

As Introduced

**135th General Assembly
Regular Session
2023-2024**

S. B. No. 238

Senator Schaffer

A BILL

To amend section 4740.99 and to enact section 1
4740.18 of the Revised Code to establish a 2
certification for specialty residential 3
construction contractors. 4

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

Section 1. That section 4740.99 be amended and section 5
4740.18 of the Revised Code be enacted to read as follows: 6

Sec. 4740.18. (A) As used in this section: 7

(1) "Residential-only certification" means a certification 8
the Ohio construction industry licensing board issues under this 9
section to a residential heating, ventilating, and air 10
conditioning contractor, residential refrigeration contractor, 11
residential electrical contractor, residential plumbing 12
contractor, or residential hydronics contractor. 13

(2) "Residential contractor" means an individual or 14
residential contracting company that satisfies both of the 15
following: 16

(a) Has responsibility for the means, method, and manner 17
of construction, improvement, renovation, repair, or maintenance 18

on a residential construction project with respect to one or 19
more trades and who offers, identifies, advertises, or otherwise 20
holds out or represents that the individual or residential 21
contracting company with which the individual is associated is 22
permitted or qualified to perform or have responsibility for the 23
means, method, and manner of construction, improvement, 24
renovation, repair, or maintenance with respect to one or more 25
trades on a residential construction project; 26

(b) Does any of the following: 27

(i) Performs construction, improvement, or renovation on a 28
residential construction project with respect to the 29
individual's or residential contracting company's trade; 30

(ii) Employs tradespersons who perform construction, 31
improvement, or renovation on a construction project with 32
respect to the individual's or contracting company's trades; 33

(iii) Uses direct labor subcontractors who perform 34
construction, improvement, or renovation on a residential 35
construction project with respect to the individual's or 36
contracting company's trades. 37

(3) "Residential contracting company" means a company in 38
the construction industry that contracts with a person for a 39
residential construction project involving heating, ventilating, 40
and air conditioning, refrigeration, electrical, plumbing, or 41
hydronics. 42

(4) "Residential construction project" means a project 43
involving a residential building subject to Chapter 3781. of the 44
Revised Code and the rules adopted under that chapter. 45

(5) "Direct labor subcontractor" means an individual who 46
engages in construction, improvement, renovation, repair, or 47

maintenance of a residential construction project under terms 48
specified in an agreement with a residential contractor and to 49
whom both of the following apply: 50

(a) The residential contractor has the right to control or 51
direct only the result of the construction, improvement, 52
renovation, repair, or maintenance performed by the individual; 53

(b) The income the individual earns from the construction, 54
improvement, renovation, repair, or maintenance is subject to 55
the "Self-Employment Contributions Act of 1954," 26 U.S.C. 1401 56
et seq., and the regulations adopted under it. 57

(6) "Residential building" and "industrialized unit" have 58
the same meanings as in section 3781.06 of the Revised Code. 59

(B) The administrative section of the Ohio construction 60
industry licensing board shall issue a residential-only 61
certificate to any individual who does all of the following: 62

(1) Completes an application that includes an individual's 63
name, the name of the residential contracting company associated 64
with the individual, the amount of time the individual has 65
engaged in the residential contracting business, and any other 66
information that may be required by the appropriate specialty 67
section of the board; 68

(2) Maintains and provides proof of contractor's liability 69
insurance in the name of the associated residential contracting 70
company that includes complete operations coverage in an amount 71
not less than two hundred fifty thousand dollars; 72

(3) Maintains and provides proof of contractor's liability 73
insurance in the name of the associated residential contracting 74
company that includes, in addition to the coverage required by 75
division (B)(2) of this section, coverage for construction, 76

improvements, renovations, repairs, or maintenance performed by 77
the company's direct labor subcontractors in an amount not less 78
than two hundred fifty thousand dollars; 79

(4) Pays a certification fee of one hundred dollars, 80
except if the certificate is to expire in less than five years, 81
the certification fee shall be reduced proportionally based on 82
the duration of the certification period. The certification fee 83
shall not be less than twenty dollars. 84

(C) Each certificate issued under this section shall 85
include the the following: 86

(1) The individual's name and certificate number; 87

(2) The name of the residential contracting company 88
associated with the individual; 89

(3) The license number associated with any other licenses 90
held by the individual under this chapter. 91

(D) All residential-only certificates an individual holds 92
under this section shall expire every fifth year on the same 93
date, which shall be the expiration date of the original 94
residential-only certificate the individual holds. An individual 95
holding a valid, unexpired residential-only certificate may 96
renew the certificate by submitting an application to the 97
appropriate specialty section of the board not more than ninety 98
days before the expiration of the certificate, along with a 99
renewal fee of one hundred dollars. The application shall 100
include proof of both of the following: 101

(1) That the applicant continues to meet the certification 102
requirements related to contractor's liability insurance under 103
divisions (B) (2) and (3) of this section; 104

(2) That the applicant has completed twenty hours of 105
board-approved continuing education in the preceding 106
certification period for each certification the individual 107
holds. If the certification period is less than five years, the 108
number of board-approved continuing education hours required 109
shall instead be the product of four hours times the number of 110
full years that elapsed since the certification was issued. In 111
no case shall the number of board-approved continuing education 112
hours required for renewal of a residential-only certification 113
be less than four. 114

(E) Upon application within one calendar year after a 115
certification has expired, the appropriate specialty section may 116
waive any of the requirements for renewal of a residential-only 117
certification if the section finds that the applicant 118
substantially meets the renewal requirements or that failure to 119
timely apply for renewal is due to excusable neglect. A section 120
that waives requirements for renewal of a certification may 121
impose conditions upon the certificate holder and assess a late 122
filing fee of not more than two hundred dollars. An applicant 123
shall satisfy any condition the section imposes before a 124
certification is reissued. 125

(F) A continuing education course may be counted for the 126
renewal of a residential-only certificate only if both of the 127
following apply: 128

(1) The course is offered by a training agency approved by 129
the administrative section of the Ohio construction industry 130
licensing board that pays to the board an annual fee of twenty- 131
five dollars for the purposes of establishing and maintaining 132
that approval. 133

(2) The course of study or program of instruction 134

comprising the continuing education course is approved by the 135
appropriate specialty section of the Ohio construction industry 136
licensing board following payment by the training agency of a 137
one-time fee of ten dollars plus one dollar per credit hour. 138

(G) In addition to the fees prescribed by division (F) of 139
this section, an approved training agency shall remit, in the 140
form and manner required by the administrative section of the 141
Ohio construction industry licensing board, a fee of one dollar 142
per credit hour of instruction for each person who attends the 143
training agency's continuing education courses. 144

(H) No person shall knowingly act as or claim to be a 145
certified residential-only contractor unless that person holds 146
or has been issued a residential-only certificate under this 147
section. 148

(I) Upon the request of the appropriate specialty section 149
of the Ohio construction industry licensing board, the attorney 150
general may bring a civil action for appropriate relief, 151
including a temporary restraining order or permanent injunction 152
in the court of common pleas of the county where the person 153
alleged to have violated division (F) or (H) of this section 154
resides or is acting or claiming to be a certified residential- 155
only contractor or offering or purporting to offer continuing 156
education courses, as applicable. 157

(J) This section does not require a residential contractor 158
or any other person to obtain a residential-only certification 159
to work on residential construction projects in this state. 160

(K) Nothing in this chapter shall be construed to require 161
a direct labor subcontractor to be licensed or certified under 162
this chapter. 163

Sec. 4740.99. Whoever violates division (A) of section 164
4740.13 or division (H) of section 4740.18 of the Revised Code 165
is guilty of a minor misdemeanor on the first violation and a 166
misdemeanor of the fourth degree on subsequent violations. 167

Section 2. That existing section 4740.99 of the Revised 168
Code is hereby repealed. 169