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## DEPARTMENT OF COMMERCE

### **Division of Financial Institutions: multistate licensing system**

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

### **Unclaimed funds electronic notification**

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

### **Real estate license fees**

- Increases several fees related to the licensing of real estate brokers and salespersons paid to the Superintendent of the Division of Real Estate and Professional Licensing.
- Establishes a three-year renewal fee for real estate brokers and real estate salespersons paid to the Superintendent.
- Eliminates the annual renewal fee for real estate brokers and real estate salespersons.

### **Real Estate Recovery and Real Estate Appraiser Recovery Funds**

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

### **Appraisers' removal from appraiser panels**

- Requires an appraisal management company that wishes to remove an appraiser from its appraiser panel to provide the appraiser with a written explanation and an opportunity to respond in all cases, instead of only when the appraiser has been on the panel for more than 30 days.

### **Construction and Manufacturing Mentorship Program**

- Creates the Construction and Manufacturing Mentorship Program to expose minors who are 16-or 17-years old to construction and manufacturing occupations in Ohio through temporary employment with an employer.

- Requires an employer employing a minor under the Mentorship Program to provide the minor with required training, assign the minor a mentor who is liable for the minor during the minor's employment, and take other specified actions.
- Requires the Director of Commerce to specify a list of tools that a minor employed under the Mentorship Program may operate during the minor's employment.
- Prohibits an employer from either (1) permitting a minor from operating a tool described above unless the minor is employed under the Mentorship Program, or (2) permitting a minor who is employed under the Mentorship Program from operating a tool prohibited for use by minors of that age under federal and state law.
- Establishes a civil penalty for whoever violates the bill's prohibitions.

### **Hazardous occupations prohibited for minors**

- Prohibits the Director from adopting any rule to prohibit a 16- or 17-year old minor employed by an employer under the Mentorship Program from being employed in a construction or manufacturing occupation if the minor's employment in the occupation is permitted under federal law.

### **Division of Industrial Compliance-building code administration**

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

### **Oil and gas land professionals – civil penalties**

- Expands the civil enforcement authority of the Superintendent of Real Estate and Professional Licensing relative to oil and gas land professionals.

### **State Fire Marshal CDL exemption**

- Exempts a qualified person who operates fire equipment for the State Fire Marshal from the requirement to hold a commercial driver's license (the same exemption applies to a qualified person who operates fire equipment for a local fire department).

### **Division of Financial Institutions: multistate licensing system**

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

The bill authorizes the Superintendent of Financial Institutions to require persons licensed or registered by the Division of Financial Institutions<sup>8</sup> to participate in a multistate licensing system. If the Superintendent chooses to use the system, the Superintendent may establish, by rule, regulation, or order, any requirements necessary to enable all statutorily required licensing and registration information to be submitted to the Superintendent through

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<sup>8</sup> These persons include licensees and registrants under the Check-cashing Businesses Law, Small Loan Law, Short-term Loan Law, General Loan Law, Consumer Installment Loan Act, Insurance Premium Finance Company Law, Residential Mortgage Loan Act, Credit Services Organization Law, Pawnbrokers Law, and Precious Metals Dealers Law.

the system. Persons engaged in activity that requires licensure or registration are to utilize the system to apply for, renew, amend, or surrender their license or registration, and for any other activity determined by the Superintendent. They are also required to pay any related user fees.

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

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

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

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

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

Finally, the Department of Commerce is permitted to use the multistate licensing system to fulfill the Department's ongoing obligations to establish and maintain an electronic database accessible through the Internet that contains information on (1) the enforcement actions taken by the Superintendent under the Residential Mortgage Lending Act (RMLA), (2) the enforcement actions taken by the Attorney General under the Consumer Sales Practices Act (CSPA) against loan officers, mortgage brokers, and nonbank mortgage lenders, and (3) all judgments by Ohio courts finding a violation of the RMLA or finding that specific acts or practices by a loan officer, mortgage broker, or nonbank mortgage lender are unfair or deceptive trade practices under the CSPA.<sup>9</sup>

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<sup>9</sup> R.C. 1345.02, 1345.03, and 1345.031, not in the bill.

## Unclaimed funds electronic notification

(R.C. 169.06)

Under continuing law, holders of unclaimed funds must file reports with the Director of Commerce when they are in possession of items that qualify as unclaimed funds. Based on these reports, the Director must then publish a notice of unclaimed funds in a local newspaper in an attempt to notify the owner of the whereabouts of the owner's unclaimed funds. The Director also may publish additional notices. The bill explicitly allows both of these notices to be published electronically.

## Real estate license fees

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

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

Fee	Current Law	The Bill
Real estate broker license application	\$100	\$135
Real estate salesperson license application	\$60	\$81
Transfer from broker license to salesperson license	\$25	\$34
Notice of intention by real estate broker to join a business entity	\$25	\$34
Reactivation or transfer of a broker's license into or out of business entity	\$25	\$34
Reactivation or transfer of a salesperson's license	\$25	\$34
Branch office license	\$15	\$20
Foreign real estate salesperson's license and renewal	\$50	\$68
Additional fee for an education course provider or course provider applicant whose fee was returned	\$100	\$135
Foreign real estate dealer examination	\$75	\$101

Fee	Current Law	The Bill
Foreign real estate salesperson examination	\$50	\$68
Cap of foreign real estate dealer's fee for each salesperson employed by the dealer	\$150	\$203

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

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

## Real Estate Recovery, Real Estate Appraiser Recovery Funds

(R.C. 4735.12 and 4763.16; Section 243.20)

### Real Estate Recovery Fund assessments and transfers

Under continuing law, the Real Estate Recovery Fund is maintained to satisfy judgments against real estate brokers and salespeople who engage in professional misconduct. To support the fund, existing law requires the Real Estate Commission to impose special assessments on brokers and salespersons renewing their licenses based on the fund's balance on the July 1 preceding the renewal. If the balance is less than \$500,000, the assessment can be \$10 or less. If the balance is between \$1 million and \$2 million, the assessment can be \$5 or less. No assessments are permitted if the balance exceeds \$2 million.

The bill eliminates this tiered structure by requiring an assessment, up to \$10, if the Real Estate Appraiser Recovery Fund's balance is less than \$250,000 on the July 1 preceding the license renewal and prohibiting assessments if the balance exceeds \$250,000 on that date. The

bill also grants the Director of Commerce authority to request, during the biennium, that the OBM Director transfer funds from the Real Estate Recovery Fund to the Real Estate Operating Fund if the Recovery Fund's balance exceeds \$250,000. Such a transfer may reduce the Recovery Fund's balance to no less than \$250,000.

### **Real Estate Appraiser Recovery Fund transfers**

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

Under existing law, if the Real Estate Appraiser Recovery Fund's balance is less than \$500,000, the Superintendent may request that the OBM Director transfer funds from the Real Estate Appraiser Operating Fund to the Real Estate Appraiser Recovery Fund to reestablish that balance. The bill reduces the threshold at which a request may be made, and to which the balance may be restored, to \$200,000, and specifies that the request may be made if the threshold is met at any time.

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

### **Appraisers' removal from appraiser panels**

(R.C. 4768.09)

If an appraisal management company wishes to remove an appraiser from its appraiser panel, the bill requires the company to provide the appraiser with written notice that explains the reasons for removal and an opportunity to respond in all cases. Existing law limits this requirement to the removal of appraisers who have been on the panel for more than 30 days.

### **Construction and Manufacturing Mentorship Program**

(R.C. 4109.22 and 4109.99)

The bill creates the Construction and Manufacturing Mentorship Program to expose minors who are 16-or 17-years old to construction occupations and manufacturing occupations in Ohio through temporary employment with an employer (a person who employs any individual in a construction occupation or manufacturing occupation). An employer employing a minor under the Mentorship Program must:

- Determine the duration of the minor's employment;
- Assign a mentor to provide direct and close supervision to the minor while the minor is engaged in any workplace activity and who is liable for the minor while the minor is employed by the employer;
- Provide the minor with the training described under "**Mentorship Program training,**" below;

- Encourage the minor to participate in a career-technical education program after the minor's employment ends, if the minor is not participating in such a program when the minor begins employment;
- Comply with all state and federal laws and regulations relating to the employment of minors.

A minor who is employed by an employer under the Mentorship Program may work in any construction or manufacturing occupation that is not prohibited for minors of that age by Ohio's Minor Labor Law<sup>10</sup> or rules adopted under the Law.

For purposes of the bill, a "construction occupation" is employment consisting of the construction, reconstruction, enlargement, alteration, repair, remodeling, renovation, demolition, or painting of a building or other structure, and includes preparing a site for new construction. A "manufacturing occupation" is employment consisting of the mechanical, physical, or chemical transformation of materials, substances, or components into new products for sale, and includes assembling component parts into a finished product.

### **Mentorship Program training**

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

- A ten-hour course in construction or general industry safety and health hazard recognition and prevention approved by the U.S. Department of Labor's Occupation Safety and Health Administration (OSHA) (the minor may participate in an OSHA-approved 30-hour course if the minor has already successfully completed a ten-hour course);
- Instructions on how to operate the specific tools the minor will use during the minor's employment;
- The general safety and health hazards that the minor may be exposed to at the minor's workplace;
- The value of safety and management commitment;
- Information on the employer's drug testing policy.

The bill requires the employer to pay any costs associated with providing a minor with the training.

### **List of approved tools**

The bill requires the Director of Commerce, in consultation with employers, to adopt rules in accordance with the Administrative Procedures Act specifying a list of the tools that a 16- or 17-year old minor who is employed under the Mentorship Program may operate during the minor's employment in a construction or manufacturing occupation. The Director must use the "Field Operations Handbook" issued by the U.S. Department of Labor's Wage and Hour

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<sup>10</sup> R.C. Chapter 4109.

Division for guidance in developing the list. Nothing in the bill requires the Director to include a tool on the list if the federal Fair Labor Standards Act<sup>11</sup> (FLSA) hazardous occupation orders and Ohio's Minor Labor Law or rules adopted under it specifically permit 16- or 17- year olds to operate the tool.

## Prohibitions

The bill prohibits an employer from:

1. Permitting a 16- or 17-year old minor to operate a tool a minor of that age is permitted to operate under the rules described in "**List of approved tools**" above unless the minor is employed by the employer under the Mentorship Program;
2. Permitting a 16- or 17-year old minor who is employed by the employer under the Mentorship Program to operate a tool that a minor of that age is prohibited from using by the FLSA and Ohio's Minor Labor Law or rules adopted under it.

## Penalty for violation

Under continuing law, the Director is required to designate enforcement officials to enforce Ohio's Minor Labor Law. An enforcement official who discovers a violation of the Law is required to file a complaint against an offending employer in any court of competent jurisdiction after providing notice to the employer of the violation. An employer found to have violated the Law by the court may be assessed a penalty, which is paid into the fund of the school district in which the violation was committed.<sup>12</sup>

Under the bill, an employer who violates the bill's prohibitions is assessed a civil penalty of up to \$1,730 for each violation.

## Hazardous occupations prohibited for minors

(R.C. 4109.05)

Continuing law requires the Director, after consulting with the Director of Health, to adopt rules prohibiting the employment of minors in occupations that are hazardous or detrimental to the health and well-being of minors. The Director of Commerce must consider the hazardous occupation orders issued pursuant to the FLSA when adopting the rules. The bill prohibits the Director from adopting any rule that would prohibit a minor who is 16- or 17- years old and employed by an employer under the "**Construction and Manufacturing Mentorship Program**" above from being employed in a construction or manufacturing occupation if the hazardous occupation orders issued pursuant to the FLSA permit the minor's employment in the construction or manufacturing occupation.

## Interaction between federal and state minor labor laws

An employer or employee may be subject to the FLSA or Ohio's Minor Labor Law, or both laws, depending on the employer type and size and whether the employer or employee engages in interstate commerce. In the situation where an employer or an employee is subject to both federal and Ohio law and the laws differ, the law that provides the most protection for

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<sup>11</sup> 29 U.S.C. 201 *et seq.*

<sup>12</sup> R.C. 4109.13, not in the bill.



the minor applies.<sup>13</sup> For example, federal and Ohio law prohibit a minor from using hammering machines such as a power hammer.<sup>14</sup> If Ohio law were amended to permit the minor to use a hammering machine that is prohibited under the FLSA, the federal law would control because it is more restrictive of the minor's activity. Therefore, it appears that a minor's employment would be limited in certain occupations that are prohibited under the federal law, even if Ohio law were amended to permit the minor's employment in those occupations.

## **Building code administration and enforcement**

(R.C. 121.083 and 3781.10)

Under continuing law, enforcement authority for the state's building codes, that is, authority to approve plans and specifications and to conduct inspections, is granted to townships, municipal corporations, and county building departments certified by the Division of Industrial Compliance, as well as certain health districts. Also under continuing law, those governmental bodies may rely on specifically listed persons and entities, who have also been certified by the Division, to administer and enforce the codes.

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

## **Oil and gas land professionals – civil penalties**

(R.C. 4735.023 and 4735.052; R.C. 4735.01(l)(1)(h) and (i), not in the bill)

An "**oil and gas land professional**" is someone who regularly engages in the preparation and negotiation of agreements for the purpose of exploring for, transporting, producing, or developing oil and gas mineral interests, including oil and gas leases and pipeline easements. Employee oil and gas land professionals are not considered real estate brokers and, as a result, are exempt from licensing under the Real Estate Brokers Law.

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

The bill expands the Superintendent's civil enforcement authority to permit the Superintendent to investigate and begin disciplinary proceedings against independent oil and

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<sup>13</sup> 29 U.S.C. 218 and 29 Code of Federal Regulations (C.F.R.) 570.50.

<sup>14</sup> 29 C.F.R. 570.59 and Ohio Administrative Code (O.A.C.) 4101:9-2-11.

gas land professionals who commit a violation of continuing law's requirements for them, which include the provision of certain notices to counterparties in negotiations.

## **State Fire Marshal CDL exemption**

(R.C. 4506.03)

Under current law, generally, no person may operate a commercial motor vehicle unless the person has a valid commercial driver's license or permit. However, there are several exemptions, which include qualified persons who operate fire equipment for a fire department, volunteer or nonvolunteer fire company, fire district, or joint fire district.

The bill adds the State Fire Marshal to this exemption – that is, a qualified person who operates fire equipment for the State Fire Marshal is not required to hold a commercial driver's license or permit.