



OHIO LEGISLATIVE SERVICE COMMISSION

Bill Analysis

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(As Introduced)

Reps. Patmon and Young

BILL SUMMARY

- Prohibits, beginning one year after the bill's effective date, any person from performing the duties, responsibilities, or functions associated with a specialty contractor on an owner-occupied residential building unless the person is licensed by the Ohio Construction Industry Licensing Board (OCILB).
- Prohibits, beginning one year after the bill's effective date, any person from acting as a home improvement contractor or holding the person's self out as a home improvement contractor unless the person is registered as a home improvement contractor with the Ohio Home Improvement Board created by the bill.
- Specifies criminal and civil sanctions for violating the bills prohibitions and requirements.
- Exempts any person who acts as or holds the person's self out as a home improvement contractor from the bill's registration requirement if the person is licensed by OCILB as a specialty contractor, provided the home improvement performed or offered is covered by the person's license.
- Requires a registered home improvement contractor to present a copy of the contractor's registration to a consumer before performing or offering to perform any home improvement services.
- Requires a home improvement retailer to ensure that a contractor performing home improvements for the retailer's customers is a registered home improvement contractor and that the retailer's customers are provided with the contractor's registration information.

- Requires the Department of Commerce to implement a statewide public campaign to inform consumers of the requirement and includes an appropriation for the campaign.
- Creates the Ohio Home Improvement Board to be responsible for the registration of home improvement contractors and specifies its membership.
- Allows the Board to suspend, revoke, or refuse to issue a registration or impose a fine on a registration holder for engaging in certain listed activities.
- Specifies other powers and duties of the Board.
- Lists requirements a person must satisfy to register as a home improvement contractor.
- Specifies that registration expires annually and is renewable.
- Requires a person who applies for registration as a home improvement contractor and who is employed by a business entity to assign the person's license to the business entity for whom the person is employed.
- Prohibits the Board from issuing more than one registration to a person who has a registration assigned to a business entity.
- Prohibits a person from assigning a registration to more than one business entity at the same time.
- Specifies that a registration assigned to a business entity is invalid if the person who assigned the registration to a business entity is no longer associated with the business entity, but allows the business entity to continue to operate if it is assigned a different registration.
- Requires a person who assigns a registration to a business entity to actively be engaged in home improvement contracting and be available for consultation with the business entity to which the person's registration is assigned.
- Specifies that any work a business entity conducts under an assigned registration is deemed to be conducted under the personal supervision of the person named in the registration and any violation of the registration is deemed to have been committed
- Specifies that the Board has exclusive authority to regulate home improvement contractors and prohibits political subdivisions of the state from adopting ordinances or resolutions that impose additional requirements on home improvement contractors regulated under the bill.

TABLE OF CONTENTS

Licensure of residential specialty contractors	3
Requirements to receive a license	4
Licensee discipline	5
Home improvement contractors and retailers	6
Registration requirement for home improvement contractors	6
Exemption	7
Requirements for home improvement retailers	7
Penalties	8
Presentation of registration to consumers	9
Home improvement service contracts	9
Ohio Home Improvement Board	11
Officers and administration	12
Duties of the Board	12
Home improvement contractor registration	14
Requirements	14
Assignment of registration	15
Disciplinary action	16
Mandatory discipline	16
Discretionary discipline	17
Child support orders	18
Penalty for instruments returned for insufficient funds	18
Human trafficking	18
Regulation by other entities	19
Additional definitions	19

CONTENT AND OPERATION

Licensure of residential specialty contractors

The bill prohibits, beginning one year after its effective date, an individual from performing the duties, responsibilities, or functions associated with a specialty contractor on an owner-occupied one-, two-, or three-family dwelling house or any structure incidental to that dwelling house (a "residential building") unless the person is licensed by the Ohio Construction Industry Licensing Board (OCILB).¹ Currently, OCILB licenses the following types of contractors who perform work on commercial construction projects: electrical contractors; plumbing contractors; hydronics contractors; refrigeration contractors; and heating, ventilation, and air conditioning contractors. Practicing without a license is punishable as a minor misdemeanor on the first violation and as a fourth degree misdemeanor for any subsequent misdemeanor. The OCILB also may impose a fine of \$1,000 for unlicensed practice after a notice and

¹ R.C. 4740.01 and Section 7.



hearing similar to the proceedings described under "**Penalties**," below. The Attorney General also may sue for injunctive relief to stop unlicensed practice.²

Requirements to receive a license

To receive a license as a specialty contractor, an individual must do all of the following:

- Be at least 18;
- Be a U.S. citizen or legal alien who produces valid documentation to demonstrate the individual is a legal resident of the U.S.;
- Either have been a tradesperson in the type of licensed trade for which the application is filed for not less than five years immediately before the application date, be a currently registered engineer in Ohio with three years of business experience in the construction industry in the trade for which the engineer is applying, or have other experience acceptable to the appropriate OCILB specialty;
- Maintain contractor's liability insurance in an amount the appropriate OCILB specialty section determines and only in one contracting company name;
- Not have done any of the following:
 - Been convicted of or pleaded guilty to a crime of moral turpitude or a disqualifying offense;
 - Violated the OCILB Law³ or any rule adopted pursuant to it;
 - Obtained or renewed a license, or any order, ruling, or authorization of the OCILB or an OCILB section by fraud, misrepresentation, or deception;
 - Engaged in fraud, misrepresentation, or deception in the conduct of business.
- Passes the appropriate examination;

² R.C. 4740.13, 4740.16, and 4740.99, not in the bill.

³ R.C. Chapter 4740.



- Pays the fee established by the OCILB.

Licenses are valid for one year and may be renewed. To renew an applicant must complete the appropriate continuing education requirements. Licenses may be issued pursuant to reciprocity agreements. All licenses must be assigned to a contracting company similar to the requirements described under "**Assignment of registration,**" below.⁴

Licensee discipline

As under continuing law, the appropriate OCILB specialty section may impose any of the following disciplinary actions on a specialty contractor required to be licensed under the bill:

- Suspend, revoke, or refuse to issue any license;
- Require additional continuing education hours;
- Issue a fine.

The specialty contractor may be disciplined for any of the following reasons:

- Having been convicted of or pleading guilty to a crime of moral turpitude or disqualifying offense;
- Violating the OCILB Law or any rule adopted pursuant to it;
- Obtaining or attempting to obtain a license or a renewal of a license by means of fraud, deception, or misrepresentation;
- Obtaining an order, ruling, or authorization from any OCILB section by means of fraud or misrepresentation;
- Engaging in fraud, misrepresentation, or deception in the conduct of business;
- Transferring the person's license to another person without the appropriate specialty section's approval;
- Allowing the person's license to be used by an unlicensed person or entity;

⁴ R.C. 4740.06, 4740.07, 4740.08, and 4740.09, not in the bill.

- Failing to comply with a disciplinary action imposed by the appropriate specialty section;
- Failing to maintain insurance throughout the license year, unless the license has properly been placed in inactive status.

Additionally, the appropriate specialty section may take disciplinary action against an applicant or license holder on receiving notice that a municipal corporation or any other governmental agency has suspended or revoked the local contracting license or registration of an individual or contracting company that also holds a license pursuant to the OCILB Law. Licenses also may be subject to discipline for failing to comply with child support orders, convictions of the offense of human trafficking, and the return of checks for insufficient funds.⁵

Home improvement contractors and retailers

Registration requirement for home improvement contractors

The bill prohibits, beginning one year after the bill's effective date, any person from knowingly acting as a home improvement contractor or knowingly advertising or holding the person's self out as a home improvement contractor unless the person is registered as a home improvement contractor with the Home Improvement Board created by the bill (see "**Home Improvement Board**," below).⁶ Currently these persons are not licensed at the state level, but a possibility exists that they could be required to be licensed by a municipal corporation to conduct business within that municipal corporation's jurisdiction.

The bill defines "home improvement contractor" as any individual who undertakes, offers to undertake, or agrees to perform any home improvement for an owner. "Home improvement contractor" does not include a home improvement retailer (see "**Requirements for home improvement retailers**," below).

Under the bill, "home improvement" includes any of the following if the cost to the owner exceeds \$500 but does not exceed \$25,000:

- The repair, replacement, remodeling, alteration, conversion, modernization, improvement, rehabilitation, or sandblasting of, or the addition to, any residential building;

⁵ R.C. 4740.10, 4740.101, 4740.15, and 4740.17, not in the bill.

⁶ R.C. 4785.02(A) and (B) and Section 5.



- The construction of any structure adjacent to a residential building, such as a garage, deck, shed, or gazebo;
- Any addition or improvement to land not included in the definition of "landscape architecture" as that term is defined in continuing law.

"Home improvement" does not include any of the following activities:

- The construction of a new residential building;
- The sale of appliances that are designed for installation in, and are easily removable from, a residential building without material alteration of the residential building;
- Any work performed without compensation.⁷

Exemption

If a person is licensed by the OCILB as a specialty contractor, the person is exempt from the requirement to register if the home improvements that the person performs or offers are covered by the license. This exemption applies to a specialty contractor licensed on or after the bill's effective date.⁸

Requirements for home improvement retailers

Under the bill, a home improvement retailer must ensure that a subcontractor or independent contractor performing home improvements for the retailer's customers is a registered home improvement contractor. The retailer also must provide the name and registration number of the subcontractor or independent contractor to the customer before the contractor performs the home improvement.⁹

A "home improvement retailer" is a retailer who sells materials for use in a home improvement and who does not perform any home improvement but contracts to have a subcontractor or independent contractor perform a home improvement for the retailer's customer.¹⁰

⁷ R.C. 4785.01(A) and (B).

⁸ R.C. 4785.02(D) and Section 7(C).

⁹ R.C. 4785.021.

¹⁰ R.C. 4785.01(C).

Penalties

Whoever violates the bill's prohibition against knowingly acting as a home improvement contractor or knowingly holding the person's self out as a home improvement contractor without registration with the Board is guilty of a first degree misdemeanor.¹¹

Additionally, the bill allows the Attorney General, on the Board's request, to sue a person operating as an unregistered home improvement contractor for appropriate relief, including a temporary restraining order or permanent injunction.¹² This authority is similar to the Attorney General's continuing law authority with respect to contractors under current law.¹³

A person who acts as a home improvement contractor without registering or a home improvement retailer who uses unregistered contractors or fails to supply a customer with required information also may be subject to an administrative penalty assessed by the Board. The penalty and assessment process are the same as the penalty and process currently used by the OCILB with respect to specialty contractors. Under that process, with respect to a home improvement contractor, an investigator is appointed by the Director of Commerce, on the Board's behalf to investigate any person allegedly operating as an unregistered home improvement contractor. If after the investigation, the Board determines that reasonable evidence exists that a violation occurred, the Board must send a written notice to the home improvement contractor or retailer who allegedly violated the bill and hold a hearing. If a majority of the members of the Board determine that a person violated the registration requirement, the Board may impose a fine of up to \$1,000 per violation per day and may file a complaint against the person with the appropriate local prosecutor for criminal prosecution.

If, after a hearing, a majority of the Board determines that a home improvement retailer failed to ensure that a contractor is registered or failed to provide the contractor's name and registration to a customer, the Board must impose a \$100 fine on the retailer. If the retailer commits a second offense in the same calendar year, the Board must impose a \$400 fine. For a third offense within one calendar year, the Board must impose a \$500 fine.

¹¹ R.C. 4785.99.

¹² R.C. 4785.02(C).

¹³ See R.C. 4740.13, not in the bill.



If a person fails to request a hearing within 30 days after written notice is sent by the Board, the Board, by a majority vote of a quorum of the Board's members, may take action against the person without holding a hearing.

The bill requires the Board, to forward the name of any person who fails to pay a civil penalty imposed by the Board to the Attorney General for the purpose of collecting the civil penalty. If the Attorney General must collect the penalty, the person must pay any fee assessed by the Attorney General for that collection. A person may appeal a determination by the Board to the court of common pleas for the county in which the person's business is located or the county in which the person resides.¹⁴

Presentation of registration to consumers

The bill requires a registered home improvement contractor to present a copy of the contractor's registration to a consumer before performing or offering to perform any home improvement services.¹⁵

The bill requires the Department of Commerce to implement a statewide public campaign to inform consumers of the presentation requirement by utilizing print and television public service announcements and by posting information on the Department's website. The bill also includes an appropriation of \$1 million for the campaign for fiscal year 2017 from the General Revenue Fund.¹⁶

The bill also specifies that a consumer does not have a basis for any claim or cause of action against the state, the Board, or the Board's employees based on the relationship between a consumer and a registered home improvement contractor.¹⁷

Home improvement service contracts

The bill prohibits a registered home improvement contractor from performing any home improvement unless the contractor enters into a written home improvement services contract with the owner. The contract must include all agreements and conditions related to the home improvement, including all of the following:

- The contractor's name, physical business address, business telephone number, and taxpayer identification number;

¹⁴ R.C. 4785.16.

¹⁵ R.C. 4785.09.

¹⁶ R.C. 4785.20 and Sections 3 and 4.

¹⁷ R.C. 4785.17.

- The owner's name, address, and telephone number;
- The address or location of the property where the home improvement is to be performed;
- A general description of the home improvement, including the goods and services to be furnished as part of the improvement;
- The anticipated date or time period the home improvement is to begin and the anticipated date or time period it is to be completed;
- The total estimated cost of the home improvement;
- Any cost of installation, delivery, or other cost that the total estimated cost does not cover;
- A copy of the contractor's certificate of insurance or surety bond showing general liability coverage in an amount of not less than \$250,000;
- The dated signatures of the owner and the contractor.

If the total amount of necessary, but reasonably unforeseen, costs of a home improvement is more than \$5,000 above the contract estimate over the course of the contract, a home improvement contractor must provide the owner with a notice that contains a written or oral estimate of the excess. To determine the type of notice required, the contract must include a statement substantially similar to the following language:

EXCESS COSTS

IF AT ANY TIME A HOME IMPROVEMENT REQUIRES EXTRA COSTS ABOVE THE COST SPECIFIED OR ESTIMATED IN THE CONTRACT THAT WERE REASONABLY UNFORESEEN, BUT NECESSARY, AND THE TOTAL OF ALL EXTRA COSTS TO DATE EXCEEDS FIVE THOUSAND DOLLARS OVER THE COURSE OF THE ENTIRE HOME IMPROVEMENT CONTRACT, YOU HAVE A RIGHT TO AN ESTIMATE OF THOSE EXCESS COSTS BEFORE THE HOME IMPROVEMENT CONTRACTOR BEGINS WORK RELATED TO THOSE COSTS. INITIAL YOUR CHOICE OF THE TYPE OF ESTIMATE YOU REQUIRE:

. . . written estimate . . . oral estimate.



If the contract stipulates that the specified cost of the home improvement is a firm price and the home improvement contractor will not charge the owner with any excess costs, the contractor does not need to provide the notice.¹⁸

Ohio Home Improvement Board

The bill creates the Ohio Home Improvement Board, which is responsible for registering home improvement contractors under the bill. The Board consists of five members. One member must be certified by the Ohio Board of Building Standards under continuing law to inspect residential buildings, two members must be registered home improvement contractors, and two members must be representatives of an association that represents the interests of home improvement contractors. The Director of Commerce appoints all of the Board's members. Persons appointed to the Board during the first year after the bill's effective date need not be licensed as required under the bill. Before taking office, each member must take the oath of office required under the Ohio Constitution.

The Director must make the initial appointments to the Board not later than 90 days after the bill's effective date. Board members serve three-year terms, and the bill staggers the terms of the initial appointees. Board members may be reappointed.

The bill includes the standard vacancy provisions. The bill permits a member to be removed for malfeasance, misfeasance, or nonfeasance. Board members are paid a per diem calculated under continuing law when actually conducting Board business and for time spent on necessary travel. Members also are paid for actual and necessary expenses incurred in the performance of their duties.

Membership on the Board or holding any office of the Board does not constitute holding a public office or employment within the meaning of Ohio law, or an interest, either direct or indirect, in a contract or expenditure of money by the state or any political subdivision of the state. No member or officer is disqualified from holding any public office or employment, and no member or officer is required to forfeit any public office or employment because of their position on the Board.

The Board must meet only after adequate advance notice of the meeting has been given to each member.¹⁹

¹⁸ R.C. 4785.11.

¹⁹ R.C. 4785.03 and Section 6.



Officers and administration

The Board must annually elect a chairperson from among its members and any other officers designated by rules the Board adopts. The chairperson presides over meetings or designates another member to preside in the chairperson's absence. The Board must hold at least two regular meetings each year, but it may meet at additional times at the call of the chairperson, at the request of two or more members, or as specified in the Board's rules. A majority of the members constitutes a quorum for the transaction of the Board's business. The Board may not take any action without the concurrence of at least three of its members.

The Board must employ a secretary, who is not a member of the Board, to serve at the pleasure of the Board. The Board fixes the secretary's compensation, and the secretary is in the unclassified civil service of the state. The secretary must do all of the following:

- Keep or set standards for and delegate to another individual the keeping of the Board's minutes, books, and other records;
- Issue all registrations in the Board's name;
- Send out all notices, including advance notices of meetings, and attend to the Board's correspondence;
- Perform all other duties assigned by the Board or that are incidental to the position.

Before the secretary begins discharging the duties listed above, the secretary must file a bond with the Treasurer of State payable to the state in the amount of \$5,000. The bond ensures the faithful performance of the secretary's duties. The Board pays the bond's premium in the same manner it pays for other expenditures.

The Director, at the Board's request, supplies the Board with personnel, office space, and supplies, that the Director determines appropriate. The Board employs any additional staff it considers necessary and appropriate. The chairperson, the secretary, or both, as authorized by the Board, approve all of the Board's vouchers.²⁰

Duties of the Board

The bill requires the Board to administer the bill and do all of the following:

²⁰ R.C. 4785.04.

- Issue a registration to any individual whom the Board determines is qualified as described under "**Home improvement contractor registration**," below;
- Include in each registration the home improvement contractor's name, registration number, expiration date, and the name of the business entity associated with the individual, as applicable;
- Renew registrations for individuals who meet the renewal requirements described in "**Requirements**," below;
- Make an annual written report to the Director on the Board's proceedings during the previous year and make an annual statement of all money received and expended by the board during the year;
- Keep a record of every individual issued a registration under the bill, including the individual's name, address, the date on which the registration was issued, and the individual's registration number;
- Regulate the use and display of a registration issued by the Board and of any information contained in that registration;
- Investigate allegations of violations of the bill and rules adopted under it and establish rules for procedures to conduct investigations and hearings on the allegations;
- Keep a record of the Board proceedings and do all things necessary to carry out the bill.

Under the bill, the Board must adopt rules in accordance with the Administrative Procedure Act²¹ that are necessary to properly carry out its duties. The rules must include all of the following:

- Application procedures;
- Criteria for the Board to use in deciding whether to suspend, revoke, or refuse to issue or renew a registration;
- Specifications for the continuing education requirements described in "**Requirements**," below;

²¹ R.C. Chapter 119.

- A list of offenses for which a person will be disqualified from registering as a home improvement contractor.²²

The bill also requires the Board to determine, subject to the approval of the Controlling Board, both registration and renewal fees for registered home improvement contractors. The Board may increase these fees once a year, provided that no increase exceeds 50% of the lowest fee determined by the Board during the three-year period immediately preceding the increase.²³

The Board must deposit all receipts and fines collected under the bill into the state treasury to the credit of the Industrial Compliance Operating Fund. The Department of Commerce uses the money in the Fund to pay the operating expenses of the Division of Industrial Compliance and the Division's share of the Department's administrative costs.²⁴

Home improvement contractor registration

Requirements

The bill requires the Board to issue a registration as a home improvement contractor to a person who submits an application prescribed by the Board and who meets all of the following requirements:

- Is at least 18;
- Pays any required fees to be determined by the Board;
- Has a permanent place of business in Ohio and submits to the Board the business's address;
- Has liability insurance or a surety bond in an amount of at least \$250,000;
- Is determined eligible for registration by the Board after submitting to a criminal records check conducted by the Bureau of Criminal Identification and Investigation.²⁵

²² R.C. 4785.05.

²³ R.C. 4785.18.

²⁴ R.C. 4785.19 by reference to R.C. 121.084, not in the bill.

²⁵ R.C. 4785.06 and 4785.07, with conforming changes in R.C. 109.572 and 4776.01.



A registration expires annually and is renewable. To renew, a registered home improvement contractor must satisfy the initial requirements for registration, complete and report to the Board in accordance with the Board's rules at least ten hours of continuing education courses per year, and demonstrate compliance with the bill.²⁶

Each registration must include the home improvement contractor's name, registration number, the registration's expiration date, and the name of the business entity with which the contractor is employed, as applicable.²⁷

Assignment of registration

Under continuing law, a specialty contractor licensed by the OCILB has to assign the specialty contractor's license to the contracting company with which the contractor is employed. The bill includes a similar requirement with respect to a registration held by a home improvement contractor. The requirements and restrictions regarding the assignment of a registration are very similar to the assignment of a license under continuing law. Thus, under the bill, a person who applies for registration as a home improvement contractor and who is employed by a business entity must assign the person's registration to the business entity for whom the person is employed. The Board cannot issue more than one registration to a person who has a registration assigned to a business entity. The bill also prohibits a registration from being assigned to more than one business entity at the same time.

If a home improvement contractor is no longer associated with the business entity for any reason, the contractor or business entity is required to immediately notify the Board of the date on which the contractor stopped association with the business entity. As with specialty contractors, the assignment of a registration to a business entity is invalid under the bill as follows:

- 90 days after the contractor's death;
- 90 days after the contractor completes a change of company form;
- At an earlier time agreed upon by the business entity and contractor.

The bill allows a business entity to continue to operate after a registration assigned to it becomes invalid if the business entity is assigned a different registration.

²⁶ R.C. 4785.06(C).

²⁷ R.C. 4785.06(B).

A person who assigns a registration to a business entity is required under the bill to actively be engaged in home improvement contracting and be available for consultation with the business entity to which the person's registration is assigned. Additionally, the bill specifies that any work a business entity conducts under an assigned registration is deemed to be conducted under the personal supervision of the person named in the registration and any violation of the registration is deemed to have been committed by the person named in the registration.²⁸

Disciplinary action

Mandatory discipline

Under the bill, the Board must discipline a registered home improvement contractor if the contractor does any of the following:

- Fails to present a copy of the contractor's registration to a consumer before performing or offering to perform home improvement services;
- Performs a home improvement without entering a written home improvement services contract with the owner;
- Fails to maintain liability insurance or a surety bond in an amount of at least \$250,000;
- Fails to complete at least ten hours of continuing education per year;
- Fails to perform a home improvement in a workmanlike manner.

For any of the reasons listed above, the Board must fine the home improvement contractor \$100 on a first offense. If the contractor commits a second offense within the same calendar year, the Board must fine the contractor \$400. For a third offense, the Board must fine the contractor \$500 and suspend the contractor's registration for a two-month period, unless the contractor has failed to perform a home improvement in a workmanlike manner three times in a calendar year. If the contractor fails to perform in a workmanlike manner three times within the same calendar year, the Board must suspend the contractor's registration for six months and fine the contractor \$1,000. A contractor has 30 days after the date the Board notifies the contractor of the Board's intent to impose discipline to correct a failure to perform a home improvement in a workmanlike manner before the Board may issue disciplinary action.²⁹

²⁸ R.C. 4785.08.

²⁹ R.C. 4785.12(C) through (E).



Discretionary discipline

The bill allows the Board to impose any of the following, or any combination of the following, disciplinary actions against an applicant for or holder of a home improvement registration:

- Suspend a registration;
- Revoke a registration;
- Refuse to issue a registration;
- Issue a fine.

Under the bill, an applicant for or holder of a home improvement registration may be subject to any of the disciplinary actions described above for any of the following actions:

- Having been convicted or pleading guilty to a crime of moral turpitude or disqualifying offense;
- Violating the bill or a rule adopted under it;
- Obtaining or attempting to obtain a registration or renewal of registration by means of fraud, deception, or misrepresentation;
- Obtaining an order, ruling, or authorization from the Board by means of fraud, deception, or misrepresentation;
- Engaging in fraud, misrepresentation, or deception in the conduct of business;
- Transferring the person's registration to another person without the Board's approval;
- Allowing a person's registration to be used by an unregistered person or entity that has not been assigned a registration;
- Failing to comply with a disciplinary action imposed by the Board.

Under the bill the Board may also take disciplinary action against an applicant or registration holder upon receiving notice that a municipal corporation or any other

governmental agency has suspended or revoked the local registration of an individual or business entity that also holds a registration issued by the Board.³⁰

The bill allows the Board, by a majority vote of a quorum of its members, to impose a disciplinary action described above or an action described in "**Mandatory discipline**," above without holding a hearing if an applicant for or holder of a home improvement registration fails to request a hearing within 30 days after the date the Board notifies the person of the Board's intent to impose a disciplinary action.³¹

Child support orders

On receipt of a notice that a registered home improvement contractor is in default under a child support order under the procedures established under existing law, the bill requires the Board to comply with the requirements of that law or rules adopted pursuant to it with respect to a registration issued under the bill.³²

Penalty for instruments returned for insufficient funds

If a check or other draft instrument used to pay any fee required under the bill is returned as unpaid for insufficient funds or any other reason, the Board's secretary must notify the registered home improvement contractor of that fact and that the contractor's registration will be canceled unless the contractor, within 15 days after the mailing of the notice, submits the fee and a penalty in an amount the Board establishes by rule. If the contractor does not submit the fee and the penalty within the time specified, or if any check or other instrument used to pay the fee or penalty is returned to the secretary for any other reason, the contractor's registration is canceled immediately without a hearing and the contractor must cease activity as a home improvement contractor until both the fee and the penalty are paid.³³

Human trafficking

On receipt of a notice that a registered home improvement contractor has been convicted of, pleaded guilty to, or a judicial finding of guilt of or judicial finding of guilt resulting from a plea of no contest was made to the offense of trafficking in persons, the

³⁰ R.C. 4785.12(A) and (B).

³¹ R.C. 4785.12(F).

³² R.C. 4785.15.

³³ R.C. 4785.13.

bill requires the Board to immediately suspend the home improvement contractor's registration in accordance with continuing law requirements.³⁴

Regulation by other entities

The bill specifies that the Board has exclusive authority to regulate home improvement contractors and prohibits any political subdivision from adopting ordinances or resolutions imposing additional requirements on home improvement contractors regulated under the bill. However, a political subdivision may continue to enforce local laws regulating building, zoning, health, safety, or other similar codes or laws.³⁵ (See **COMMENT**.)

Additional definitions

The bill defines the following additional terms:

- "Owner" means the person who contracts with a home improvement contractor for a home improvement. "Owner" includes the owner of a residential building or a person the owner authorizes to act on the owner's behalf to contract for a home improvement.
- "Workmanlike manner" means a home improvement contractor has engaged in construction that meets or exceeds the minimum quantifiable standards promulgated by the Ohio Home Builders Association.³⁶

COMMENT

Under Article XVIII, Section 3 of the Ohio Constitution, municipalities "have the authority to exercise all powers of local self-government and to adopt and enforce within their limits such local police, sanitary, and other similar regulations, as are not in conflict with general laws" (Home Rule authority). A county that has adopted a charter also may exercise Home Rule authority. Political subdivisions that exercise Home Rule authority have the power to license occupations within their jurisdictions.³⁷ The bill prohibits political subdivisions from imposing additional requirements on home

³⁴ R.C. 4776.20 and 4785.14.

³⁵ R.C. 715.27, 3781.102, and 4785.21.

³⁶ R.C. 4785.01(D) and (F).

³⁷ See, e.g., *Village of West Jefferson v. Robinson*, 1 Ohio St.2d 113 (1965), and *Ohio Assn. of Private Detective Agencies, Inc. v. North Olmsted*, 65 Ohio St.3d 242 (1992).



improvement contractors. It is unclear whether the bill's prohibition violates Home Rule.

HISTORY

ACTION	DATE
Introduced	03-22-17

