



OCCUPATIONAL LICENSE REVIEW REPORT

Ohio House State and Local Government Committee

State Representative Marilyn S. John, Chair

135th General Assembly

TO: Speaker Stephens, President Huffman, and Governor DeWine

CC: The Accountancy Board, Ohio Police Officer Training Commission, Department of Agriculture, Ohio Architects & Landscape Architects Boards, Ohio Casino Control Commission, Department of Commerce – Division of Financial Institutions, Department of Commerce – Superintendent & Division of Industrial Compliance, Department of Commerce – Division of Real Estate and Professional Licensing – Real Estate Commission & Appraiser Board, State Cosmetology and Barber Board, Motor Vehicle Repair Board, Bureau of Motor Vehicles, Department of Public Safety, State Board of Registration for Professional Engineers and Surveyors, State Racing Commission, Secretary of State, and the Ohio Department of Mental Health and Addiction Services

FROM: Ohio House State and Local Government Committee

DATE: November 14, 2023

RE: Occupational License Review Report

This Occupational License Review Report contains the recommendations of the House State and Local Government Committee concerning the continuation, modification, or elimination of occupational licensing boards and occupational licenses, pursuant to the review process outlined in R.C. Section 101.63.

Ohio law dictates all occupational licensing boards shall expire six years after creation or last renewal, unless renewed by the General Assembly for another six-year period. The review process provides an opportunity and forum to assess whether existing occupational licenses protect the health, safety, or welfare of the public; whether boards employ the least restrictive means of licensing; and whether changing or eliminating a board or license would increase the state's competitiveness and better serve the public's interest.

Earlier this year, the House State and Local Government Committee was directed by Speaker Jason Stephens to review one-third of all occupational licensing boards and occupational licenses. Nineteen public licensing entities testified before the Committee: Accountancy Board, Ohio Police Officer Training Commission, Department of Agriculture, Ohio Architects & Landscape Architects Boards, Ohio Casino Control Commission, Department of Commerce – Division of Financial Institutions, Department of Commerce – Superintendent & Division of Industrial Compliance, Department of Commerce – Division of Real Estate and Professional Licensing – Real Estate Commission & Appraiser Board, State Cosmetology and Barber Board, Motor Vehicle Repair Board, Bureau of Motor Vehicles, Department of Public Safety, State Board of Registration for Professional Engineers and Surveyors, State Racing Commission, Secretary of State, and the Ohio Department of Mental Health and Addiction Services.

Ultimately, this report does not include legislation, but it does provide the framework for legislation for the continuation, modification, or elimination of occupational licensing boards and occupational licenses. The recommendations herein were formulated after hearing testimony from the entities listed above, interested parties, and the public. The recommendations also reflect a thorough

examination of surrounding states' licensure requirements. Each recommendation was determined after considering the criteria set forth in R.C. Section 101.65.

The Committee remains eager to continue working with public licensing entities, stakeholders, and the public to ensure that unforeseen and unintended consequences arising from these recommendations are mitigated.

GENERAL RECOMMENDATIONS

- For the purposes of this review, the Committee recommends including within the existing definition of “occupational license” any business license and certification that requires satisfaction of any personal qualification, as defined in R.C. Section 4798.01.
- The Committee also recommends that continuing education (CE) requirements should be limited to new occupational and safety information that addresses a concrete and particularized risk or danger to the health, safety, and welfare of the licensed professionals or the public. “Diversity, Equity, and Inclusion” topics should not be mandated or approved to satisfy CE requirements unless the topic is demonstrably essential to the preserving the health, safety, and welfare of the licensed professionals or the public.

ACCOUNTANCY BOARD

Public Accountant (PA) Registration and Ohio permit	No Change.
Certified PA (CPA) Certificate and Ohio permit	No Change.

OHIO PEACE OFFICER TRAINING COMMISSION

Peace Officer certification	No Change.
Commander of Peace Officer Training School certification	No Change.
Unit Instructor of a Peace Officer Training School certification	No Change.
Special Subject Instructor of a Peace Officer Training School certification	No Change.
Sheriff	No Change.
Basic firearms training certification for: <i>any peace officer, sheriff, chief of police of an organized police department of a municipal corporation or township, chief of police of a township police district or joint police district police force, Superintendent of the State Highway Patrol, State Highway Patrol trooper, chief of police of a university or college police department, parole or probation officer who carries a firearm in the course of official duties, House of Representatives Sergeant-at Arms if the person has specified arrest authority, assistant House of Representatives Sergeant-at-Arms, Senate Sergeant-at-Arms, assistant Senate Sergeant-at-Arms, tactical medical professional, county correctional officer, or employee of the Department of Youth Services designated pursuant to Ohio law as being authorized to carry a firearm while on duty.</i>	No Change.
Firearms Requalification Program Instructor certification	No Change.
Certification for special police, security guards, and persons otherwise privately employed in a police capacity	No Change.
Certification for commander or chief administrator of a private security training course	No Change.
Certification for instructor of private security training program	No Change.
Certification for court bailiff or deputy bailiff authorized to be armed while on duty	No Change.

Certification for commander, director, or head of basic school for bailiff or deputy bailiff	No Change.
Certification for unit instructor of basic school for bailiff and deputy bailiff	No Change.
Certification for State Public Defender criminal investigator who carries a firearm while on duty	No Change.
Approval for instructor of school for basic course for State Public Defender criminal investigator who carries a firearm while on duty	No Change.
Certification for canine evaluator who conducts examinations for law enforcement canine units	No Change.
Certification for law enforcement canine unit, a canine handler who is a sworn law enforcement officer and a canine	No Change.
Certification for corrections officers or jail staff of full-service jail	No Change.
Certification for full-service jail support staff	Eliminate.
Certification for commander, director, or head of corrections training school	No Change.
Certification for unit instructor of corrections training school	No Change.
Certification for special subject instructor of corrections training school	No Change.
Appointment as agent of a county humane society	No Change.
Certification for a tactical medical professional to carry a firearm while on duty	No Change.

DEPARTMENT OF AGRICULTURE

Livestock Manager certification	No Change.
Weights and Measures Service Person	No Change.
Milk Weigher, Tester, or Sampler license	No Change.
Commercial Pesticide Applicator license	No Change.
Grain Commodity Tester certificate	Eliminate.
Dog Broker license	No Change.
Auctioneer license	No Change.

Not Reviewed: *Livestock weigher license, Seed labeler permit, Apiary registration, Bakery registration, Milk producer license, Milk processor license, Milk dealer license, Raw milk retailer license, Milk hauler license, Grain commodity handler license, Nursery dealer license, Garbage feeder license, Livestock broker/dealer license, Small livestock dealer, Transporter of raw rendering material license, Private pesticide applicator license, High-volume dog breeder license, Animal rescue for dogs registration, Concession operator license, Amusement ride operator permit, Fertilizer application for agricultural production certification. See Addendum.*

ARCHITECTS & LANDSCAPE ARCHITECTS BOARD

Certificate of Qualification to Practice Architecture	Reduce renewal fee to \$100.
Certificate of Qualification (for a Landscape Architect)	No Change.

OHIO CASINO CONTROL COMMISSION

Key Employee license	Reduce initial fee to \$1,750 for Ohio residents. Raise initial fee to \$5,000 for non-residents of Ohio.
Casino Gaming Employee license	No Change.
Sports Gaming Occupational license	No Change.

DEPARTMENT OF COMMERCE **DIVISION OF FINANCIAL INSTITUTIONS**

Mortgage Loan Originator license	No Change.
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Not Reviewed: *Mortgage broker certificate of registration, Mortgage lender certificate of registration, Credit service organization certificate of registration, Money transmitter license, Check cashing business license, Small loan license, Short term lender license, General loan certificate of registration, Consumer installment loan license, Insurance premium finance company license, Pawnbroker license, Precious metals dealer license. See Addendum.*

DEPARTMENT OF COMMERCE **SUPERINTENDENT & DIVISION OF INDUSTRIAL COMPLIANCE**

Boiler and Pressure Vessel Inspector Certificate of Competency	Reduce initial fee to \$100. Cap renewal fee at \$50.
Steam Engineer or Boiler Operator license	Reduce initial fee to \$25.
Backflow Technician certification	Extend license duration to five years, but keep renewal fee of \$75.
Plumbing Inspector certification (Plumbing Code)	Extend license duration to three years, but keep renewal fee of \$60.
Elevator Inspector Certificate of Competency	No Change.
Manufactured Housing Installer License	Reduce both initial and renewal fees to \$150.
Manufactured Home Inspector and Plan Reviewer certification	No Change.
Elevator Mechanic license	No Change.
Temporary Elevator Mechanics license	No Change.

Not Reviewed: *Boiler contractor registration, Stuffed toy and bedding registration (to import, manufacture, renovate, wholesale, make, or reupholster). See Addendum.*

DEPARTMENT OF COMMERCE **DIVISION OF REAL ESTATE AND PROFESSIONAL LICENSING** **REAL ESTATE COMMISSION & APPRAISER BOARD**

General Real Estate Appraiser certification	No Change.
Residential Real Estate Appraiser certification	Extend license duration to two years.
Residential Real Estate Appraiser license	No Change.
Temporary Appraiser Practice registration	No Change.
Real estate Appraiser Assistant registration	Extend license duration to two years.
Real Estate Broker license	Eliminate requirement that applicants have two years of post-secondary education, and reduce initial education hours to 100.
Real Estate Salesperson license	Reduce initial education hours to 100. The Committee also recommends that the Real Estate Commission accept an alternative curriculum offered by an unaccredited institution for satisfying the license requirements.
Home Inspector license	No Change.
Foreign Real Estate Salesperson license	No Change.
Foreign Real Estate Dealer's license	No Change.
Internment-Rights Sales registration	No Change.

Not Reviewed: *Oil and gas land professional Manufactured housing dealer, manufactured housing broker, and salesperson license. See Addendum.*

STATE COSMETOLOGY AND BARBER BOARD

Barber license	Reduce initial education hours to 1,500. Extend license duration to three years. Eliminate continuing education requirement.
Barber Teacher or Assistant Teacher license	Teacher: Reduce initial fee to \$75. Extend license duration to four years with a \$150 fee. Assistant: Eliminate.
Cosmetologist license	Reduce initial education hours to 1,260.
Esthetician license	Reduce initial education hours to 500.

Hair Designer license	Eliminate.
Manicurist license	Reduce initial education hours to 150.
Natural Hair Stylist license	No Change.
Advanced Cosmetologist license	Eliminate.
Advanced Esthetician license	Eliminate.
Advanced Hair Designer license	Eliminate.
Advanced Manicurist license	Eliminate.
Advanced Natural Hair Stylist license	Eliminate.
Cosmetology Instructor license	Reduce initial fee to \$25. Reduce renewal fee to \$50.
Esthetics Instructor license	Reduce initial fee to \$25. Reduce renewal fee to \$50.
Hair Design Instructor license	Eliminate.
Manicurist Instructor license	Reduce initial fee to \$25. Reduce renewal fee to \$50.
Natural Hair Style Instructor license	Reduce initial fee to \$25. Reduce renewal fee to \$50.
Temporary Pre-Examination Work permit	No Change.
Temporary Special Occasion Work permit	No Change.
Boutique Services Registration	Eliminate.

MOTOR VEHICLE REPAIR BOARD

Motor Vehicle Repair Operator	Eliminate.
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BUREAU OF MOTOR VEHICLES

Motor Vehicle Salesperson's license	Eliminate.
New Motor Vehicle Dealer's license	No Change.
Used Motor Vehicle Dealer's license	No Change.
Motor Vehicle Auction Owner's license	No Change.
Motor Vehicle Leasing Dealer's license	No Change.
Motor Vehicle Distributor's license	No Change.
Construction Equipment Auction license	Eliminate.
Salvage Motor Vehicle Dealer license	No Change.
Salvage Motor Vehicle Auction license	Eliminate fees.
Salvage Motor Vehicle Pool license	No Change.

DEPARTMENT OF PUBLIC SAFETY

Driver Training Instructor license	Consolidate with Online Instructor license into a single license.
Driver Training Manager	Eliminate.
Driver Training Probationary Instructor	No Change

Online Instructor

Consolidate with Driver Training Instructor license into a single license.

Driver Training Instructor License for Persons with a Disability No Change.

Commercial Instructor No Change.

Commercial Training Manager **Eliminate.**

Third-Party Examiner Certification for CDL Skills Test No Change.

Motorcycle Instructor No Change.

Class A Private Investigator and Security Services license Extend license duration to three years.

Class B Private Investigator license No Change.

Class C Security Services license No Change.

Public Provider Site Coordinator for Motorcycle Safety No Change.

Private Provider Site Coordinator for Motorcycle Safety No Change.

School Bus Driver No Change.

STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND SURVEYORS

Professional Engineer registration No Change.

Professional Surveyor registration No Change.

STATE RACING COMMISSION

Maintenance **Eliminate.**

Medical & First Aid Reduce initial and renewal fees to \$10.

Mutuel Employee No Change.

Mutuel Manager No Change.

Outrider No Change.

Owner No Change.

Owner's Reciprocal Validation No Change.

Paddock Judge No Change.

Parking Lot Employee **Eliminate.**

Patrol Judge No Change.

Photographer No Change.

Placing Judge No Change.

Pony Person No Change.

Porter No Change.

Presiding Judge No Change.

Racing Secretary No Change.

Security **Eliminate.**

Special A (professional) **Eliminate.**

Special B (technical) **Eliminate.**

Special C (clerical/miscellaneous) **Eliminate.**

Starter No Change.

State Steward No Change.

Steward No Change.

Supply Sales (Owner)	Reduce initial and renewal fees to \$75.
Supply Salesman	Eliminate.
Telephone Operator	No Change.
Timer	No Change.
Valet	Eliminate.
Veterinarian	No Change.
Veterinarian's Assistant	No Change.
Video Lottery Terminal Sales Agent Employee	No Change.
Trainer (only)	No Change.
Totalizator Company All Other Employees	No Change.
Totalizator Company Management Supervisory Employee	No Change.
Restricted License - Driver Trainer	No Change.
Restricted License - Groom	No Change.
Restricted License - Mutuel Employees	No Change.
Restricted License - Owner	No Change.
Restricted License - Quarter Horse Participants	No Change.
Restricted License - Racing Official	No Change.
Restricted License - Special D (miscellaneous)	Eliminate.
Admission Employee	Reduce initial and renewal fees to \$10.
Announcer (race or track)	No Change.
Apprentice Jockey	No Change.
Assistant Racing Secretary	No Change.
Assistant Starter	No Change.
Assistant Trainer	No Change.
Authorized Agent	No Change.
Chief of Security	Reduce initial and renewal fees to \$25.
Clerical	No Change.
Clerk of Course	No Change.
Clerk of Scales	No Change.
Concession Employee	Eliminate.
Concession Manager	Eliminate.
Doctor	Reduce initial and renewal fees to \$25.
Driver-Trainer	No Change.
Exercise Rider	No Change.
General Manager (other management positions)	Reduce initial and renewal fees to \$75.
Groom	No Change.
Horsemen's Bookkeeper	No Change.
Horseshoer	No Change.
Identifier	No Change.
Jockey	No Change.
Jockey Agent	No Change.
Jockey Room Custodian	No Change.
Judge	No Change.

SECRETARY OF STATE

Not Reviewed: *Minister's license to solemnize marriages, Notary public-attorney, Notary public-non attorney, Online notary public authorization. See Addendum.*

DEPARTMENT OF MENTAL HEALTH AND ADDICTION SERVICES

Certified Peer Recovery Supporter	No Change.
Certified Youth Peer Supporter	No Change.
Certified Family Peer Supporter	No Change.

Comment: These certifications were established in 2022. The committee does not find that enough time has passed since their establishment to review.

ADDENDUM

MEMORANDUM

TO: Chair Marilyn John, House State and Local Government Committee

FROM: Todd Thatcher, Director of Legislative Affairs
Ohio Department of Agriculture

RE: Occupational Licensure Review Testimony

Date: October 6, 2023

The Ohio Department of Agriculture (ODA) Senior staff has reviewed and considered whether the Department issues occupational licenses as defined in ORC 4798.01:

"Occupational license" means nontransferable authorization in law that an individual must possess in order to perform a lawful occupation for compensation based on meeting personal qualifications established by statute, or by a rule authorized by statute. "Occupational license" does not include a commercial or other driver's license issued under the Revised Code.

The above definition contains five requirements, and if all are met, the license/permit/registration will be deemed to be an occupational license. The requirements are:

- Individual (not simply the facility or business entity)
- Nontransferable
- Occupation
- For compensation
- Personal qualifications

After a thorough review of the thirty-six license/permit/registrations issued by the Department, we determined that seven of those qualify as occupational licenses:

- Auctioneers
- Certified Livestock Manager
- Commercial Pesticide Applicator
- Dog Broker
- Grain Commodity Tester
- Milk Weigher, Tester, and Sampler
- Weights and Measures Service Person

The remaining twenty-nine did not meet all elements of an occupational license. For example, a Restricted Snake permit is a non-transferable permit issued to an individual. However, it is not an occupation, and no compensation is earned.

The Department, in addition to this memo, is submitting an Excel spreadsheet detailing all 36 license/permit/registrations and whether they meet the five requirements as detailed above.

Thank you for your attention and please contact us with any questions.



**Department
of Commerce**

Division of Financial Institutions

Sheryl Maxfield, Director

Mike DeWine, Governor
Jon Husted, Lt. Governor

October 6, 2023

The Honorable Marilyn John
77 S. High Street
Columbus, OH 43215

Dear Chairwoman John:

The Ohio Division of Financial Institutions (the "Division") recently participated in the Occupational Licensure Review process established by SB 255, passed by the 132nd General Assembly. On September 19, 2023, Division Counsel Matthew Green testified before the House and Local Government Committee regarding the Mortgage Loan Originator ("MLO") license. The MLO license is the sole occupational license administered by the Division.

O.R.C. 4798.01 defines "occupational license" to mean a "nontransferable authorization in law that an individual must possess in order to perform a lawful occupation for compensation based on meeting personal qualifications established by statute, or by a rule authorized by statute." The MLO license meets this definition because MLO licenses are issued exclusively to individuals who may transfer employment without getting relicensed, and successful candidates for licensure must complete a set amount of coursework and pass a licensing examination.

In addition to the MLO license, the Division administers eleven other licenses or certificates of registration. They are: (1) the Small Loan license; (2) the General Loan certificate of registration; (3) the Insurance Premium Finance Company license; (4) the Credit Service Organization certificate of registration; (5) the Short-Term Lender license; (6) the Ohio Residential Mortgage Lending Act ("ORMLA") certificate of registration; (7) the Pawnbroker license; (8) the Money Transmitter license; (9) the Precious Metals Dealer license; (10) the Check-Cashing Business license; and (11) the Consumer Installment Loan license.

As to the ORMLA certificate of registration specifically, the Division notes that materials recently provided by the Legislative Services Commission ("LSC") identify two certificates of registration—the mortgage broker and mortgage lender certificates of registration—that no longer exist. As a result of ORMLA, these two certificates of registration were combined into a single certificate of registration, now known as the ORMLA certificate of registration. By statutory definition, mortgage brokers and mortgage lenders must be corporate entities. See R.C. 1322.01(Y), (Z).

With regard to all eleven of the licenses or certificates of registration identified above, on September 12, 2023, LSC issued a memo identifying several factors that are relevant to the inquiry of whether a license is a business, rather than an occupational, license. One such factor is whether the regulation is portable—i.e., if an individual left a job, does the employer have to get a new license to keep operating or does the license stay with the employer. The Division's licenses identified above can be, and almost 100% of the time are, issued to businesses or corporate entities. In these instances, the license is not "portable" by any employee, officer, or owner of the licensee. Rather, the license is issued exclusively to the corporate entity and cannot be transferred to any other entity without Division approval.

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A second relevant factor identified in the LSC memo is whether the issuance of the license focuses more on an individual's skill or knowledge, or the product or service itself. The eleven licenses or certificates of registration identified above all relate to non-depository lending or some type of consumer finance product or service. Unlike many traditional occupations, the licensing inquiry for these businesses is not focused on the specialized skills of or credentials held by an individual. Rather, and without exception, the focus is on ensuring that licensees have the financial capacity to engage in the activity in question (often through net worth or surety bond requirements), and whether there is any indication that licensees would be unwilling or unable to comply with minimal operational requirements or regulatory restrictions (reporting and record-keeping requirements, disclosure requirements or conditions in contracts, prohibitions on certain types of transactions or fees, limits on interest rates, etc.).

In conclusion, the Division does not administer any occupational licenses other than the MLO license. Thank you, and please feel free to contact me should you have any further questions regarding the activities of the Division.

Respectfully,



Kevin Allard
Superintendent
Ohio Division of Financial Institutions



**Department
of Commerce**

Mike DeWine, Governor
Jon Husted, Lt. Governor

Division of Industrial Compliance
Sheryl Maxfield, Director

October 06, 2023

The Honorable Marilyn John
77 S. High Street
Columbus, Ohio, 43215

Dear Chair John:

I write to you regarding the Division of Industrial Compliance's occupational licensing review; and specifically, as it pertains to potential review of two registrations required by the Division: 1) that importers, manufacturers, renovators, wholesalers, or reupholsterers of stuffed toys or articles of bedding register with the Division under section 3713.05 of the Revised Code, and 2) that boiler contractors register with the Division under section 4104.101 of the Revised Code. For the following reasons, the Division maintains that neither of these registrations are "occupational regulations" under Chapter 4798 of the Revised Code, because they do not require registrants possess any particular "personal qualifications" to satisfy the registration requirement.

Under section 4798.01 of the Revised Code:

"Occupational regulation" means a statute, policy, rule, adjudication order, practice, or other state law requiring an individual to possess certain qualifications to use an occupational title or work in a lawful occupation. "Occupational regulation" includes registration, certification, and occupational license. "Occupational regulation" excludes a business license, facility license, building permit, or zoning and land use regulation, except to the extent those laws regulate an individual's personal qualifications to perform a lawful occupation, and excludes sections of the Revised Code related to commercial or other driver's license.

R.C. 4798.01(A). Whereas "Personal qualifications" mean criteria related to an individual's personal background and characteristics including completion of an approved educational program, satisfactory performance on an examination, work experience, other evidence of attainment of requisite skills or knowledge, moral standing, criminal history, and completion of continuing education." *Id.*

First, neither boiler contractor registration or bedding and stuffed toy registration require a registrant meet any "personal qualifications," and, therefore, neither constitute an "occupational regulation." For example, boiler contractors are required to register by submitting a registration form and applicable registration processing fee. See R.C. 4104.101(A); O.A.C. 4101:4-7-01(A). There is, however, no independent obligation that the registrant demonstrates any particular "personal qualification" in order to register as a boiler contractor. While the Boiler Code and "Accepted engineering practice and approved standards" adopted under rule 4101:4-3-01 of the Administrative Code by the Board of Building Standards may arguably contain personal qualification requirements, such as requiring individuals performing modifications and alterations of "R" stamped vessels to be "R" stamp holders, this requirement

is established pursuant to those approved standards and is separate and exclusive of the obligation to register with the Division under R.C. 4104.101.

As for those seeking to register as importers, manufacturers, renovators, wholesalers, or reupholsterers of stuffed toys and articles of bedding, section 3713.05 of the Revised Code merely requires such parties to submit a registration form and the required fee in order to register with the Division's Bedding Section. See R.C. 3713.05(A)-(B). The application includes no "personal qualification" requirement in order to register. Bedding and stuffed toy registration, therefore, is not an occupational regulation.

Second, as identified in the attached letter from Kelly Bomba (an attorney with the Legislative Services Commission) to Travis Ricketts, section 4798.01 of the Revised Code excludes "business licenses" from the definition of "occupational regulations." One factor used in determining whether a regulation concerned an occupation as opposed to a business included whether the regulation was "portable," meaning a business could continue to operate under a license or registration in spite of any particular individual leaving employment with the entity. In this case, bedding registrations may be obtained by business entities and there is no requirement that any particular individual maintain employment with the entity in order for the registration to remain in effect for the business.

Another factor considered when evaluating whether a regulation concerned an occupation or a business included what was being evaluated in obtaining the license or registration. For example, if a regulation concerned an individual's skill and knowledge, it would be considered an occupational regulation a not a business license. As stated above, no personal qualifications are tested or needed in order to register as a bedding or stuffed toy registrant. As such, bedding and stuffed toy registrations constitute business regulations and not occupational regulations.

We welcome any questions you may have regarding the Division's oversight of the business regulations dealing with bedding and stuffed toy registrations under section 3713.05 of the Revised Code and boiler contractor registration under 4104.101 of the Revised Code.

Respectfully,

Aaron
Johnston



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Aaron Johnston
Date: 2023.10.06
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Aaron Johnston
Division Counsel



Department of Commerce

Division of Real Estate
& Professional Licensing

Mike DeWine, Governor
Jon Husted, Lt. Governor

Sheryl Maxfield, Director

October 6, 2023

The Honorable Marilyn John
77 S. High Street
Columbus, OH 43215

Dear Chairwoman John:

We were notified by your office that pursuant to O.R.C. 101.63, the Division of Real Estate and Professional Licensing within the Ohio Department of Commerce was requested to appear before the House State and Local Government Committee for the General Assembly's Occupational Licensure Review. The Division prepared and provided questionnaires for the Ohio Real Estate Commission and the Ohio Real Estate Appraiser Board. A questionnaire was not completed, however, related to Manufactured housing dealers, manufactured housing brokers, and salesperson licenses.

Information related to Manufactured housing dealers, brokers and salespersons was not included because these are not occupational licenses. Occupational license is defined within Chapter 4798 of the Ohio Revised Code. An occupational license means nontransferable authorization in law that an individual must possess in order to perform a lawful occupation for compensation based on meeting personal qualifications established by statute, or by a rule authorized by statute. "Occupational license" does not include a commercial or other driver's license issued under the Revised Code.¹ The definition of occupational license states that to possess such a license that a person must meet personal qualifications. Personal qualifications are also defined in Chapter 4798 and means criteria related to an individual's personal background and characteristics including completion of an approved educational program, satisfactory performance on an examination, work experience, other evidence of attainment of requisite skills or knowledge, moral standing, criminal history, and completion of continuing education.²

An applicant for a manufactured housing dealers, brokers or salesperson license is not required to take any pre-licensure education, not required to take an examination, or demonstrate any work experience. Additionally, there is no requirement to complete any continuing education requirements to maintain a license. For these reasons, we assert that manufactured housing dealers, brokers and salespersons are not, by definition, occupational licenses.

Likewise, oil and gas land professionals are not granted an occupational license. Rather, oil and gas land professionals must register with the Division of Real Estate to satisfy an *exemption* to licensure pursuant to Ohio Revised Code Section 4735.01(l)(1)(h). Like manufactured housing dealers, brokers, or salespersons there are no pre-licensure education, examination or continuing education requirements. While a landman must be in good standing with a national,

¹ Ohio Revised Code 4798.01(A)

² Ohio Revised Code 4798.01 (A) [emphasis added]

state, or local professional organization, this is not an authorization but an exception to having a license.

For the foregoing reasons, neither oil and gas land professional registrations or manufactured housing dealers, brokers or salesperson license meet the definition established in Ohio Revised Code section 4798.01 and therefore are not subject to the review outlined in Ohio Revised Code sections 101.62 and 101.63.

Thank you and please contact me should you have any additional questions.

Sincerely,

A handwritten signature in blue ink that reads "Daphne Hawk". The signature is fluid and cursive, with the first name and last name clearly distinguishable.

Daphne Hawk
Superintendent

DH/ksw



September 5, 2023

The Honorable Marilyn John
77 S. High Street
Columbus, OH 43215

Dear Chairwoman John:

We were notified by your office that pursuant to O.R.C. 101.63, the Secretary of State's office was requested to appear before the House State and Local Government Committee for the General Assembly's Occupational Licensure Review. The Secretary of State's office is not required to complete the Occupational License questionnaire as part of the Occupational Licensure Review process set forth in O.R.C. 101.63 as our office is not an occupational licensing board. An occupational licensing board, as defined by section 4798.01 of the Revised Code, issues an occupational license which an individual must possess to perform a lawful occupation. The Secretary of State is not responsible or involved in the professions listed in Title 47 of the Revised Code.

Further, a notary commission is not an occupational license. Rather, a notary commission is a term of office for a notary public. A notary public is appointed and commissioned by the Secretary of State to act as an officer of the state. The role of a notary public is to serve the public as an impartial witness in performing acts related to the signing of important documents. A notary public is a role and duty for the officer of the state, but not an occupation. A notary public may notarize signatures in the scope of their employment such as a paralegal, bank teller, car dealer or court reporter. Title 47 of the Ohio Revised Code governs occupations and professions. These occupations and professions include accountants, attorneys, real estate brokers, athlete agents, and private investigators, but it does not include a notary public or other appointments such as special police officers, judges, or other officers of the state.

Thank you and please contact me at any time to answer any questions you may have.

Yours in service,

A handwritten signature in blue ink, appearing to read "P. Disantis".

Paul Disantis
Chief Legal Counsel and Director of Public Policy