

AN ACT

To amend sections 121.083, 3781.10, 3781.19, 4123.01, and 4123.291; to enact new sections 4104.41, 4104.42, 4104.43, 4104.44, and 4104.45 and sections 4125.01 to 4125.09 and 4125.99; and to repeal sections 4104.41, 4104.42, 4104.43, 4104.44, 4104.45, and 4104.47 of the Revised Code and to amend Section 3 of Sub. H.B. 75 of the 124th General Assembly to register professional employer organizations for purposes of enforcing compliance with workers' compensation laws, to extend the time period wherein the Administrator of Workers' Compensation is permitted to grant immediate allowance of specified medical conditions, to exclude from required workers' compensation coverage an individual incorporated as a corporation, and to adopt a new Ohio pressure piping law.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 121.083, 3781.10, 3781.19, 4123.01, and 4123.291 be amended and new sections 4104.41, 4104.42, 4104.43, 4104.44, and 4104.45 and sections 4125.01, 4125.02, 4125.03, 4125.04, 4125.05, 4125.06, 4125.07, 4125.08, 4125.09, and 4125.99 of the Revised Code be enacted to read as follows:

Sec. 121.083. The superintendent of the division of industrial compliance in the department of commerce shall:

(A) Administer and enforce the general laws of this state pertaining to buildings, pressure piping, boilers, bedding, upholstered furniture, and stuffed toys, steam engineering, elevators, plumbing, licensed occupations regulated by the department, and travel agents, as they apply to plans review, inspection, code enforcement, testing, licensing, registration, and certification.

~~(G)~~(B) Collect and collate statistics as are necessary.

~~(D)~~(C) Examine and license persons who desire to act as steam engineers, to operate steam boilers, and to act as inspectors of steam boilers, provide for the scope, conduct, and time of such examinations, provide for, regulate, and enforce the renewal and revocation of such licenses, inspect and examine steam boilers and make, publish, and enforce rules and orders for the construction, installation, inspection, and operation of steam boilers, and do, require, and enforce all things necessary to make such examination, inspection, and requirement efficient.

~~(E)~~(D) Rent and furnish offices as needed in cities in this state for the conduct of its affairs.

~~(F)~~(E) Oversee a chief of construction and compliance, a chief of operations and maintenance, a chief of licensing and certification, and other designees appointed by the director of commerce to perform the duties described in this section.

(F) Enforce the rules the board of building standards adopts pursuant to division (A)(2) of section 4104.43 of the Revised Code under the circumstances described in division (D) of that section.

(G) Accept submissions, establish a fee for submissions, and review submissions of certified welding and brazing procedure specifications, procedure qualification records, and performance qualification records for building services piping as required by section 4104.44 of the Revised Code.

Sec. 3781.10. The board of building standards shall:

(A) Formulate and adopt rules governing the erection, construction, repair, alteration, and maintenance of all buildings or classes of buildings specified in section 3781.06 of the Revised Code, including land area incidental thereto, the construction of industrialized units, the installation of equipment, and the standards or requirements for materials to be used in connection therewith. The standards shall relate to the conservation of energy in and to the safety and sanitation of such buildings. The rules shall be the lawful minimum requirements specified for such buildings or industrialized units, except that no rule, except as provided in division (C) of section 3781.108 of the Revised Code, which specifies a higher requirement than is imposed by any section of the Revised Code shall be enforceable; the rules shall be acceptable as complete lawful alternatives to the requirements specified for such buildings or industrialized units in any section of the Revised Code; and the board shall on its own motion, or on application made under sections 3781.12 and 3781.13 of the Revised Code, formulate, propose, adopt, modify, amend, or repeal the rules to the extent necessary or desirable to effectuate the purposes of sections 3781.06 to 3781.18 of the

Revised Code.

(B) Formulate and report to the general assembly such amendments in existing statutes relating to the purposes declared in section 3781.06 of the Revised Code as public health and safety and the development of the arts require and such additional legislation as it recommends with a view to carrying out fully, in statutory form, the purposes declared in such section; and prepare and submit to the general assembly a summary report of the number, nature, and disposition of the petitions filed under sections 3781.13 and 3781.14 of the Revised Code;

(C) Determine by rule, on its own motion or on application made under sections 3781.12 and 3781.13 of the Revised Code, and after thorough testing and evaluation that any particular fixture, device, material, process of manufacture, manufactured unit or component, method of manufacture, system, or method of construction, complies with performance standards adopted pursuant to section 3781.11 of the Revised Code, having regard to its adaptability for safe and sanitary erection, use, or construction, to that described in any section of the Revised Code, wherever the use of a fixture, device, material, method of manufacture, system, or method of construction which is described in such section of the Revised Code, is permitted by law; and on like application amend or annul any such rule or issue an authorization for the use of a new material or manufactured unit; and no department, officer, board, or commission of the state other than the board of building standards or the board of building appeals shall permit the use of any fixture, device, material, method of manufacture, newly designed product, system, or method of construction at variance with what is described in any rule adopted or authorization issued by the board of building standards or in any section of the Revised Code. Nothing in this section shall be construed as requiring approval, by rule, of plans for an industrialized unit that conforms with the rules adopted by the board of building standards pursuant to section 3781.11 of the Revised Code.

(D) Recommend to the bureau of workers' compensation, the director of commerce, or any other department, officer, board, or commission of the state, and to legislative authorities and building departments of counties, townships, and municipal corporations, the making, amending, fixing, or ordaining by such appropriate action as such state, county, township, or municipal authorities may be empowered by law or the constitution to take, of such rules, codes, or standards as shall tend to carry out the purposes declared in section 3781.06 of the Revised Code, with a view to securing uniformity of state administrative ruling; and local legislation and administrative action;

(E) Certify municipal, township, and county building departments to exercise enforcement authority, to accept and approve plans and specifications, and to make inspections, pursuant to sections 3781.03 ~~and~~, 3791.04, and 4104.43 of the Revised Code.

The board also shall certify personnel of municipal, township, and county building departments, and persons and employees of persons, firms, or corporations as described in divisions (E)(1) and (2) of this section, to exercise enforcement authority, to accept and approve plans and specifications, and to make inspections, pursuant to sections 3781.03 ~~and~~, 3791.04, and 4104.45 of the Revised Code. The board shall specify, in rules adopted pursuant to Chapter 119. of the Revised Code, the requirements that shall be satisfied for certification purposes, which requirements shall be consistent with this division. Except as otherwise provided in this division, the requirements shall include, but are not limited to, the satisfactory completion of an initial examination and, in order to remain certified, the completion of a specified number of hours of continuing building code education within each three-year period following the date of certification. In adopting the requirements, the board shall not specify less than thirty hours of continuing building code education within a three-year period; shall provide that continuing education credits, and certification issued, by the council of American building officials, national model code organizations, and agencies or entities recognized by the board, are acceptable for purposes of this division; and shall specify requirements that are compatible, to the extent possible, with requirements established by the council of American building officials and national model code organizations. The board shall establish and collect a certification and renewal fee for building department personnel, and persons and employees of persons, firms, or corporations as described in divisions (E)(1) and (2) of this section, certified pursuant to this division.

All individuals certified pursuant to this division shall complete the number of hours of continuing building code education that the board requires or, for failure to do so, forfeit their certifications.

This division does not require or authorize the certification by the board of personnel of municipal, township, and county building departments, and persons and employees of persons, firms, or corporations as described in divisions (E)(1) and (2) of this section, whose responsibilities do not include the exercise of enforcement authority, the approval of plans and specifications, or the making of inspections, under the Ohio building code.

(1) Enforcement authority for approval of plans and specifications may be exercised, and plans and specifications may be approved, on behalf of a

municipal corporation, township, or county, by any of the following who are certified by the board of building standards:

(a) Officers or employees of the municipal corporation, township, or county;

(b) Persons, or employees of persons, firms, or corporations, when such persons, firms, or corporations are under contract to furnish architectural or engineering services to the municipal corporation, township, or county, and such authority is exercised pursuant to such contract;

(c) Officers or employees of any other municipal corporation, township, county, health district, or other political subdivision, or persons or employees of persons, firms, or corporations under contract with the same pursuant to division (E)(1)(b) of this section, when such other municipal corporation, township, county, health district, or other political subdivision is under contract to furnish architectural or engineering services to the municipal corporation, township, or county, and such authority is exercised pursuant to such contract.

(2) Enforcement authority for inspections may be exercised, and inspections may be made, on behalf of a municipal corporation, township, or county, by any of the following who are certified by the board of building standards:

(a) Officers or employees of the municipal corporation, township, or county;

(b) Persons, or employees of persons, firms, or corporations, when such persons, firms, or corporations are under contract to furnish inspection services to the municipal corporation, township, or county, and such authority is exercised pursuant to such contract;

(c) Officers or employees of any other municipal corporation, township, county, health district, or other political subdivision under contract to furnish inspection services to the municipal corporation, township, or county, when such authority is exercised pursuant to such contract.

(3) Municipal, township, and county building departments shall have jurisdiction within the meaning of sections 3781.03 ~~and~~, 3791.04, and 4104.43 of the Revised Code, only with respect to the types of buildings and subject matters as to which they have been certified under this section and as to which such certification remains in effect.

(4) Such certification shall be upon application by the municipal corporation, the board of township trustees, or the board of county commissioners and approval of such application by the board of building standards. Such application shall set forth:

(a) The types of building occupancies as to which the certification is

requested;

(b) The number and qualifications of the staff composing the building department;

(c) The names, addresses, and qualifications of persons, firms, or corporations contracting to furnish work or services pursuant to divisions (E)(1)(b) and (2)(b) of this section;

(d) The names of other municipal corporations, townships, counties, health districts, or other political subdivisions contracting to furnish work or services pursuant to divisions (E)(1)(c) and (2)(c) of this section;

(e) The proposed budget for the operation of such department.

(5) The board of building standards shall adopt rules governing:

(a) The certification of building department personnel and of those persons and employees of persons, firms, or corporations exercising authority pursuant to divisions (E)(1) and (2) of this section. Any employee of the department or person who contracts for services with the department is disqualified from performing services for the department when the same would require the employee or person to pass upon, inspect, or otherwise exercise any authority given by the Ohio building code over any labor, material, or equipment furnished by the employee or person for the construction, alteration, or maintenance of a building or the preparation of working drawings or specifications for work within the jurisdictional area of the department. The department shall provide other similarly qualified personnel to enforce the requirements of the Ohio building code as it pertains to such work.

(b) The minimum services to be provided by a certified building department.

(6) Such certification may be revoked or suspended with respect to any or all of the building occupancies to which it relates on petition to the board of building standards by any person affected by such enforcement or approval of plans, or by the board on its own motion. Hearings shall be held and appeals permitted on any such proceedings for certification or for revocation or suspension of certification in the same manner as provided in section 3781.101 of the Revised Code for other proceedings of the board of building standards.

(7) Upon certification, and until such authority is revoked, county and township building departments shall enforce such rules over those occupancies listed in the application without regard to limitation upon the authority of boards of county commissioners under Chapter 307. of the Revised Code or boards of township trustees under Chapter 505. of the Revised Code.

(F) Conduct such hearings, in addition to those required by sections 3781.06 to 3781.18 and 3791.04 of the Revised Code, and make such investigations and tests, and require from other state departments, officers, boards, and commissions such information as the board considers necessary or desirable in order to assist it in the discharge of any duty or in the exercise of any power mentioned in this section or in sections 3781.06 to 3781.18 ~~and~~, 3791.04, ~~and~~ 4104.43 of the Revised Code;

(G) Formulate rules and establish reasonable fees for the review of all applications submitted where the applicant applies for authority to use a new material, assembly, or product of a manufacturing process. The fee established shall bear some reasonable relationship to the cost of such review or testing of the materials, assembly, or products submitted and notification of approval or disapproval as provided in section 3781.12 of the Revised Code.

(H) Compile and publish, in the form of a model code, rules pertaining to one-family, two-family, and three-family dwelling houses that any municipal corporation, township, or county may incorporate into its building code;

(I) Cooperate with the director of job and family services when the director promulgates rules pursuant to section 5104.05 of the Revised Code regarding safety and sanitation in type A family day-care homes;

(J) Adopt rules to implement the requirements of section 3781.108 of the Revised Code.

Sec. 3781.19. There is hereby established in the department of commerce a board of building appeals consisting of five members who shall be appointed by the governor with the advice and consent of the senate. Terms of office shall be for four years, commencing on the fourteenth day of October and ending on the thirteenth day of October. Each member shall hold office from the date of appointment until the end of the term for which the member was appointed. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of such term. Any member shall continue in office subsequent to the expiration date of the member's term until a successor takes office, or until a period of sixty days has elapsed, whichever occurs first. One member shall be an attorney-at-law, admitted to the bar of this state and of the remaining members, one shall be a registered architect and one shall be a professional engineer, each of whom shall be duly licensed to practice their respective professions in this state, one shall be a fire prevention officer qualified under section 3737.66 of the Revised Code, and one shall be a person with

recognized ability in the plumbing or pipefitting profession. No member of the board of building standards shall be a member of the board of building appeals. Each member shall be paid an amount fixed pursuant to Chapter 124. of the Revised Code per diem. The department shall provide and assign to the board such employees as are required by the board to perform its functions. The board may adopt its own rules of procedure not inconsistent with sections 3781.06 to 3781.18 and 3791.04 of the Revised Code, and may change them in its discretion. The board may establish reasonable fees, based on actual costs for administration of filing and processing, not to exceed two hundred dollars, for the costs of filing and processing appeals. A full and complete record of all proceedings of the board shall be kept and be open to public inspection.

In the enforcement by any department of the state or any political subdivision of this chapter and Chapter 3791., and sections 3737.41, 3737.42, 4104.02, 4104.06, 4104.43, 4104.44, 4104.45, 4105.011, and 4105.11 of the Revised Code and any rule made thereunder, such department is the agency referred to in sections 119.07, 119.08, and 119.10 of the Revised Code.

The appropriate municipal or county board of appeals, where one exists, certified pursuant to section 3781.20 of the Revised Code shall conduct the adjudication hearing referred to in sections 119.09 to 119.13 and required by section 3781.031 of the Revised Code. If there is no certified municipal or county board of appeals, the board of building appeals shall conduct the adjudication hearing. If the adjudication hearing concerns section 3781.111 of the Revised Code or any rule made thereunder, reasonable notice of the time, date, place, and subject of the hearing shall be given to any local corporation, association, or other organization composed of or representing handicapped persons, as defined in section 3781.111 of the Revised Code, or if there is no local organization, then to any statewide corporation, association, or other organization composed of or representing handicapped persons.

In addition to the provisions of Chapter 119. of the Revised Code, the municipal, county, or state board of building appeals, as the agency conducting the adjudication hearing, may reverse or modify the order of the enforcing agency if it finds that the order is contrary to this chapter and Chapters 3791. and 4104., and sections 3737.41, 3737.42, 4105.011 and 4105.11 of the Revised Code and any rule made thereunder or to a fair interpretation or application of such laws or any rule made thereunder, or that a variance from the provisions of such laws or any rule made thereunder, in the specific case, will not be contrary to the public interest

where a literal enforcement of such provisions will result in unnecessary hardship.

The state board of building appeals or a certified municipal or county board of appeals shall render its decision within thirty days after the date of the adjudication hearing. Following the adjudication hearing, any municipal or county officer, official municipal or county board, or person who was a party to the hearing before the municipal or county board of appeals may apply to the state board of appeals for a de novo hearing before the state board, or may appeal directly to the court of common pleas pursuant to section 3781.031 of the Revised Code.

In addition, any local corporation, association, or other organization composed of or representing handicapped persons as defined in section 3781.111 of the Revised Code, or, if no local corporation, association, or organization exists, then any statewide corporation, association, or other organization composed of or representing handicapped persons may apply for the de novo hearing or appeal to the court of common pleas from any decision of a certified municipal or county board of appeals interpreting, applying, or granting a variance from section 3781.111 of the Revised Code and any rule made thereunder. Application for a de novo hearing before the state board shall be made no later than thirty days after the municipal or county board renders its decision.

The state board of building appeals or the appropriate certified local board of building appeals shall grant variances and exemptions from the requirements of section 3781.108 of the Revised Code in accordance with rules adopted by the board of building standards pursuant to division (J) of section 3781.10 of the Revised Code.

The state board of building appeals or the appropriate certified local board of building appeals shall, in granting a variance or exemption from section 3781.108 of the Revised Code, in addition to any other considerations the state or the appropriate local board determines appropriate, consider the architectural and historical significance of the building.

Sec. 4104.41. As used in sections 4104.41 to 4104.45 of the Revised Code:

(A) "Building services piping" means piping systems and their component parts that are part of a building system and that promote the safe, sanitary, and energy efficient occupancy of a building. "Building services piping" includes, but is not limited to, cold and hot potable water distribution for plumbing fixtures; sanitary lines leading from plumbing fixtures; nonflammable medical gas systems; medical oxygen systems;

medical vacuum systems; fire protection piping systems and compressed air in dry systems; refrigeration, chilled water, condenser, cooling tower water, brine, and water/antifreeze systems; steam, steam condensate, and hot water piping systems; heating and cooling piping systems; and fuel oil piping and fuel gas piping for heating, cooling, and cooking applications.

(B) "Power piping" means piping systems and their component parts, that are not building services piping systems, and that may be installed within electric power generating stations, industrial and institutional plants, utility geothermal heating systems, and central and district heating and cooling systems. "Power piping" includes, but is not limited to, piping used in the distribution of plant and process steam at boiler pressures greater than fifteen pounds per square inch gauge, high temperature water piping from high pressure and high temperature boilers, power boiler steam condensate piping, high pressure and high temperature water condensate piping, and compressed air and hydraulic piping upstream of the first stop valve off a system distribution header.

(C) "Process piping" means piping systems and their component parts, that are not building services or power piping systems, and that may be installed in petroleum refineries, chemical, pharmaceutical, textile, paper, semiconductor, and cryogenic plants, and related processing plants and terminals.

Sec. 4104.42. (A) The owner of any power piping or process piping system shall ensure that all of the following are performed in compliance with applicable sections of the B31 standards contained in the code for pressure piping, published by the American society of mechanical engineers:

(1) The design, fabrication, assembly, installation, testing, examination, and inspection of power and process piping systems;

(2) Qualification of personnel and qualification of welding and brazing procedures;

(3) The implementation of an inspection program.

(B) The owner of a power piping or process piping system shall do both of the following:

(1) Maintain for five years complete records documenting the design, examination, and testing of the piping system that include all of the following:

(a) The specific edition of the code for pressure piping used in the design;

(b) The design assumptions;

(c) The calculations, piping material specifications, and construction

documents for the piping:

(d) The records of piping alterations;

(e) The piping examination and inspection records.

(2) Disclose the types and quantities of flammable, combustible, or hazardous materials proposed to be used in the facility to the building and fire code enforcement authorities who have inspection authority to enable those authorities to determine compliance with the rules the board of building standards adopts pursuant to section 3781.10 of the Revised Code and the rules the state fire marshal adopts pursuant to section 3737.82 of the Revised Code.

(C) No person or state agency shall require that the records described in division (B)(1) of this section be submitted to the division of industrial compliance in the department of commerce or to a certified building department for approval.

(D) Nothing in this section limits the application of Chapters 4703. and 4733. of the Revised Code.

Sec. 4104.43. (A)(1) The board of building standards shall adopt rules establishing requirements for the design, installation, inspection of and design review procedure for building services piping.

(2) The board of building standards shall adopt rules establishing requirements for the design, installation, inspection of and design review procedure for nonflammable medical gas, medical oxygen, and medical vacuum piping systems.

(B) A municipal, township, or county building department certified under division (E) of section 3781.10 of the Revised Code shall enforce the rules the board adopts pursuant to division (A)(2) of this section if that building department requests and obtains special certification to enforce those rules.

(C) In a health district where no municipal, township, or county building department is specially certified under division (B) of this section, an employee of the health district shall enforce the rules adopted pursuant to division (A)(2) of this section if both of the following conditions are satisfied:

(1) The health district employee requests and obtains special certification by the board to enforce those rules.

(2) The health district notifies the superintendent of the division of industrial compliance in the department of commerce that the health district's specially certified employee shall enforce those rules.

(D) In a jurisdiction where enforcement authority as described in divisions (B) and (C) of this section does not exist, the superintendent of the

division of industrial compliance shall enforce the rules the board adopts pursuant to division (A)(2) of this section.

Sec. 4104.44. All welding and brazing of metallic piping systems shall be performed in accordance with section IX of the boiler and pressure vessel code, published by the American society of mechanical engineers. The owner shall maintain, at the job site, the certified performance qualification records of all welders and brazers employed at the facility. The owner shall submit copies of all certified welding and brazing procedure specifications, procedure qualification records, and performance qualification records for building services piping for review to the superintendent of the division of industrial compliance in the department of commerce in accordance with rules the superintendent adopts. The submission shall be accompanied by the fee the superintendent establishes.

Sec. 4104.45. A person who inspects the installation of or witnesses the testing of any nonflammable medical gas and vacuum piping system shall be certified to do so pursuant to division (E) of section 3781.10 of the Revised Code.

Sec. 4123.01. As used in this chapter:

(A)(1) "Employee" means:

(a) Every person in the service of the state, or of any county, municipal corporation, township, or school district therein, including regular members of lawfully constituted police and fire departments of municipal corporations and townships, whether paid or volunteer, and wherever serving within the state or on temporary assignment outside thereof, and executive officers of boards of education, under any appointment or contract of hire, express or implied, oral or written, including any elected official of the state, or of any county, municipal corporation, or township, or members of boards of education.

As used in division (A)(1)(a) of this section, the term "employee" includes the following persons when responding to an inherently dangerous situation that calls for an immediate response on the part of the person, regardless of whether the person is within the limits of the jurisdiction of the person's regular employment or voluntary service when responding, on the condition that the person responds to the situation as the person otherwise would if the person were on duty in the person's jurisdiction:

(i) Off-duty peace officers. As used in division (A)(1)(a)(i) of this section, "peace officer" has the same meaning as in section 2935.01 of the Revised Code.

(ii) Off-duty firefighters, whether paid or volunteer, of a lawfully constituted fire department.

(iii) Off-duty first responders, emergency medical technicians-basic, emergency medical technicians-intermediate, or emergency medical technicians-paramedic, whether paid or volunteer, of an ambulance service organization or emergency medical service organization pursuant to Chapter 4765. of the Revised Code.

(b) Every person in the service of any person, firm, or private corporation, including any public service corporation, that (i) employs one or more persons regularly in the same business or in or about the same establishment under any contract of hire, express or implied, oral or written, including aliens and minors, household workers who earn one hundred sixty dollars or more in cash in any calendar quarter from a single household and casual workers who earn one hundred sixty dollars or more in cash in any calendar quarter from a single employer, or (ii) is bound by any such contract of hire or by any other written contract, to pay into the state insurance fund the premiums provided by this chapter.

(c) Every person who performs labor or provides services pursuant to a construction contract, as defined in section 4123.79 of the Revised Code, if at least ten of the following criteria apply:

(i) The person is required to comply with instructions from the other contracting party regarding the manner or method of performing services;

(ii) The person is required by the other contracting party to have particular training;

(iii) The person's services are integrated into the regular functioning of the other contracting party;

(iv) The person is required to perform the work personally;

(v) The person is hired, supervised, or paid by the other contracting party;

(vi) A continuing relationship exists between the person and the other contracting party that contemplates continuing or recurring work even if the work is not full time;

(vii) The person's hours of work are established by the other contracting party;

(viii) The person is required to devote full time to the business of the other contracting party;

(ix) The person is required to perform the work on the premises of the other contracting party;

(x) The person is required to follow the order of work set by the other contracting party;

(xi) The person is required to make oral or written reports of progress to the other contracting party;

(xii) The person is paid for services on a regular basis such as hourly, weekly, or monthly;

(xiii) The person's expenses are paid for by the other contracting party;

(xiv) The person's tools and materials are furnished by the other contracting party;

(xv) The person is provided with the facilities used to perform services;

(xvi) The person does not realize a profit or suffer a loss as a result of the services provided;

(xvii) The person is not performing services for a number of employers at the same time;

(xviii) The person does not make the same services available to the general public;

(xix) The other contracting party has a right to discharge the person;

(xx) The person has the right to end the relationship with the other contracting party without incurring liability pursuant to an employment contract or agreement.

Every person in the service of any independent contractor or subcontractor who has failed to pay into the state insurance fund the amount of premium determined and fixed by the administrator of workers' compensation for the person's employment or occupation or if a self-insuring employer has failed to pay compensation and benefits directly to the employer's injured and to the dependents of the employer's killed employees as required by section 4123.35 of the Revised Code, shall be considered as the employee of the person who has entered into a contract, whether written or verbal, with such independent contractor unless such employees or their legal representatives or beneficiaries elect, after injury or death, to regard such independent contractor as the employer.

(2) "Employee" does not mean:

(a) A duly ordained, commissioned, or licensed minister or assistant or associate minister of a church in the exercise of ministry;

(b) Any officer of a family farm corporation; ~~or~~

(c) An individual incorporated as a corporation; or

(d) An individual who otherwise is an employee of an employer but who signs the waiver and affidavit specified in section 4123.15 of the Revised Code on the condition that the administrator has granted a waiver and exception to the individual's employer under section 4123.15 of the Revised Code.

Any employer may elect to include as an "employee" within this chapter, any person excluded from the definition of "employee" pursuant to division (A)(2) of this section. If an employer is a partnership, sole

proprietorship, individual incorporated as a corporation, or family farm corporation, such employer may elect to include as an "employee" within this chapter, any member of such partnership, the owner of the sole proprietorship, the individual incorporated as a corporation, or the officers of the family farm corporation. In the event of an election, the employer shall serve upon the bureau of workers' compensation written notice naming the persons to be covered, include such employee's remuneration for premium purposes in all future payroll reports, and no person excluded from the definition of "employee" pursuant to division (A)(2) of this section, proprietor, individual incorporated as a corporation, or partner shall be deemed an employee within this division until the employer has served such notice.

For informational purposes only, the bureau shall prescribe such language as it considers appropriate, on such of its forms as it considers appropriate, to advise employers of their right to elect to include as an "employee" within this chapter a sole proprietor, any member of a partnership, an individual incorporated as a corporation, the officers of a family farm corporation, or a person excluded from the definition of "employee" under division (A)(2)~~(a)~~ of this section, that they should check any health and disability insurance policy, or other form of health and disability plan or contract, presently covering them, or the purchase of which they may be considering, to determine whether such policy, plan, or contract excludes benefits for illness or injury that they might have elected to have covered by workers' compensation.

(B) "Employer" means:

(1) The state, including state hospitals, each county, municipal corporation, township, school district, and hospital owned by a political subdivision or subdivisions other than the state;

(2) Every person, firm, professional employer organization as defined in section 4125.01 of the Revised Code, and private corporation, including any public service corporation, that (a) has in service one or more employees or shared employees regularly in the same business or in or about the same establishment under any contract of hire, express or implied, oral or written, or (b) is bound by any such contract of hire or by any other written contract, to pay into the insurance fund the premiums provided by this chapter.

All such employers are subject to this chapter. Any member of a firm or association, who regularly performs manual labor in or about a mine, factory, or other establishment, including a household establishment, shall be considered an employee in determining whether such person, firm, or private corporation, or public service corporation, has in its service, one or

more employees and the employer shall report the income derived from such labor to the bureau as part of the payroll of such employer, and such member shall thereupon be entitled to all the benefits of an employee.

(C) "Injury" includes any injury, whether caused by external accidental means or accidental in character and result, received in the course of, and arising out of, the injured employee's employment. "Injury" does not include:

(1) Psychiatric conditions except where the conditions have arisen from an injury or occupational disease;

(2) Injury or disability caused primarily by the natural deterioration of tissue, an organ, or part of the body;

(3) Injury or disability incurred in voluntary participation in an employer-sponsored recreation or fitness activity if the employee signs a waiver of the employee's right to compensation or benefits under this chapter prior to engaging in the recreation or fitness activity.

(D) "Child" includes a posthumous child and a child legally adopted prior to the injury.

(E) "Family farm corporation" means a corporation founded for the purpose of farming agricultural land in which the majority of the voting stock is held by and the majority of the stockholders are persons or the spouse of persons related to each other within the fourth degree of kinship, according to the rules of the civil law, and at least one of the related persons is residing on or actively operating the farm, and none of whose stockholders are a corporation. A family farm corporation does not cease to qualify under this division where, by reason of any devise, bequest, or the operation of the laws of descent or distribution, the ownership of shares of voting stock is transferred to another person, as long as that person is within the degree of kinship stipulated in this division.

(F) "Occupational disease" means a disease contracted in the course of employment, which by its causes and the characteristics of its manifestation or the condition of the employment results in a hazard which distinguishes the employment in character from employment generally, and the employment creates a risk of contracting the disease in greater degree and in a different manner from the public in general.

(G) "Self-insuring employer" means an employer who is granted the privilege of paying compensation and benefits directly under section 4123.35 of the Revised Code, including a board of county commissioners for the sole purpose of constructing a sports facility as defined in section 307.696 of the Revised Code, provided that the electors of the county in which the sports facility is to be built have approved construction of a sports

facility by ballot election no later than November 6, 1997.

(H) "Public employer" means an employer as defined in division (B)(1) of this section.

Sec. 4123.291. (A) An adjudicating committee appointed by the administrator of workers' compensation to hear any matter specified in divisions (B)(1) to ~~(6)(7)~~ of this section shall hear the matter within sixty days of the date on which an employer files the request, protest, or petition. An employer desiring to file a request, protest, or petition regarding any matter specified in divisions (B)(1) to ~~(6)(7)~~ of this section shall file the request, protest, or petition to the adjudicating committee on or before twenty-four months after the administrator sends notice of the determination about which the employer is filing the request, protest, or petition.

(B) An employer who is adversely affected by a decision of an adjudicating committee appointed by the administrator may appeal the decision of the committee to the administrator or the administrator's designee. The employer shall file the appeal in writing within thirty days after the employer receives the decision of the adjudicating committee. The administrator or the designee shall hear the appeal and hold a hearing, provided that the decision of the adjudicating committee relates to one of the following:

(1) An employer request for a waiver of a default in the payment of premiums pursuant to section 4123.37 of the Revised Code;

(2) An employer request for the settlement of liability as a noncomplying employer under section 4123.75 of the Revised Code;

(3) An employer petition objecting to the assessment of a premium pursuant to section 4123.37 of the Revised Code and the rules adopted pursuant to that section;

(4) An employer request for the abatement of penalties assessed pursuant to section 4123.32 of the Revised Code and the rules adopted pursuant to that section;

(5) An employer protest relating to an audit finding or a determination of a manual classification, experience rating, or transfer or combination of risk experience;

(6) Any decision relating to any other risk premium matter under Chapters 4121., 4123., and 4131. of the Revised Code;

(7) An employer petition objecting to the amount of security required under division (C) of section 4125.05 of the Revised Code and the rules adopted pursuant to that section.

Sec. 4125.01. As used in this chapter:

(A) "Client employer" means a sole proprietor, partnership, association,

limited liability company, or corporation that enters into a professional employer organization agreement and is assigned shared employees by the professional employer organization.

(B) "Coemploy" means the sharing of the responsibilities and liabilities of being an employer.

(C) "Professional employer organization" means a sole proprietor, partnership, association, limited liability company, or corporation that enters into an agreement with one or more client employers for the purpose of coemploying all or part of the client employer's workforce at the client employer's work site.

(D) "Professional employer organization agreement" means a written contract to coemploy employees between a professional employer organization and a client employer with a duration of not less than twelve months in accordance with the requirements of this chapter.

(E) "Shared employee" means an individual intended to be assigned to a client employer on a permanent basis, not as a temporary supplement to the client employer's workforce, who is coemployed by a professional employer organization and a client employer pursuant to a professional employer organization agreement.

(F) "Trade secret" has the same meaning as in section 1333.61 of the Revised Code.

Sec. 4125.02. The administrator of the bureau of workers' compensation shall adopt rules in accordance with Chapter 119. of the Revised Code to administer and enforce this chapter.

Sec. 4125.03. (A) The professional employer organization with whom a shared employee is coemployed shall do all of the following:

(1) Pay wages associated with a shared employee pursuant to the terms and conditions of compensation in the professional employer organization agreement between the professional employer organization and the client employer;

(2) Pay all related payroll taxes associated with a shared employee independent of the terms and conditions contained in the professional employer organization agreement between the professional employer organization and the client employer;

(3) Maintain workers' compensation coverage, pay all workers' compensation premiums and manage all workers' compensation claims, filings, and related procedures associated with a shared employee in compliance with Chapters 4121. and 4123. of the Revised Code, except that when shared employees include family farm officers, ordained ministers, or corporate officers of the client employer, payroll reports shall include the

entire amount of payroll associated with those persons:

(4) Provide written notice to each shared employee it assigns to perform services to a client employer of the relationship between and the responsibilities of the professional employer organization and the client employer;

(5) Maintain complete records separately listing the manual classifications of each client employer and the payroll reported to each manual classification for each client employer for each payroll reporting period during the time period covered in the professional employer organization agreement;

(6) Maintain a record of workers' compensation claims for each client employer;

(7) Within fourteen days after receiving notice from the bureau of workers' compensation that a refund or rebate will be applied to workers' compensation premiums, provide a copy of that notice to any client employer to whom that notice is relevant.

(B) The professional employer organization with whom a shared employee is coemployed has a right of direction and control over each shared employee assigned to a client employer's location.

(C) Notwithstanding division (B) of this section, a client employer may retain sufficient direction and control over a shared employee as is necessary to conduct the client employer's business and to discharge any fiduciary responsibility that it may have, or to comply with any applicable licensure, regulatory, or statutory requirement of the client employer.

Sec. 4125.04. (A) When a client employer enters into a professional employer organization agreement with a professional employer organization, the professional employer organization is the employer of record and the succeeding employer for the purposes of determining a workers' compensation experience rating pursuant to Chapter 4123. of the Revised Code.

(B) Pursuant to Section 35 of Article II, Ohio Constitution, and section 4123.74 of the Revised Code, the exclusive remedy for a shared employee to recover for injuries, diseases, or death incurred in the course of and arising out of the employment relationship against either the professional employer organization or the client employer are those benefits provided under Chapters 4121. and 4123. of the Revised Code.

Sec. 4125.05. (A) Not later than thirty days after the effective date of this section or not later than thirty days after the formation of a professional employer organization, whichever date occurs later, a professional employer organization operating in this state shall register with the administrator of

the bureau of workers' compensation on forms provided by the administrator. Following initial registration, each professional employer organization shall register with the administrator annually on or before the thirty-first day of December.

(B) Initial registration and each annual registration renewal shall include all of the following:

(1) A list of each of the professional employer organization's client employers current as of the date of registration for purposes of initial registration or current as of the date of annual registration renewal, or within fourteen days of adding or releasing a client, that includes the client employer's name, address, federal tax identification number, and bureau of workers' compensation risk number;

(2) A fee as determined by the administrator;

(3) The name or names under which the professional employer organization conducts business;

(4) The address of the professional employer organization's principal place of business and the address of each office it maintains in this state;

(5) The professional employer organization's taxpayer or employer identification number;

(6) A list of each state in which the professional employer organization has operated in the preceding five years, and the name, corresponding with each state, under which the professional employer organization operated in each state, including any alternative names, names of predecessors, and if known, successor business entities.

(C)(1) The administrator, with the advice and consent of the workers' compensation oversight commission, shall adopt rules in accordance with Chapter 119. of the Revised Code to require, except as otherwise specified in division (C)(2) of this section, a professional employer organization to provide security in the form of a bond or letter of credit assignable to the Ohio bureau of workers' compensation not to exceed an amount equal to the premiums and assessments incurred for the two most recent payroll periods, prior to any discounts or dividends, to meet the financial obligations of the professional employer organization pursuant to this chapter and Chapters 4121. and 4123. of the Revised Code.

(2) As an alternative to providing security in the form of a bond or letter of credit, the administrator shall permit a professional employer organization to make periodic payments of prospective premiums and assessments to the bureau or to submit proof of being certified by either a nationally recognized organization that certifies professional employer organizations or by a government entity approved by the administrator.

(3) A professional employer organization may appeal the amount of the security required pursuant to rules adopted under division (C)(1) of this section in accordance with section 4123.291 of the Revised Code.

(D) Notwithstanding division (C) of this section, a professional employer organization that qualifies for self-insurance or retrospective rating under section 4123.29 or 4123.35 of the Revised Code shall abide by the financial disclosure and security requirements pursuant to those sections and the rules adopted under those sections in place of the requirements specified in division (C) of this section or specified in rules adopted pursuant to that division.

(E) Except to the extent necessary for the administrator to administer the statutory duties of the administrator and for employees of the state to perform their official duties, all records, reports, client lists, and other information obtained from a professional employer organization under divisions (A) and (B) of this section are confidential and shall be considered trade secrets and shall not be published or open to public inspection.

(F) The list described in division (B)(1) of this section shall be considered a trade secret.

(G) The administrator shall establish the fee described in division (B)(2) of this section in an amount that does not exceed the cost of the administration of the initial and renewal registration process.

Sec. 4125.06. (A) In accordance with Chapter 119. of the Revised Code, the administrator of the bureau of workers' compensation may deny registration or revoke the registration of a professional employer organization and rescind its status as a coemployer upon a finding that the professional employer organization has done any of the following:

(1) Obtained or attempted to obtain registration through misrepresentation, misstatement of a material fact, or fraud;

(2) Misappropriated any funds of the client employer;

(3) Used fraudulent or coercive practices to obtain or retain business or demonstrated financial irresponsibility;

(4) Failed to appear, without reasonable cause or excuse, in response to a subpoena lawfully issued by the administrator;

(5) Failed to comply with the requirements of this chapter.

(B) The administrator's decision to deny or revoke a professional employer organization's registration or to rescind its status as a coemployer is stayed pending the exhaustion of all administrative appeals by the professional employer organization.

The administrator shall adopt rules that require that when an employer contacts the bureau of workers' compensation to determine whether a

particular professional employer organization is registered, if the administrator has denied or revoked that professional employer organization's registration or rescinded its status as a coemployer, and if all administrative appeals are not yet exhausted when the employer inquires, the appropriate bureau personnel shall inform the inquiring employer of the denial, revocation, or rescission and the fact that the professional employer organization has the right to appeal the administrator's decision.

(C) Upon revocation of the registration of a professional employer organization, each client employer associated with that professional employer organization shall file payroll reports and pay workers' compensation premiums directly to the administrator on its own behalf at a rate determined by the administrator based solely on the claims experience of the client employer.

(D) Upon revocation of a professional employer organization's registration, each client employer associated with that professional employer organization shall file on its own behalf the appropriate documents or data with all state and federal agencies as required by law with respect to any shared employee the client employer and the professional employer organization shared.

Sec. 4125.07. Not later than fourteen calendar days after the date on which a professional employer organization agreement is terminated, the professional employer organization is adjudged bankrupt, the professional employer organization ceases operations within the state of Ohio, or the registration of the professional employer organization is revoked, the professional employer organization shall submit to the administrator of the bureau of workers' compensation and each client employer associated with that professional employer organization a completed workers' compensation lease termination notice form provided by the administrator. The completed form shall include all client payroll and claim information listed in a format specified by the administrator and notice of all workers' compensation claims that have been reported to the professional employer organization in accordance with its internal reporting policies.

Sec. 4125.08. Nothing in this chapter exempts a professional employer organization, client employer, or shared employee from any applicable federal, state, or local licensing, registration, or certification statutes or regulations. An individual required to obtain and maintain a license, registration, or certification under law and who is a shared employee of a professional employer organization and a client employer is an employee of the client employer for purposes of obtaining and maintaining the appropriate license, registration, or certification as required by law. A

professional employer organization does not engage in any occupation, trade, or profession that requires a license, certification, or registration solely by entering into a professional employer agreement with a client employer or coemploying a shared employee.

Sec. 4125.09. Nothing contained in this chapter or in any professional employer organization agreement shall affect, modify, or amend any collective bargaining agreement that exists on the effective date of this section. Nothing in this chapter shall alter the rights or obligations of any client employer, professional employer organization, or shared employee under the "National Labor Relations Act," 49 Stat. 449, 29 U.S.C.A. 151 et seq., the "Railway Labor Act," 44 Stat. 577, 45 U.S.C.A. 151, or any other applicable federal or state law.

Sec. 4125.99. Whoever violates division (A) of section 4125.05 of the Revised Code is guilty of a minor misdemeanor. Whoever knowingly violates division (A) of section 4125.05 of the Revised Code is guilty of a misdemeanor of the second degree.

SECTION 2. That existing sections 121.083, 3781.10, 3781.19, 4123.01, and 4123.291 and sections 4104.41, 4104.42, 4104.43, 4104.44, 4104.45, and 4104.47 of the Revised Code are hereby repealed.

SECTION 3. That Section 3 of Sub. H.B. 75 of the 124th General Assembly be amended to read as follows:

Sec. 3. (A) The Administrator of Workers' Compensation, with the advice and consent of the Workers' Compensation Oversight Commission, may adopt rules that identify specified medical conditions that have a historical record of being allowed whenever included in a claim. The Administrator shall designate the rules to be effective only until ~~three years after the effective date of this section~~ September 30, 2005. The Administrator, ~~for a period of three years after the effective date of this section~~ until September 30, 2005, may grant immediate allowance of any medical condition identified in those rules upon the filing of a claim involving that medical condition and may make immediate payment of medical bills for any medical condition identified in those rules that is included in a claim. If an employer contests the allowance of a claim involving any medical condition identified in those rules, and the claim is disallowed, payment for the medical condition included in that claim shall be charged to and paid from the surplus fund created under section 4123.34 of the Revised Code.

(B) The Administrator shall establish a pilot program to determine the effectiveness of implementing division (A) of this section.

SECTION 4. That existing Section 3 of Sub. H.B. 75 of the 124th General Assembly is hereby repealed.

Speaker _____ of the House of Representatives.

President _____ of the Senate.

Passed _____, 20____

Approved _____, 20____

Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the
____ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____