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HB 164 Testimony

Valerie Pope, Ohio Roofing Contractors Association

Chairman Young, Vice Chairman Riedel, Ranking Member Lepore-Hagan, and Members of the Economic Development, Commerce and Labor Committee:

My name is Valerie Pope and I represent the Ohio Roofing Contractors. A non-profit professional organization for all roofing contractors across Ohio. Thank you for the opportunity to speak to you again about House Bill 164. Ohio Roofing Contractors would like to offer the following clarifications to the testimony presented by the bill's opponents at the December 12, 2017 hearing.

Several points were raised in that testimony that represent a fundamental misunderstanding of the current OCILB licensing program, which HB164 does not seek to change in any way:

1. The OCILB does NOT require a bond as a part of this license.

Bonding has long been an exclusionary problem for small businesses, especially minority-owned businesses. There is currently no bond requirement in the bill and ORCA agrees that this would constitute a burden and a barrier in the marketplace.

2. The OCILB license is a CONTRACTORS license and not an INSTALLERS license.

One person in each company must hold the license in his or her name and assign it to a company. The required continuing education can be in the areas of Business, Code, Safety or Technology. Only the license holder must take the continuing education required.

3. The OCILB continuing education is offered by many OCILB Approved Training Agencies.

Many offer the training at no charge to their participants. Training is widely available throughout Ohio. The OCILB Section Boards have not sought to chose one kind of system over another or one kind of manufacturer or another in approving this education. Because much of the education revolves around business practices and code and is approved by a diverse board of contractors, it does not pick "winners and losers" in terms of industry practices or products.

Also because continuing education is so widely available, the cost of training is consistently low. Opponents hinted that the associations intended on making huge profits off of providing this training. And that is certainly not the interest of ORCA in this initiative and it is unlikely that we could retain our membership if this was our primary focus. We are a non-profit organization established exclusively for the betterment of the industry. As the associations in the mechanical and electrical industry can already attest, it's about providing quality, timely educational programs, not a money-making venture.

4. The OCILB and Municipal Contractor Registrations

One of the advantages that the currently licensed trades enjoy is streamlining of the municipal licensing and registration process. While municipalities can still require a fee to be registered in their area, they cannot keep a contractor out of their locality if they hold a state license. They also cannot require additional testing, which has also been a barrier to contractors in the past. A state-wide license for commercial roofing contractors would ease the burden of local regulatory oversight in a similar manner.

Several points were raised about competition in the roofing industry and allowing the marketplace to self-regulate COMMERCIAL roofing contractors.

1. Existing Government Agency Enforcement

While there are some government agencies that could add an eye to commercial roofing contractors, the Ohio Bureau of Workers Compensation, the Ohio Attorney General's Office, the Department of Taxation, etc. their reach is widespread in many different areas, and those agencies don't have a mechanism to directly address the issue of misclassification of employees as contractors. When this practice is abused, it is difficult for these agencies to spot but the OCILB has done an excellent job for many years on following up on tips from building inspectors and contractors to enforce the law that all contractors performing licensed work on the project must hold a license. Once they are identified as contractors then all the other agencies can work together to prevent this insurance and tax fraud.

Leveling the playing field is not the same thing as cronyism. Commercial construction is a difficult and uncommon market for a contractor to enter the industry. It is even more difficult to enter that market and become successful if the market environment encourages a system whereby employees are forced into being misclassified as independent contractors. In this scenario the "independent contractor" takes all of the risk without having control of the project. This is a relatively new and growing trend to commit tax and insurance evasion on the part of larger, already established contractors, not an economic development tool to cultivate independent small businesses.

2. Reliance on manufacturer training, warranties, and referrals do the job of contractor licensing

Manufacturers do provide valuable training and warranties to the roofing industry. But private, for-profit companies do not have the same public interest as state and municipal agencies. The harsh reality of the roofing industry is that the suppliers rely on sales volume to determine preferred contractors. Small contractors trying to break into the commercial roofing market are more likely to be shut out by manufacturers practices of choosing authorized contractors for their systems or economic burdens like bonding capacity than they will ever be with a state-wide license.

ORCA has worked against the expensive and exclusionary practices of proprietary specification, whereby manufacturers limit competition by having their systems specified by a public owner. Once a proprietary system is specified, only the manufacturers preferred contractors may install it because only they can say they have the training to install it and warranty the system. Alternates can be difficult to get approved by interested bidders and are often poorly received by public officials unfamiliar with the industry.

A Commercial roofing license can't fix this industry practice, but like misclassification of workers, ORCA will not advocate to further entrench business practices that undermine industry growth or true small business development.

House Bill 164 presents a reasonable, time-tested method to license commercial contractors in Ohio. In the same way that the mechanical and electrical specialty trades have continued to grow and thrive, with many new contractors being licensed annually, the OCILB will provide an effective, affordable, and practical industry-based mechanism to help prevent employee misclassification and the tax and insurance fraud that go with it. The Ohio Roofing Contractors Association supports the immediate passage of House Bill 164.

Thank you.