

As Introduced

134th General Assembly
Regular Session
2021-2022

S. B. No. 64

Senators Hottinger, Lang
Cosponsors: Senators Fedor, Thomas

A BILL

To enact sections 4740.20, 4740.21, 4740.22,
4740.23, 4740.24, 4740.25, 4740.251, 4740.252,
4740.253, and 4740.26 of the Revised Code to
regulate and require the registration of roofing
contractors.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 4740.20, 4740.21, 4740.22,
4740.23, 4740.24, 4740.25, 4740.251, 4740.252, 4740.253, and
4740.26 of the Revised Code be enacted to read as follows:

Sec. 4740.20. As used in sections 4740.20 to 4740.26 of
the Revised Code:

(A) "Consumer" means a person who seeks roofing services.

(B) Notwithstanding the definition of "contractor" in
section 4740.01 of the Revised Code, "contractor" means a person
engaged in roofing services for a fee or who offers to engage in
or solicits roofing services for a fee. "Contractor" does not
include any of the following:

(1) The owner of a residential or farm property, when the

owner performs roofing services on that property; 18

(2) An employee of the owner of a residential or farm property, when the employee performs roofing services on that property; 19
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(3) An authorized employee or representative of the United States government, this state, or a political subdivision, when the employee or representative performs roofing services on property owned by that governmental entity; 22
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(4) A person who furnishes any fabricated or finished product, material, or article of merchandise that is not incorporated into or attached to real property by the consumer so as to become affixed to the property; 26
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(5) A person who is acting as a contractor's employee or as a subcontractor. 30
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(C) "Employee" means an individual who performs work in exchange for compensation that is reported as income from wages. 32
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(D) "Person" includes any individual, partnership, corporation, business, trust, or other legal entity. 34
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(E) "Principal business address" does not include a post office box. 36
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(F) "Roofing services" means the installation, renovation, repair, maintenance, alteration, or waterproofing of any roof, gutter, downspout, or siding product with regard to a residential premises. 38
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(G) "Subcontractor" means a person, other than a contractor's employee, who undertakes, offers to undertake, agrees to perform, or is otherwise awarded a portion of an existing contract by a contractor. 42
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Sec. 4740.21. (A)(1) Except as otherwise provided in 46
division (A)(2) of this section, beginning on the thirtieth day 47
after the effective date of this section, no contractor shall 48
undertake, offer to undertake, or agree to perform roofing 49
services unless the contractor is registered under this section. 50

(2) A contractor who is a party to a contract that was 51
signed before the effective date of this section and who is not 52
registered under this section may complete the contract. 53

(B) A person seeking to be registered as a contractor 54
shall submit an application to the Ohio construction industry 55
licensing board that includes all of the following: 56

(1) The person's name, principal business address, 57
telephone number, and, if applicable, the person's web site 58
address and electronic mail address; 59

(2) The names and principal business addresses of all of 60
the person's affiliates, subsidiaries, owners, partners, 61
trustees, officers, directors, or principal shareholders. 62

(3) A statement of whether the person or the person's 63
owner, partner, trustee, officer, director, or principal 64
shareholder previously has been registered in this state as a 65
contractor, under what other names the person or the person's 66
owner, partner, trustee, officer, director, or principal 67
shareholder was registered, whether that registration was 68
suspended or revoked, and whether any civil judgments or 69
arbitration awards related to registration in this state have 70
been entered against the person or the person's owner, partner, 71
trustee, officer, director, or principal shareholder during the 72
three years immediately before applying; 73

(4) Proof of the insurance required under division (A)(1) 74

of section 4740.24 of the Revised Code, if the board requires 75
that proof by rule adopted under section 4740.25 of the Revised 76
Code. 77

(C) The board may require by rule adopted under section 78
4740.25 of the Revised Code a fee not to exceed one hundred 79
dollars for registering a contractor under this section. 80

(D) Except as provided in division (E) of this section, 81
the board may deny, restrict, suspend, or revoke a person's 82
contractor registration if the board finds that the person or 83
the person's owner, partner, trustee, officer, director, or 84
principal shareholder has done any of the following: 85

(1) Committed fraud, deceit, or misrepresentation in the 86
registration process; 87

(2) Practiced or attempted to practice roofing services by 88
fraudulent misrepresentation; 89

(3) Committed an act of gross malpractice or incompetence; 90

(4) Been convicted of a criminal offense that indicates 91
unfitness or incompetence to practice as a contractor or that 92
indicates that the person or the person's partner, trustee, 93
officer, director, or principal shareholder has deceived or 94
defrauded a member of the public. 95

(5) Been declared incompetent by a court of competent 96
jurisdiction; 97

(6) Knowingly violated any provision of sections 4740.20 98
to 4740.26 of the Revised Code or of any rule adopted by the 99
board under section 4740.25 of the Revised Code; 100

(7) Had a contractor license or registration suspended or 101
revoked in this state or in any other jurisdiction; 102

<u>(8) Failed to maintain the insurance required by division</u>	103
<u>(A) (1) of section 4740.24 of the Revised Code;</u>	104
<u>(9) Failed or refused to pay taxes due in this state;</u>	105
<u>(10) Failed to comply with section 1703.03, 1705.54, or</u>	106
<u>1706.511 of the Revised Code.</u>	107
<u>(E) The board shall not refuse to issue a registration to</u>	108
<u>an applicant because of a conviction of or plea of guilty to an</u>	109
<u>offense unless the refusal is in accordance with section 9.79 of</u>	110
<u>the Revised Code.</u>	111
<u>(F) The board may accelerate the registration of any</u>	112
<u>person who is registered or licensed and in good standing as a</u>	113
<u>contractor in another state with similar registration or</u>	114
<u>licensing standards.</u>	115
<u>(G) The board shall issue a certificate of registration to</u>	116
<u>a contractor registered under this section. The certificate</u>	117
<u>shall contain a unique registration number and any other</u>	118
<u>information the board considers appropriate, shall not be</u>	119
<u>transferable, and shall be valid from the date of issuance.</u>	120
<u>(H) The board may adopt rules under section 4740.25 of the</u>	121
<u>Revised Code requiring periodic renewal of a contractor</u>	122
<u>registration and a renewal fee not to exceed one hundred</u>	123
<u>dollars. The board shall not require renewal of a contractor</u>	124
<u>registration to occur more regularly than every two years.</u>	125
<u>(I) If the board becomes aware that a person has failed to</u>	126
<u>comply with section 1703.03, 1705.54, or 1706.511 of the Revised</u>	127
<u>Code, the board promptly shall inform the secretary of state of</u>	128
<u>that fact.</u>	129
<u>(J) Names and addresses provided to the board under</u>	130

division (B) (2) of this section are not public records for 131
purposes of section 149.43 of the Revised Code, and the board 132
shall keep those names and addresses confidential and shall not 133
disclose those names and addresses. 134

Sec. 4740.22. The requirements of this section apply with 135
respect to a contract for roofing services for an amount greater 136
than seven hundred fifty dollars. 137

(A) The contract shall be in writing and shall include all 138
of the following: 139

(1) The complete agreement between the consumer and the 140
contractor, including a clear description of any other documents 141
that are or will be incorporated into the contract; 142

(2) The contractor's full legal name, business names, 143
principal business address, telephone number, electronic mail 144
address, if available, and registration number issued under 145
section 4740.21 of the Revised Code; 146

(3) Either of the following: 147

(a) A description of the contractor's insurance coverage 148
as described in division (A) (1) of section 4740.24 of the 149
Revised Code, including the insurance policy limits, the 150
effective dates of applicable policies, and the name of the 151
insurer; 152

(b) A statement that a description of the contractor's 153
insurance coverage may be accessed at a specific web site or 154
otherwise provided to the consumer on request. 155

(4) An itemized description of the work to be done, the 156
cost of labor, and the materials to be used in performing the 157
contract; 158

(5) The total amount agreed to be paid for the work to be performed under the contract, including all change orders and work orders; 159
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(6) An approximation of the cost expected to be borne by the consumer, if some or all of the cost will be paid by the consumer's insurer; 162
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(7) A provision allowing payment to be made by cash, check, or credit card, at the consumer's discretion; 165
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(8) The signatures of all persons party to the contract; 167

(9) In immediate proximity to the space reserved for the consumer's signature, a statement in substantially the following form and in at least ten-point boldface type: 168
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"You may cancel this contract not later than the third business day after entering into this contract. If this contract is related to an insurance claim, you may also cancel the contract not later than the third business day after you are notified that your insurer has denied all or any part of a claim or loss related to the contract. See the attached notice of cancellation form for an explanation of this right." 171
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(10) A fully completed form in duplicate, captioned "NOTICE OF CANCELLATION," which shall be attached to the contract but easily detachable, and which shall contain the following statement in at least ten-point boldface type: 178
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"NOTICE OF CANCELLATION" 182

You may cancel this contract not later than the third business day after entering into the contract. If this contract is related to an insurance claim, you may also cancel the contract not later than the third business day after you are 183
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notified that your insurer has denied all or any part of your 187
claim or loss. You may cancel the contract by mailing or 188
delivering a signed and dated copy of this cancellation notice 189
or any other written notice to (name of contractor) at 190
(contractor's principal business address) at any time before the 191
applicable deadline. You may also send a cancellation notice 192
through electronic mail if the contractor has provided an 193
electronic mail address. If you cancel, any payments you have 194
made under the contract will be returned to you, less a 195
reasonable charge for any services and materials provided, not 196
later than the tenth business day after you send the 197
cancellation notice to the contractor, and any security interest 198
arising out of the transaction will be canceled. You must retain 199
a copy of the cancellation notice. 200

I HEREBY CANCEL THIS TRANSACTION 201

_____ 202

(Date) 203

_____ 204

(Signature)" 205

(B) At the time the contract is signed, the contractor 206
shall provide to the consumer a copy of the contract signed by 207
both the contractor and the consumer. No work shall begin before 208
the contract is signed and a copy of the contract is provided to 209
the consumer. 210

(C) The contract and notice of cancellation required under 211
this section may be delivered and signed electronically in 212
accordance with Chapter 1306. of the Revised Code. 213

Sec. 4740.23. (A) A consumer may cancel a contract for 214

roofing services not later than the third business day after the 215
consumer enters into the contract. A consumer who has entered 216
into a contract that is to be paid from the proceeds of a 217
property or casualty insurance policy claim also may cancel the 218
contract not later than the third business day after the 219
consumer receives written notice from the insurer that all or 220
any part of the claim in question is not covered under the 221
insurance policy. 222

(B) A notice of cancellation is not required to be in any 223
particular form and is sufficient if it indicates, by any form 224
of written expression, the consumer's intention not to be bound 225
by the contract. The consumer shall retain a copy of the 226
cancellation notice for a reasonable period of time. 227

(C) A contract is canceled when the consumer gives written 228
notice of cancellation to the contractor at the principal 229
business address or, if applicable, electronic mail address, 230
stated in the contract. If the consumer gives notice of 231
cancellation by mail, the cancellation is effective when the 232
consumer deposits the notice into the United States mail, 233
postage prepaid, and properly addressed to the contractor. 234

(D) Not later than the tenth business day after a contract 235
is canceled, the contractor shall tender to the consumer or to 236
the possessor of the residential premises any payments, partial 237
payments, or deposits made by the consumer and any note of 238
indebtedness, except that if the contractor has performed 239
services or provided materials that have been acknowledged by 240
the consumer in writing, the contractor shall be entitled to the 241
reasonable value of those services or materials. 242

Sec. 4740.24. (A) A contractor shall do all of the 243
following: 244

(1) Obtain all of the following in the name of the contractor and maintain them in full force and effect while the contractor is providing roofing services: 245
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(a) Workers' compensation insurance; 248

(b) Contractor liability insurance, including completed operations coverage, in an amount of at least five hundred thousand dollars. 249
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(c) A surety license bond in an amount determined by the Ohio construction industry licensing board by rule adopted under section 4740.25 of the Revised Code. 252
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(2) Maintain a list of all subcontractors who have performed work under any contract under which the contractor has begun work during the past three years. The list shall include, at a minimum, each subcontractor's full legal name and principal business address. 255
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(3) Notify the board within thirty business days of changing the contractor's trade name or principal business address or of providing roofing services in any name other than the one in which the contractor is registered. 260
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(B) A contractor shall not do any of the following: 264

(1) Advertise, promise to pay, or rebate any portion of an insurance deductible as an inducement to the sale of goods or services, including granting an allowance or offering a discount against the fees to be charged or paying the consumer, or any person directly or indirectly associated with the property in question, any form of compensation, except as permitted under division (B)(2) of this section; 265
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(2) Induce the sale of goods or services by doing any of 272

<u>the following:</u>	273
<u>(a) Offering or providing any upgraded work, material, or</u>	274
<u>product not specified in the contract, unless the contractor and</u>	275
<u>the consumer sign a written addendum to the contract that</u>	276
<u>provides for that upgraded work, material, or product;</u>	277
<u>(b) Granting any allowance or offering any discount</u>	278
<u>against the fees to be charged, unless the allowance or discount</u>	279
<u>is specified in the contract or unless the contractor and the</u>	280
<u>consumer sign a written addendum to the contract that provides</u>	281
<u>for that allowance or discount;</u>	282
<u>(c) Paying to the consumer, or to any other person</u>	283
<u>directly or indirectly associated with the property in question,</u>	284
<u>any form of compensation, including a gift, prize, bonus,</u>	285
<u>coupon, credit, referral fee, trade-in or trade-in payment,</u>	286
<u>advertising, or other fee or payment, unless the compensation is</u>	287
<u>specified in the contract or unless the contractor and the</u>	288
<u>consumer sign a written addendum to the contract that provides</u>	289
<u>for that compensation;</u>	290
<u>(3) Require a deposit of more than one-half of the</u>	291
<u>contract price;</u>	292
<u>(4) Abandon or fail to perform, without justification, any</u>	293
<u>ongoing contract or deviate from or disregard plans or</u>	294
<u>specifications in any material respect without the consent of</u>	295
<u>the consumer;</u>	296
<u>(5) Fail to credit the consumer for any payment the</u>	297
<u>consumer has made to the contractor in connection with the</u>	298
<u>contract;</u>	299
<u>(6) Make any material misrepresentation in the procurement</u>	300
<u>of a contract or make any false promise likely to influence,</u>	301

<u>persuade, or induce the procurement of a contract;</u>	302
<u>(7) Violate any applicable state or local building code;</u>	303
<u>(8) Fail to pay for materials or services rendered in</u>	304
<u>connection with operating as a contractor, if the contractor has</u>	305
<u>received sufficient funds as payment for the particular</u>	306
<u>construction work, project, or operation for which the services</u>	307
<u>or materials were rendered or purchased;</u>	308
<u>(9) Report, adjust, or negotiate a claim on behalf of a</u>	309
<u>consumer or receive compensation for referring a claim to any</u>	310
<u>person who reports, adjusts, or negotiates a claim on behalf of</u>	311
<u>a consumer;</u>	312
<u>(10) Fail to possess any insurance required under state,</u>	313
<u>federal, or local laws;</u>	314
<u>(11) Seek or obtain a power of attorney on behalf of a</u>	315
<u>consumer;</u>	316
<u>(12) Represent, negotiate, obtain, or attempt to obtain an</u>	317
<u>assignment of claims, rights, benefits, or proceeds from a</u>	318
<u>consumer;</u>	319
<u>(13) Offer or advertise to represent, negotiate, obtain,</u>	320
<u>or attempt to obtain an assignment of claims, rights, benefits,</u>	321
<u>or proceeds from a consumer;</u>	322
<u>(14) Knowingly award a portion of a contract to, or</u>	323
<u>otherwise engage, a subcontractor who is ineligible to register</u>	324
<u>as a contractor under division (D) of section 4740.21 of the</u>	325
<u>Revised Code.</u>	326
<u>(C) A contractor may provide information or a professional</u>	327
<u>opinion about a claim directly to a consumer.</u>	328

Sec. 4740.25. (A) The Ohio construction industry licensing board shall adopt rules under Chapter 119. of the Revised Code as necessary to carry out sections 4740.20 to 4740.26 of the Revised Code, including rules to set forth the following: 329
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(1) The disqualifying offenses for purposes of section 9.79 and division (D) (4) of section 4740.21 of the Revised Code; 333
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(2) Procedures by which the board will conduct investigations and hearings on allegations of violations of sections 4740.20 to 4740.26 of the Revised Code or of any rules adopted under this section. 335
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(B) In adopting rules under division (A) (1) of this section, the board shall consider the workforce needs of the roofing industry. 339
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(C) The board shall enforce the requirements of sections 4740.20 to 4740.26 of the Revised Code. 342
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(D) The board shall investigate allegations of violations of sections 4740.20 to 4740.26 of the Revised Code or of any administrative rules adopted under this section. 344
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Sec. 4740.251. (A) For any violation of sections 4740.20 to 4740.26 of the Revised Code, or of any administrative rules adopted under section 4740.25 of the Revised Code, by a person registered under section 4740.21 of the Revised Code, the Ohio construction industry licensing board, in addition to the actions the board may take under section 4740.21 of the Revised Code, may impose a reasonable fine in an amount not to exceed the contract price plus any administrative costs. If there is no specific contract involved in the violation, the amount of the fine shall not exceed one thousand dollars per violation. 347
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(B) In determining whether and in what amount to impose a 357

fine under this section, the board shall consider all of the 358
following: 359

(1) The seriousness of the violation; 360

(2) The impact of the violation on the injured party; 361

(3) Any mitigating factors on the part of the violator; 362

(4) Any previous violations committed by the violator. 363

(C) When the board imposes a fine under this section, the 364
violator shall pay the fine not later than thirty days after the 365
board issues the order imposing the fine. 366

Sec. 4740.252. (A) An investigator appointed by the 367
director of commerce, on behalf of the Ohio construction 368
industry licensing board, may investigate any person who 369
allegedly has violated division (A) of section 4740.21 of the 370
Revised Code. If, after an investigation pursuant to section 371
4740.25 of the Revised Code, the board determines that 372
reasonable evidence exists that a person has violated division 373
(A) of section 4740.21 of the Revised Code, the board shall send 374
a written notice to that person in the same manner as prescribed 375
in section 119.07 of the Revised Code for licensees. 376

(B) The board shall hold a hearing regarding the alleged 377
violation in the same manner prescribed for an adjudication 378
hearing under section 119.09 of the Revised Code. 379

If the board, after the hearing, determines a violation 380
has occurred, the board, on an affirmative vote of a majority of 381
its members, may impose a reasonable fine on the person in an 382
amount not to exceed the contract price plus any administrative 383
costs. If no specific contract is involved in the violation, the 384
amount of the fine shall not exceed one thousand dollars per 385

<u>violation.</u>	386
<u>(C) In determining whether and in what amount to impose a</u>	387
<u>fine under this section, the board shall consider all of the</u>	388
<u>following:</u>	389
<u>(1) The seriousness of the violation;</u>	390
<u>(2) The impact of the violation on the injured party;</u>	391
<u>(3) Any mitigating factors on the part of the violator,</u>	392
<u>and any previous violations committed by the violator.</u>	393
<u>(D) The boards's determination is an order that the person</u>	394
<u>may appeal in accordance with section 119.12 of the Revised</u>	395
<u>Code.</u>	396
<u>(E) If the board assesses a person a civil penalty for a</u>	397
<u>violation of division (A) of section 4740.21 of the Revised Code</u>	398
<u>and the person fails to pay that civil penalty within thirty</u>	399
<u>days after the board issues the order imposing the fine, the</u>	400
<u>board shall forward to the attorney general the name of the</u>	401
<u>person and the amount of the civil penalty for the purpose of</u>	402
<u>collecting that civil penalty. In addition to the civil penalty</u>	403
<u>assessed pursuant to this section, the person also shall pay any</u>	404
<u>fee assessed by the attorney general for collection of the civil</u>	405
<u>penalty.</u>	406
<u>(F) If a person fails to request a hearing within thirty</u>	407
<u>days after the date the board, in accordance with section 119.07</u>	408
<u>of the Revised Code, notifies the person of the board's intent</u>	409
<u>to act against the person under division (A) of this section,</u>	410
<u>the board, by majority vote of a quorum of its members, may take</u>	411
<u>the action against a person without holding an adjudication</u>	412
<u>hearing.</u>	413

Sec. 4740.253. Failure to comply with sections 4740.20 to 414
4740.25 of the Revised Code constitutes a deceptive act or 415
practice in connection with a consumer transaction in violation 416
of section 1345.02 of the Revised Code. 417

Sec. 4740.26. Sections 4740.20 to 4740.25 of the Revised 418
Code shall not be construed to limit or diminish any rights or 419
remedies available under sections 1345.21 to 1345.28 of the 420
Revised Code. 421

The contract required under section 4740.22 of the Revised 422
Code shall be deemed to comply with the requirements of 423
divisions (A), (B) (1), (2), and (3) of section 1345.23 of the 424
Revised Code. 425

Section 2. Sections 4740.20, 4740.21, 4740.22, 4740.23, 426
4740.24, 4740.251, 4740.252, and 4740.253 of the Revised Code, 427
as enacted by this act, shall take effect on the ninetieth day 428
after the effective date of this section. 429

Section 3. The intent of the General Assembly in enacting 430
this act is to establish minimum standards for roofing contracts 431
and to promote fair and honest practices in the roofing services 432
business. 433