-1-A permit holder must obtain a duplicate bar permit for an additional bar only if the permit holder obtains a D-6 permit (Sunday sales of alcohol).

The bill requires all liquor permit holders that serve alcohol for on-premises consumption to obtain a duplicate permit if the permit holder wishes to add more than two bars. It also revises the per bar permit fee for a duplicate permit as follows:

Permit	Current law	The bill
A-1-A with a D-6	\$781.20	\$781.20
A-1	Not authorized	\$781.20

¹⁸ R.C. 121.084.

Permit	Current law	The bill
A-1c	Not authorized	\$200
A-2/A-2f	Not authorized	\$100
A-5	Not authorized	\$200
B-1	Not authorized	\$625
B-2	Not authorized	\$100
B-2a	Not authorized	\$100
B-3	Not authorized	\$100
B-4	Not authorized	\$100
B-5	Not authorized	\$312.60
D-2	\$100	\$112.80
D-3	\$400	\$150
D-3a	\$400	\$187.60
D-4	\$200	\$100
D-4a	Not authorized	\$150
D-5	\$1,000	\$468.80
D-5a	\$1,000	\$468.80
D-5b	\$1,000	\$468.80
D-5c	\$400	\$312.60
D-5d	Not authorized	\$468.80
D-5e	\$650	\$243.80
D-5f	\$1,000	\$468.80
D-5g	\$375	\$375
D-5h	\$375	\$375

Permit	Current law	The bill
D-5i	\$468.80	\$468.80
D-5j	\$468.80	\$468.80
D-5k	\$375	\$375
D-5l	\$468.80	\$468.80
D-5m	\$468.80	\$468.80
D-5n	\$4,000	\$4,000
D-5o	\$1,000	\$468.80
E	Not authorized	\$100
F class	Not authorized	\$100 to \$340

Micro-distillery surety bond

(R.C. 4303.041)

The bill requires an A-3a liquor permit holder (micro-distillery) to execute a surety bond that is conditioned on the faithful performance of the permit holder's duties. Those duties include selling spirituous liquor in sealed containers for off-premises consumption on the Division's behalf. The bill requires the Division to establish the amount of the surety bond.

Liquor permit cancellations

(R.C. 4301.26)

The bill repeals the law that requires the Liquor Control Commission to cancel a liquor permit for any of the following reasons (except as provided in the rules of the Division of Liquor Control relative to transfers of a permit):

1. In the event of the permit holder's death or bankruptcy;
2. The making of an assignment for the benefit of the permit holder's creditors; or
3. The appointment of the permit holder's property.

According to the Division, the Commission has no authority to cancel liquor permits since the Division is the permitting authority.

Division of Real Estate and Professional Licensing

Real estate brokers

Licensure

(R.C. 4735.07)

The bill modifies the work requirements to take the real estate broker's examination. Current law requires an applicant to have been a licensed real estate broker or salesperson for at least two years. Additionally, the applicant must have worked as a licensed real estate broker or salesperson for an average of 30 hours per week during at least two of the five years preceding that person's application.

The bill changes the requirement that the applicant have been a licensed real estate broker or salesperson for at least two years by requiring that those two years take place during the five years preceding the application. This change means that applicants for the examination must have two years of recent experience, but does not require that those two years be consecutive or immediately precede the application.

The bill also removes the requirement that an applicant have worked as a licensed real estate broker or salesperson for an average of at least 30 hours per week for two of the preceding five years. Under the bill, an applicant only has to have been a licensed real estate broker or salesperson for at least two of the preceding five years, and the number of hours worked each week during those two years is no longer a factor.

Civil penalty

(R.C. 4735.052)

If a person fails to pay a civil penalty the Ohio Real Estate Commission assessed for certain unlicensed or unregistered activity, the bill requires the Superintendent of Real Estate and Professional Licensing to forward to the Attorney General identifying information relating to the person. Under continuing law, the Superintendent also must forward to the Attorney General the person's name and the amount of the penalty, for purposes of collecting the penalty. The civil penalty is up to \$1,000 per violation, with each day constituting a separate violation.

Disciplinary actions

(R.C. 4735.18)

The bill limits where brokerage trust accounts may be maintained to state or federally chartered institutions located in Ohio. Current law requires that a real estate broker or salesperson license holder must maintain a special or trust bank account in a depository located in Ohio. This change applies to brokerage trust accounts for the purpose of receiving escrow funds and security deposits, as well as brokerage trust accounts for the purpose of depositing and maintaining funds in the course of real property management on behalf of others. Continuing law permits the Superintendent of Real Estate and Professional Licensing to take disciplinary actions against a license holder who fails to maintain these accounts.

The bill also permits the Superintendent to take disciplinary action against a license holder for having been judged incompetent by a court in any capacity. Current law allows for disciplinary action to be taken only when a license holder has been judged incompetent for the purpose of holding the license.

Administration of funds

(R.C. 3705.17, 4735.03, 4735.06, 4735.09, 4735.12, 4735.13, 4735.15, 4735.211, 4763.15, 4763.16, 4764.18, 4767.03, 4767.10, 4768.14, 4768.15, 4781.17, and 4781.54)

The bill makes several changes to the funds that hold fees collected by the Division of Real Estate and Professional Licensing by consolidating several funds. Under existing law, changed in part by the bill, when obtaining a burial permit, a funeral director or other person must pay the local registrar or sub-registrar a \$3 fee. From this fee, the registrar or sub-registrar keeps 50¢ and the rest, \$2.50, goes to the Division to be used for purposes of the Cemetery Law. Of the \$2.50 that goes to the Division, \$1 goes to the Cemetery Grant Fund to advance grants to cemeteries registered with the Division to defray the costs of exceptional cemetery maintenance or training cemetery personnel in the maintenance and operation of cemeteries. The bill eliminates the Cemetery Grant Fund, creates the Cemetery Registration Fund, and requires burial permit fees to be deposited into the new fund. In addition, under existing law, the Division cannot advance grants totaling more than 80% of the appropriation to the fund for that fiscal year. The bill also eliminates this restriction.

The bill also eliminates several other funds managed by the Division. It eliminates the Real Estate Education and Research Fund, Manufactured Homes Regulatory Fund, Home Inspectors Fund, and Real Estate Appraiser Operating Fund. The bill redirects deposits going to these funds under existing law to the existing Division of Real Estate Operating Fund. The bill makes several conforming changes related to the redirection of these funds.

The bill authorizes, instead of requires as in current law, the Ohio Real Estate Commission to use operating funds for the purpose of education and research in the same manner it is authorized to use the funds in the Real Estate Education and Research Fund under current law.

Lastly, the bill authorizes, rather than requires, the Superintendent of Real Estate and Professional Licensing to collect a service fee from the Real Estate Recovery Fund to defray the cost of administering the fund. The amount collected must not exceed the annual interest earnings of the fund multiplied by the federal short-term interest rate (which is 5% for 2023). 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.¹⁹

¹⁹ [“In the matter of the Determination of the Interest Rates Pursuant to Section 5703.47 of the Ohio Revised Code \(PDF\),”](#) Ohio Department of Taxation, October 14, 2022, available on the Department of Taxation’s website: tax.ohio.gov.

Confidentiality of investigatory information

(R.C. 4735.05)

Under existing law, unchanged by the bill, when the Superintendent of Real Estate and Professional Licensing is conducting an investigation of a licensee or an applicant pursuant to a complaint, or otherwise pursuant to the Superintendent's enforcement duties, all information obtained as part of the investigation must be held confidentially by the Superintendent. Under existing law, changed in part by the bill, the Division of Real Estate and Professional Licensing is permitted to release information to the Superintendent of Financial Institutions, as it relates to nonbank consumer lending laws, to the Superintendent of Insurance, as it relates to Title Insurance Law, to the Attorney General, or to local law enforcement agencies and local prosecutors.

In addition to not preventing the release of this information to these entities, the bill clarifies that the release of information is permissive – the confidentiality requirement does not *require* the release of this information. In addition, the bill expands this provision to permit the release of information to the Division of Securities, the Division of Industrial Compliance, and in general to any law enforcement agency or prosecutor, not just a local law enforcement agency or prosecutor.

The bill also makes a technical correction by removing a legacy reference to a repealed statutory provision.

Home Inspector Board

(R.C. 4764.04, 4764.05, and 4764.21)

Under continuing law, a seven-member Home Inspector Board administers the licensure process for home inspectors. The Board's duties include:

- Establishing standards for the issuance, renewal, suspension, and revocation of licenses;
- Establishing license and renewal fees;
- Prescribing standards for continuing education; and
- Establishing requirements for conducting home inspections, standards of practice for home inspectors, and conflict of interest prohibitions.

The bill modifies the law governing Board meetings and procedures, expands its rulemaking authority, allows it to request an investigation of an alleged violation of the Home Inspector Law, and modifies its duties respecting the Home Inspection Recovery Fund.

Meetings and procedure

The bill requires that the Board elect a chair and vice chair from among its members by majority vote annually at the first regularly scheduled Board meeting after September 1. The Board must meet at least once per quarter each year. Finally, the bill specifies that (1) a majority of the members of the Board constitutes a quorum and (2) a quorum is necessary in order for the Board to conduct its regular business.

Rulemaking

The bill allows the Board to adopt any rules necessary to further the Home Inspector Law, in addition to the rule topics explicitly addressed in the Revised Code. Currently, the Board is authorized to adopt rules related to standards for conducting home inspections, licensure and renewal fees necessary to defray expenses, education and experience requirements, prohibitions against conflicts of interest, and several other topics related to the licensure and practice of home inspectors. The bill broadens the Board's rulemaking authority to uphold and maintain the Home Inspector Law.

Investigations

The bill authorizes the Board to request the Superintendent of Real Estate and Professional Licensing to initiate investigations of possible violations of the Home Inspector Law. Under continuing law, the Superintendent is authorized to investigate any person who conducts a home inspection without a license or otherwise violates the Home Inspector Law. Furthermore, the Superintendent is required to establish and maintain an investigation and audit section to investigate complaints and conduct inspections, audits, and other inquiries.²⁰ However, current law does not directly allow the Board to request that the Superintendent initiate an investigation.

Home Inspection Recovery Fund

The Home Inspection Recovery Fund is administered by the Superintendent of Real Estate and Professional Licensing for payment of judgments related to home inspectors, when the judgment creditor has exhausted other avenues for recovery. The Board, in accordance with rules it adopts, must impose a special assessment for the fund on each person applying for a license and each licensee applying for renewal.

The bill requires, rather than allows, the Board to impose that special assessment, not to exceed \$5 per year, whenever the balance of the fund is less than \$1 million as of the preceding July 1. The Board must not impose the assessment if the fund balance equals (added by the bill) or exceeds \$1 million as of the preceding July 1. Under current law, the Board is permitted to impose the \$5 special assessment when the balance of the fund is less than \$250,000, and permits the Board to impose a special assessment of up to \$3 if the balance is \$500,000 to \$1 million.

The bill also eliminates the Board's authority to hear appeals from orders of the Superintendent regarding claims against the fund. A person who obtains a final judgment against a home inspector for violating the Home Inspector Law may apply to the Franklin County Court of Common Pleas for payment from the fund if the home inspector fails to pay the judgment.²¹ The Superintendent may defend any action on the fund's behalf or settle the claim.

The Court must order the Superintendent to make a payment from the fund when the applicant proves all the following:

²⁰ R.C. 4764.06(A)(11) and 4764.16; R.C. 4764.12 to 4764.15, not in the bill.

²¹ R.C. 4764.21(B)(1).

- The applicant obtained a judgment;
- All appeals from the judgment have been exhausted and the person has given notice to the Superintendent;
- The applicant is not a judgment debtor's spouse or the spouse's personal representative;
- The applicant has diligently pursued the applicant's remedies against all the judgment debtors and all other persons liable to the applicant in the transaction for which the applicant seeks recovery from the fund;
- The application was filed not more than one year after termination of all proceedings connected to the judgment, including appeals.

Since the bill eliminates the Board's authority to hear appeals on such matters, it appears that the Court's order is final.

Home inspectors

(R.C. 4764.08)

The bill modifies the deadline by which a licensed home inspector must complete continuing education hours by requiring 42 hours to be completed every three years. Under current law, a licensed home inspector must complete at least 14 hours annually during each three-year period the home inspector's license is valid.

Division of Securities

Securities Law – period of limitation

(R.C. 1707.28)

Under continuing law, a prosecution or action by the Division of Securities or the Director of Commerce for a violation of Securities Law must not bar a prosecution or action by the Division or the Director, or be barred by any prosecution or other action, for the violation of any other provision of the Securities Law or for the violation of any other statute.

The bill requires that prosecutions and actions by the Division or the Director for a violation of Securities Law commence within six years after the commission of the alleged violation, rather than five years under current law.

The bill requires that, if the period of limitation has expired and an element of the offense is fraud or breach of fiduciary duty, prosecution commences within one year after the discovery of the offense either by an aggrieved person, or by the aggrieved person's legal representative who is not a party to the offense.

The bill specifies that an offense is committed when every element of the offense occurs. In the case of an offense of which an element is not a continuing course of conduct, the period of limitation does not begin to run until such a course of conduct or the accused's accountability for it terminates, whichever occurs first.

The bill provides that the period of limitation does not run during any time when the *corpus delicti* (physical evidence of a crime) remains undiscovered.