

# AN ACT

To amend sections 109.572, 121.08, 2925.01, 4713.01, 4713.69, 4735.181, 4735.99, 4776.10, and 4776.20, to enact sections 9.78, 101.62, 101.63, 101.64, 101.65, 103.26, 103.27, 4735.22, 4764.01 to 4764.21, 4764.99, 4798.01, 4798.02, and 4798.03, of the Revised Code to establish a statewide policy on occupational regulation, to allow an individual who has been convicted of a criminal offense to request a licensing authority to determine whether the individual is disqualified from receiving or holding a professional license based on conviction, to require standing committees of the General Assembly to periodically review occupational licensing boards regarding their sunset, to require the Legislative Service Commission to issue reports of occupational licensing bills and state regulation of occupations, to require the licensure of home inspectors, to create the Ohio Home Inspector Board to regulate the licensure and performance of home inspectors, to require realtors who recommend home inspectors to provide a list of home inspectors, and to regulate the practice of makeup artistry.

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

SECTION 1. That sections 109.572, 121.08, 2925.01, 4713.01, 4713.69, 4735.181, 4735.99, 4776.10, and 4776.20 be amended and sections 9.78, 101.62, 101.63, 101.64, 101.65, 103.26, 103.27, 4735.22, 4764.01, 4764.02, 4764.03, 4764.04, 4764.05, 4764.06, 4764.07, 4764.08, 4764.09, 4764.10, 4764.11, 4764.12, 4764.13, 4764.14, 4764.15, 4764.16, 4764.17, 4764.18, 4764.19, 4764.20, 4764.21, 4764.99, 4798.01, 4798.02, and 4798.03 of the Revised Code be enacted to read as follows:

Sec. 9.78. (A) As used in this section:

(1) "License" means an authorization evidenced by a license, certificate, registration, permit, card, or other authority that is issued or conferred by a licensing authority to an individual by which the individual has or claims the privilege to engage in a profession, occupation, or occupational activity over which the licensing authority has jurisdiction.

(2) "Licensing authority" means both of the following:

(a) A board, commission, or other entity that issues licenses under Title XLVII or any other provision of the Revised Code to practice an occupation or profession;

(b) A political subdivision that issues a license or that charges a fee for an individual to practice an occupation or profession in that political subdivision.

(B) An individual who has been convicted of any criminal offense may request, at any time, that a licensing authority determine whether the individual's criminal conviction disqualifies the

individual from obtaining a license issued or conferred by the licensing authority. An individual making such a request shall include details of the individual's criminal conviction and any payment required by the licensing authority. A licensing authority may charge a fee of not more than twenty-five dollars for each request made under this section, to reimburse the costs it incurs in making the determination.

Not later than thirty days after receiving a request under this section, the licensing authority shall inform the individual whether, based on the criminal record information submitted, the individual is disqualified from receiving or holding the license about which the individual inquired. A licensing authority is not bound by a determination made under this section, if, on further investigation, the licensing authority determines that the individual's criminal convictions differ from the information presented in the determination request.

(C) A licensing authority shall make available to the public on the licensing authority's internet web site a list of all criminal offenses of which conviction of that offense shall disqualify an individual from obtaining a license issued or conferred by the licensing authority.

Sec. 101.62. (A) As used in sections 101.62 to 101.65 of the Revised Code:

"Individual" means a natural person.

"Least restrictive regulation," "occupational license," and "occupational licensing board" have the meanings defined in section 4798.01 of the Revised Code.

(B) An occupational licensing board shall be triggered to expire at the end of the thirty-first day of December of the sixth year after it was created or last renewed, or on December 31, 2024, whichever is later, and shall expire at the end of the thirtieth day of June of the following year after the board was triggered to expire. The expiration of an occupational licensing board under this section emancipates a person to lawfully engage in the profession, occupation, or occupational activity, which has been previously licensed by that board, without an occupational license, notwithstanding any law of the state that requires a person to possess a license to lawfully engage in that profession, occupation, or occupational activity.

(C) The director of budget and management shall not authorize the expenditure of any moneys for an occupational licensing board on or after the date of its expiration.

(D) The occupational licensing board shall operate after its expiration has been triggered, but not later than the end of the thirtieth day of June of the following year, to provide for the orderly, efficient, and expeditious conclusion of the board's business and operation. The orders, licenses, contracts, and other actions made, taken, granted, or performed by the board continue in effect according to their terms notwithstanding the board's abolition, unless the general assembly provides otherwise by law. The general assembly may provide by law for the temporary or permanent transfer of some or all of an expired or abolished board's functions and personnel to a successor agency, board, or officer.

The expiration or abolition of a board does not cause the termination or dismissal of any claim pending against the board by any person, or any claim pending against any person by the board. Unless the general assembly provides otherwise by law for the substitution of parties, the attorney general shall succeed the board with reference to any pending claim.

(E) An occupational licensing board may be renewed by enactment of a law that continues the statutes creating, empowering, governing, or regulating the board. The amendment of a statute

creating, empowering, governing, or regulating a board, between the time the board was last reviewed and the time it is next scheduled to be reviewed does not change the next scheduled review date of the board. The next scheduled review date changes only if the amendment expressly so provides.

(F) When an occupational licensing board performs functions other than licensing or regulating the licensing of an occupational license that expires under this section, the operation of sections 101.62 to 101.65 of the Revised Code shall not cause the board, or the statutes creating, empowering, governing, or regulating the board, to expire. The board and the statutes shall continue to the extent the board and the statutes apply to performing functions other than licensing or regulating the licensing of an occupational license.

Sec. 101.63. (A)(1) Not later than the first day of March in the odd-numbered year during which an occupational licensing board is scheduled to be triggered to expire the following even-numbered year under section 101.62 of the Revised Code, the speaker of the house of representatives shall direct a standing committee of the house of representatives to hold hearings to receive the testimony of the public and of the chief executive officer of the board, and otherwise to review, consider, and evaluate the usefulness, performance, and effectiveness of the board. Not later than the fifteenth day of November of that same odd-numbered year, the standing committee shall prepare and publish a report of its findings and recommendations in accordance with section 101.65 of the Revised Code. If the standing committee's report includes a bill, the house of representatives shall consider that bill for passage by the thirty-first day of December of that same odd-numbered year.

(2) Not later than the first day of March in the even-numbered year during which an occupational licensing board is scheduled to be triggered to expire under section 101.62 of the Revised Code, the president of the senate shall direct a standing committee of the senate to hold hearings to receive testimony of the public and of the chief executive officer of the board, and otherwise to review, consider, and evaluate the usefulness, performance, and effectiveness of the board and any bill considered by the house of representatives related to the expiration of that board. Not later than the fifteenth day of November of that same even-numbered year, the standing committee shall prepare and publish a report of its findings and recommendations in accordance with section 101.65 of the Revised Code. If the standing committee's report includes a bill, the senate shall consider that bill for passage by the thirty-first day of December of that same even-numbered year.

(3) The president of the senate and the speaker of the house of representatives may, in the same manner as described in divisions (A)(1) and (2) of this section, direct a standing committee to review an occupational licensing board for which the director of the legislative service commission, under section 103.27 of the Revised Code, has performed a review.

(4) The president of the senate and the speaker of the house of representatives shall direct standing committees to review approximately thirty-three per cent of the occupational licensing boards each biennium. All occupational licensing boards shall be reviewed over a six-year period including calendar years 2019 through 2024, and also during each subsequent six-year period.

(B) Each occupational licensing board that is scheduled to be reviewed by a standing committee shall submit to the standing committee a report that contains all of the following information:

(1) The board's primary purpose and its various goals and objectives;

(2) The board's past and anticipated workload, the number of staff required to complete that workload, and the board's total number of staff;

(3) The board's past and anticipated budgets and its sources of funding;

(4) The number of members of its governing board or other governing entity and their compensation, if any.

(C) Each board shall have the burden of demonstrating to the standing committee a public need for its continued existence. In determining whether a board has demonstrated that need, the standing committee shall consider, as relevant, all of the following:

(1) Whether or not continuation of the board is necessary to protect the health, safety, or welfare of the public, and if so, whether or not the board's authority is narrowly tailored to protect against present, recognizable, and significant harms to the health, safety, or welfare of the public;

(2) Whether or not the public could be protected or served in an alternate or less restrictive manner;

(3) Whether or not the board serves a specific private interest;

(4) Whether or not rules adopted by the board are consistent with the legislative mandate of the board as expressed in the statutes that created and empowered the board;

(5) The extent to which the board's jurisdiction and programs overlap or duplicate those of other boards, the extent to which the board coordinates with those other boards, and the extent to which the board's programs could be consolidated with the programs of other state departments or boards;

(6) How many other states regulate the occupation, whether a license is required to engage in the occupation in other states, whether the initial licensing and license renewal requirements for the occupation are substantially equivalent in every state, and the amount of regulation exercised by the board compared to the regulation, if any, in other states;

(7) The extent to which significant changes in the board's rules could prevent an individual licensed in this state from practicing, or allow an individual licensed in this state to practice, the same occupation in another jurisdiction without obtaining an occupational license for that occupation in that other jurisdiction;

(8) Whether the board recognizes national uniform licensure requirements for the occupation;

(9) Whether or not private contractors could be used, in an effective and efficient manner, either to assist the board in the performance of its duties or to perform these duties instead of the board;

(10) Whether or not the operation of the board has inhibited economic growth, reduced efficiency, or increased the cost of government;

(11) An assessment of the authority of the board regarding fees, inspections, enforcement, and penalties;

(12) The extent to which the board has permitted qualified applicants to serve the public;

(13) The extent to which the board has permitted individuals to practice elements of the occupation without a license;

(14) The cost-effectiveness of the board in terms of number of employees, services rendered, and administrative costs incurred, both past and present;

(15) Whether or not the board's operation has been impeded or enhanced by existing statutes

and procedures and by budgetary, resource, and personnel practices;

(16) Whether the board has recommended statutory changes to the general assembly that would benefit the public as opposed to the persons regulated by the board, if any, and whether its recommendations and other policies have been adopted and implemented;

(17) Whether the board has required any persons it regulates to report to it the impact of board rules and decisions on the public as they affect service costs and service delivery;

(18) Whether persons regulated by the board, if any, have been required to assess problems in their business operations that affect the public;

(19) Whether the board has encouraged public participation in its rule-making and decision-making;

(20) The efficiency with which formal public complaints filed with the board have been processed to completion;

(21) Whether the purpose for which the board was created has been fulfilled, has changed, or no longer exists;

(22) Whether federal law requires that the board be renewed in some form;

(23) An assessment of the administrative hearing process of a board if the board has an administrative hearing process, and whether or not the hearing process is consistent with due process rights;

(24) Whether the requirement for the occupational license is consistent with the policies expressed in section 4798.02 of the Revised Code, serves a meaningful, defined public interest, and provides the least restrictive form of regulation that adequately protects the public interest;

(25) The extent to which licensing ensures that practitioners have occupational skill sets or competencies that are substantially related to protecting consumers from present, significant, and substantiated harms that threaten public health, safety, or welfare, and the impact that those criteria have on applicants for a license, particularly those with moderate or low incomes, seeking to enter the occupation or profession;

(26) The extent to which the requirement for the occupational license stimulates or restricts competition, affects consumer choice, and affects the cost of services;

(27) An assessment of whether or not changes are needed in the enabling laws of the board in order for it to comply with the criteria suggested by the considerations listed in division (C) of this section.

For division (C) of this section, a government regulatory requirement protects or serves the public interest if it provides protection from present, significant, and substantiated harms to the health, safety, or welfare of the public.

(D) The legislative service commission shall provide staff services to a standing committee performing its duties under this section and section 101.65 of the Revised Code.

Sec. 101.64. The president of the senate and the speaker of the house of representatives shall notify the chief of the common sense initiative office, established under section 107.61 of the Revised Code, when a board is identified to be reviewed by a standing committee under section 101.63 of the Revised Code. The chief or the chief's designee shall appear and testify before the standing committee, with respect to the board, and shall testify on at least all of the following:

(A) Whether or not the common sense initiative office has, within the previous six years,

received commentary related to the board through the comment system established under section 107.62 of the Revised Code;

(B) Whether or not the common sense initiative office has, within the previous six years, received advice from the small business advisory council with respect to rules of the board;

(C) Any other information the chief believes will elucidate the effectiveness and efficiency of the board and in particular the quality of customer service provided by the board.

Sec. 101.65. (A) After the completion of the review of a board under section 101.63 of the Revised Code, the standing committee that conducted the review shall prepare and publish a report of its findings and recommendations. A standing committee may include in a single report its findings and recommendations regarding more than one board. The committee shall furnish a copy of the report to the president of the senate, the speaker of the house of representatives, the governor, and each affected board. Any published report shall be made available to the public on the standing committee's internet web site, and in the offices of the house of representatives and senate clerks during reasonable hours. As part of a report, the standing committee may present its recommendations to the general assembly in bill form.

(B) Recommendations made by the standing committee shall indicate how or whether their implementation will do each of the following:

(1) Improve efficiency in the management of state government;

(2) Improve services rendered to citizens of the state;

(3) Simplify and improve preparation of the state budget;

(4) Conserve the natural resources of the state;

(5) Promote the orderly growth of the state and its government;

(6) Promote that occupational regulations shall be construed and applied to increase economic opportunities, promote competition, and encourage innovation;

(7) Provide for the least restrictive regulation by repealing the current regulation and replacing it with a less restrictive regulation that is consistent with the policies expressed in section 4798.02 of the Revised Code;

(8) Improve the effectiveness of the services performed by the service departments of the state;

(9) Avoid duplication of effort by state agencies or boards;

(10) Improve the organization and coordination of the state government in one or more of the ways listed in divisions (B)(1) to (9) of this section.

Sec. 103.26. (A) As used in this section and section 103.27 of the Revised Code:

"Individual" means a natural person.

"Least restrictive regulation" has the meaning defined in section 4798.01 of the Revised Code.

"Occupational regulation" means a statute or rule that controls an individual's practice of a trade or profession.

(B) With respect to legislation that has been introduced in the house of representatives or in the senate, which proposes to substantially change or enact an occupational regulation, the director of the legislative service commission shall issue a report of the legislation. The director shall issue a report that compares the regulatory scheme proposed in the legislation with the policies expressed in

section 4798.02 of the Revised Code with respect to proposing the least restrictive regulation to protect consumers from present, significant, and substantiated harms that threaten public health, safety, or welfare. The director shall issue this report to the general assembly in a timely manner.

To the extent possible with readily available or obtainable information, the director shall report on consequences of the legislation with respect to:

(1) Opportunities for employment within the occupation;

(2) Consumer choices and costs;

(3) Market competition;

(4) Cost to government.

(C) The report issued under division (B) of this section shall include all of the following:

(1) A comparison of the regulatory scheme put forth in the legislation with the current regulatory scheme in other similar states for the same occupation and a consideration of the extent to which significant changes in the board's rules could prevent an individual licensed in this state from practicing, or allow an individual licensed in this state to practice, the same occupation in another jurisdiction without obtaining an occupational license for that occupation in that other jurisdiction;

(2) A comparison of the regulatory scheme put forth in the legislation with the policy of this state as set forth in the sections of the Revised Code governing the occupation that is the subject of the legislation, if those sections include such a policy.

(D) The sponsor of a bill, in order to assist the director of the legislative service commission with the director's duties under division (B) of this section, may submit to the director any relevant information, including the following:

(1) Evidence of present, significant, and substantiated harms to consumers in the state;

(2) An explanation of why existing civil or criminal laws or procedures are inadequate to prevent or remedy any harm to the public;

(3) An explanation of why a less restrictive regulation, that is consistent with the policies expressed in section 4798.02 of the Revised Code, is not proposed;

(4) The names of associations, organizations, or other groups representing the occupation seeking regulation and the approximate number of members in each in this state;

(5) The functions typically performed by members of this occupation and whether they are identical or similar to those performed by another occupation;

(6) Whether specialized training, education, or experience is required to engage in the occupation and, if so, how current practitioners acquired that training, education, or experience;

(7) Whether or not the proposed regulation would change the way practitioners of the occupation acquire any necessary specialized training, education, or experience and, if so, why;

(8) Whether or not any current practitioners of the occupation in this state lack whatever specialized training, education, or experience might be required to engage in the occupation and, if so, how the proposed regulation would address that deficiency;

(9) Whether or not new entrants into the occupation would be required to provide evidence of any necessary training, education, or experience, or to pass an examination, or both;

(10) Whether or not current practitioners would be required to provide evidence of any necessary training, education, or experience, or to pass an examination, and, if not, why not;

(11) The expected impact of the proposed regulation on the supply of practitioners of the

occupation and on the cost of services or goods provided by the occupation:

(12) Information from others knowledgeable about the occupation, and the related economic factors.

(E) A bill which proposes to substantially change or enact an occupational regulation shall not be favorably reported out of committee until after the committee members have received and considered the report provided under division (B) of this section, unless two-thirds of the members of the committee vote in the affirmative to favorably report the bill.

Sec. 103.27. Each biennium starting with an odd-numbered year, beginning in 2019, the director of the legislative service commission shall issue a report regarding approximately thirty-three per cent of occupations subject to regulation by the state. The report shall compare the current regulatory scheme being utilized in this state with the policies expressed in section 4798.02 of the Revised Code.

The director shall issue all reports performed during a biennium, not later than the first day of December of the even-numbered year of that biennium, to the general assembly and to the attorney general.

The director may require that information be submitted by any department or board that regulates the occupation.

The director shall, over a six-year period including calendar years 2019 through 2024, issue reports regarding all occupations subject to regulation by the state. The director's report regarding an occupation may be scheduled to coincide with, and be done in conjunction with, the review of an occupational licensing board being done by a standing committee of the general assembly under section 101.63 of the Revised Code.

Sec. 109.572. (A)(1) Upon receipt of a request pursuant to section 121.08, 3301.32, 3301.541, or 3319.39 of the Revised Code, a completed form prescribed pursuant to division (C)(1) of this section, and a set of fingerprint impressions obtained in the manner described in division (C) (2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request previously has been convicted of or pleaded guilty to any of the following:

(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code, felonious sexual penetration in violation of former section 2907.12 of the Revised Code, a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, a violation of section 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had the violation been committed prior to that date, or a violation of section 2925.11 of the Revised Code that is not a minor drug possession offense;

(b) A violation of an existing or former law of this state, any other state, or the United States that is substantially equivalent to any of the offenses listed in division (A)(1)(a) of this section;



(c) If the request is made pursuant to section 3319.39 of the Revised Code for an applicant who is a teacher, any offense specified in section 3319.31 of the Revised Code.

(2) On receipt of a request pursuant to section 3712.09 or 3721.121 of the Revised Code, a completed form prescribed pursuant to division (C)(1) of this section, and a set of fingerprint impressions obtained in the manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check with respect to any person who has applied for employment in a position for which a criminal records check is required by those sections. The superintendent shall conduct the criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request previously has been convicted of or pleaded guilty to any of the following:

(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 2925.22, 2925.23, or 3716.11 of the Revised Code;

(b) An existing or former law of this state, any other state, or the United States that is substantially equivalent to any of the offenses listed in division (A)(2)(a) of this section.

(3) On receipt of a request pursuant to section 173.27, 173.38, 173.381, 3701.881, 5164.34, 5164.341, 5164.342, 5123.081, or 5123.169 of the Revised Code, a completed form prescribed pursuant to division (C)(1) of this section, and a set of fingerprint impressions obtained in the manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check of the person for whom the request is made. The superintendent shall conduct the criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request previously has been convicted of, has pleaded guilty to, or (except in the case of a request pursuant to section 5164.34, 5164.341, or 5164.342 of the Revised Code) has been found eligible for intervention in lieu of conviction for any of the following, regardless of the date of the conviction, the date of entry of the guilty plea, or (except in the case of a request pursuant to section 5164.34, 5164.341, or 5164.342 of the Revised Code) the date the person was found eligible for intervention in lieu of conviction:

(a) A violation of section 959.13, 959.131, 2903.01, 2903.02, 2903.03, 2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 2903.15, 2903.16, 2903.21, 2903.211, 2903.22, 2903.34, 2903.341, 2905.01, 2905.02, 2905.05, 2905.11, 2905.12, 2905.32, 2905.33, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.24, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2907.33, 2909.02, 2909.03, 2909.04, 2909.22, 2909.23, 2909.24, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.05, 2913.11, 2913.21, 2913.31, 2913.32, 2913.40, 2913.41, 2913.42, 2913.43, 2913.44, 2913.441, 2913.45, 2913.46, 2913.47, 2913.48, 2913.49, 2913.51, 2917.01, 2917.02, 2917.03, 2917.31, 2919.12, 2919.121, 2919.123, 2919.22, 2919.23, 2919.24, 2919.25, 2921.03, 2921.11, 2921.12, 2921.13, 2921.21, 2921.24, 2921.32, 2921.321, 2921.34, 2921.35, 2921.36, 2921.51,

2923.12, 2923.122, 2923.123, 2923.13, 2923.161, 2923.162, 2923.21, 2923.32, 2923.42, 2925.02, 2925.03, 2925.04, 2925.041, 2925.05, 2925.06, 2925.09, 2925.11, 2925.13, 2925.14, 2925.141, 2925.22, 2925.23, 2925.24, 2925.36, 2925.55, 2925.56, 2927.12, or 3716.11 of the Revised Code;

(b) Felonious sexual penetration in violation of former section 2907.12 of the Revised Code;

(c) A violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996;

(d) A violation of section 2923.01, 2923.02, or 2923.03 of the Revised Code when the underlying offense that is the object of the conspiracy, attempt, or complicity is one of the offenses listed in divisions (A)(3)(a) to (c) of this section;

(e) A violation of an existing or former municipal ordinance or law of this state, any other state, or the United States that is substantially equivalent to any of the offenses listed in divisions (A)(3)(a) to (d) of this section.

(4) On receipt of a request pursuant to section 2151.86 of the Revised Code, a completed form prescribed pursuant to division (C)(1) of this section, and a set of fingerprint impressions obtained in the manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request previously has been convicted of or pleaded guilty to any of the following:

(a) A violation of section 959.13, 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.15, 2903.16, 2903.21, 2903.211, 2903.22, 2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2909.02, 2909.03, 2909.22, 2909.23, 2909.24, 2911.01, 2911.02, 2911.11, 2911.12, 2913.49, 2917.01, 2917.02, 2919.12, 2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 2927.12, or 3716.11 of the Revised Code, a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, a violation of section 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had the violation been committed prior to that date, a violation of section 2925.11 of the Revised Code that is not a minor drug possession offense, two or more OVI or OVUAC violations committed within the three years immediately preceding the submission of the application or petition that is the basis of the request, or felonious sexual penetration in violation of former section 2907.12 of the Revised Code;

(b) A violation of an existing or former law of this state, any other state, or the United States that is substantially equivalent to any of the offenses listed in division (A)(4)(a) of this section.

(5) Upon receipt of a request pursuant to section 5104.013 of the Revised Code, a completed form prescribed pursuant to division (C)(1) of this section, and a set of fingerprint impressions obtained in the manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request has been convicted of or pleaded guilty to any of the following:

(a) A violation of section 2151.421, 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12,

2903.13, 2903.16, 2903.21, 2903.22, 2903.34, 2905.01, 2905.02, 2905.05, 2905.11, 2905.32, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.19, 2907.21, 2907.22, 2907.23, 2907.24, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2909.02, 2909.03, 2909.04, 2909.05, 2911.01, 2911.02, 2911.11, 2911.12, 2913.02, 2913.03, 2913.04, 2913.041, 2913.05, 2913.06, 2913.11, 2913.21, 2913.31, 2913.32, 2913.33, 2913.34, 2913.40, 2913.41, 2913.42, 2913.43, 2913.44, 2913.441, 2913.45, 2913.46, 2913.47, 2913.48, 2913.49, 2917.01, 2917.02, 2917.03, 2917.31, 2919.12, 2919.22, 2919.224, 2919.225, 2919.24, 2919.25, 2921.03, 2921.11, 2921.13, 2921.14, 2921.34, 2921.35, 2923.01, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code, felonious sexual penetration in violation of former section 2907.12 of the Revised Code, a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, a violation of section 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had the violation been committed prior to that date, a violation of section 2925.11 of the Revised Code that is not a minor drug possession offense, a violation of section 2923.02 or 2923.03 of the Revised Code that relates to a crime specified in this division, or a second violation of section 4511.19 of the Revised Code within five years of the date of application for licensure or certification.

(b) A violation of an existing or former law of this state, any other state, or the United States that is substantially equivalent to any of the offenses or violations described in division (A)(5)(a) of this section.

(6) Upon receipt of a request pursuant to section 5153.111 of the Revised Code, a completed form prescribed pursuant to division (C)(1) of this section, and a set of fingerprint impressions obtained in the manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request previously has been convicted of or pleaded guilty to any of the following:

(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2909.02, 2909.03, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code, felonious sexual penetration in violation of former section 2907.12 of the Revised Code, a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, a violation of section 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had the violation been committed prior to that date, or a violation of section 2925.11 of the Revised Code that is not a minor drug possession offense;

(b) A violation of an existing or former law of this state, any other state, or the United States that is substantially equivalent to any of the offenses listed in division (A)(6)(a) of this section.

(7) On receipt of a request for a criminal records check from an individual pursuant to section 4749.03 or 4749.06 of the Revised Code, accompanied by a completed copy of the form prescribed

in division (C)(1) of this section and a set of fingerprint impressions obtained in a manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check in the manner described in division (B) of this section to determine whether any information exists indicating that the person who is the subject of the request has been convicted of or pleaded guilty to a felony in this state or in any other state. If the individual indicates that a firearm will be carried in the course of business, the superintendent shall require information from the federal bureau of investigation as described in division (B)(2) of this section. Subject to division (F) of this section, the superintendent shall report the findings of the criminal records check and any information the federal bureau of investigation provides to the director of public safety.

(8) On receipt of a request pursuant to section 1321.37, 1321.53, or 4763.05 of the Revised Code, a completed form prescribed pursuant to division (C)(1) of this section, and a set of fingerprint impressions obtained in the manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check with respect to any person who has applied for a license, permit, or certification from the department of commerce or a division in the department. The superintendent shall conduct the criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request previously has been convicted of or pleaded guilty to any of the following: a violation of section 2913.02, 2913.11, 2913.31, 2913.51, or 2925.03 of the Revised Code; any other criminal offense involving theft, receiving stolen property, embezzlement, forgery, fraud, passing bad checks, money laundering, or drug trafficking, or any criminal offense involving money or securities, as set forth in Chapters 2909., 2911., 2913., 2915., 2921., 2923., and 2925. of the Revised Code; or any existing or former law of this state, any other state, or the United States that is substantially equivalent to those offenses.

(9) On receipt of a request for a criminal records check from the treasurer of state under section 113.041 of the Revised Code or from an individual under section 4701.08, 4715.101, 4717.061, 4725.121, 4725.501, 4729.071, 4730.101, 4730.14, 4730.28, 4731.081, 4731.15, 4731.171, 4731.222, 4731.281, 4731.296, 4731.531, 4732.091, 4734.202, 4740.061, 4741.10, 4747.051, 4753.061, 4755.70, 4757.101, 4759.061, 4760.032, 4760.06, 4761.051, 4762.031, 4762.06, 4774.031, 4774.06, 4776.021, 4778.04, 4778.07, 4779.091, or 4783.04 of the Revised Code, accompanied by a completed form prescribed under division (C)(1) of this section and a set of fingerprint impressions obtained in the manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request has been convicted of or pleaded guilty to any criminal offense in this state or any other state. Subject to division (F) of this section, the superintendent shall send the results of a check requested under section 113.041 of the Revised Code to the treasurer of state and shall send the results of a check requested under any of the other listed sections to the licensing board specified by the individual in the request.

(10) On receipt of a request pursuant to section 1121.23, 1315.141, 1733.47, or 1761.26 of the Revised Code, a completed form prescribed pursuant to division (C)(1) of this section, and a set of fingerprint impressions obtained in the manner described in division (C)(2) of this section, the

superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request previously has been convicted of or pleaded guilty to any criminal offense under any existing or former law of this state, any other state, or the United States.

(11) On receipt of a request for a criminal records check from an appointing or licensing authority under section 3772.07 of the Revised Code, a completed form prescribed under division (C) (1) of this section, and a set of fingerprint impressions obtained in the manner prescribed in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request previously has been convicted of or pleaded guilty or no contest to any offense under any existing or former law of this state, any other state, or the United States that is a disqualifying offense as defined in section 3772.07 of the Revised Code or substantially equivalent to such an offense.

(12) On receipt of a request pursuant to section 2151.33 or 2151.412 of the Revised Code, a completed form prescribed pursuant to division (C)(1) of this section, and a set of fingerprint impressions obtained in the manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check with respect to any person for whom a criminal records check is required under that section. The superintendent shall conduct the criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request previously has been convicted of or pleaded guilty to any of the following:

(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 2925.22, 2925.23, or 3716.11 of the Revised Code;

(b) An existing or former law of this state, any other state, or the United States that is substantially equivalent to any of the offenses listed in division (A)(12)(a) of this section.

(13) On receipt of a request pursuant to section 3796.12 of the Revised Code, a completed form prescribed pursuant to division (C)(1) of this section, and a set of fingerprint impressions obtained in a manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request previously has been convicted of or pleaded guilty to the following:

(a) A disqualifying offense as specified in rules adopted under division (B)(2)(b) of section 3796.03 of the Revised Code if the person who is the subject of the request is an administrator or other person responsible for the daily operation of, or an owner or prospective owner, officer or prospective officer, or board member or prospective board member of, an entity seeking a license from the department of commerce under Chapter 3796. of the Revised Code;

(b) A disqualifying offense as specified in rules adopted under division (B)(2)(b) of section 3796.04 of the Revised Code if the person who is the subject of the request is an administrator or other person responsible for the daily operation of, or an owner or prospective owner, officer or prospective officer, or board member or prospective board member of, an entity seeking a license from the state board of pharmacy under Chapter 3796. of the Revised Code.

(14) On receipt of a request required by section 3796.13 of the Revised Code, a completed form prescribed pursuant to division (C)(1) of this section, and a set of fingerprint impressions obtained in a manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request previously has been convicted of or pleaded guilty to the following:

(a) A disqualifying offense as specified in rules adopted under division (B)(8)(a) of section 3796.03 of the Revised Code if the person who is the subject of the request is seeking employment with an entity licensed by the department of commerce under Chapter 3796. of the Revised Code;

(b) A disqualifying offense as specified in rules adopted under division (B)(14)(a) of section 3796.04 of the Revised Code if the person who is the subject of the request is seeking employment with an entity licensed by the state board of pharmacy under Chapter 3796. of the Revised Code.

(15) On receipt of a request pursuant to section 4768.06 of the Revised Code, a completed form prescribed under division (C)(1) of this section, and a set of fingerprint impressions obtained in the manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check in the manner described in division (B) of this section to determine whether any information exists indicating that the person who is the subject of the request has been convicted of or pleaded guilty to a felony in this state or in any other state.

(16) On receipt of a request pursuant to division (B) of section 4764.07 of the Revised Code, a completed form prescribed under division (C)(1) of this section, and a set of fingerprint impressions obtained in the manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check in the manner described in division (B) of this section to determine whether any information exists indicating that the person who is the subject of the request has been convicted of or pleaded guilty to any crime of moral turpitude, a felony, or an equivalent offense in any other state or the United States.

(B) Subject to division (F) of this section, the superintendent shall conduct any criminal records check to be conducted under this section as follows:

(1) The superintendent shall review or cause to be reviewed any relevant information gathered and compiled by the bureau under division (A) of section 109.57 of the Revised Code that relates to the person who is the subject of the criminal records check, including, if the criminal records check was requested under section 113.041, 121.08, 173.27, 173.38, 173.381, 1121.23, 1315.141, 1321.37, 1321.53, 1733.47, 1761.26, 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 3772.07, 3796.12, 3796.13, 4749.03, 4749.06, 4763.05, ~~4764.07~~, 4768.06, 5104.013, 5164.34, 5164.341, 5164.342, 5123.081, 5123.169, or 5153.111 of the Revised Code, any

relevant information contained in records that have been sealed under section 2953.32 of the Revised Code;

(2) If the request received by the superintendent asks for information from the federal bureau of investigation, the superintendent shall request from the federal bureau of investigation any information it has with respect to the person who is the subject of the criminal records check, including fingerprint-based checks of national crime information databases as described in 42 U.S.C. 671 if the request is made pursuant to section 2151.86 or 5104.013 of the Revised Code or if any other Revised Code section requires fingerprint-based checks of that nature, and shall review or cause to be reviewed any information the superintendent receives from that bureau. If a request under section 3319.39 of the Revised Code asks only for information from the federal bureau of investigation, the superintendent shall not conduct the review prescribed by division (B)(1) of this section.

(3) The superintendent or the superintendent's designee may request criminal history records from other states or the federal government pursuant to the national crime prevention and privacy compact set forth in section 109.571 of the Revised Code.

(4) The superintendent shall include in the results of the criminal records check a list or description of the offenses listed or described in division (A)(1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14), ~~or (15)~~, or (16) of this section, whichever division requires the superintendent to conduct the criminal records check. The superintendent shall exclude from the results any information the dissemination of which is prohibited by federal law.

(5) The superintendent shall send the results of the criminal records check to the person to whom it is to be sent not later than the following number of days after the date the superintendent receives the request for the criminal records check, the completed form prescribed under division (C) (1) of this section, and the set of fingerprint impressions obtained in the manner described in division (C)(2) of this section:

(a) If the superintendent is required by division (A) of this section (other than division (A)(3) of this section) to conduct the criminal records check, thirty;

(b) If the superintendent is required by division (A)(3) of this section to conduct the criminal records check, sixty.

(C)(1) The superintendent shall prescribe a form to obtain the information necessary to conduct a criminal records check from any person for whom a criminal records check is to be conducted under this section. The form that the superintendent prescribes pursuant to this division may be in a tangible format, in an electronic format, or in both tangible and electronic formats.

(2) The superintendent shall prescribe standard impression sheets to obtain the fingerprint impressions of any person for whom a criminal records check is to be conducted under this section. Any person for whom a records check is to be conducted under this section shall obtain the fingerprint impressions at a county sheriff's office, municipal police department, or any other entity with the ability to make fingerprint impressions on the standard impression sheets prescribed by the superintendent. The office, department, or entity may charge the person a reasonable fee for making the impressions. The standard impression sheets the superintendent prescribes pursuant to this division may be in a tangible format, in an electronic format, or in both tangible and electronic formats.

(3) Subject to division (D) of this section, the superintendent shall prescribe and charge a reasonable fee for providing a criminal records check under this section. The person requesting the criminal records check shall pay the fee prescribed pursuant to this division. In the case of a request under section 1121.23, 1155.03, 1163.05, 1315.141, 1733.47, 1761.26, 2151.33, 2151.412, or 5164.34 of the Revised Code, the fee shall be paid in the manner specified in that section.

(4) The superintendent of the bureau of criminal identification and investigation may prescribe methods of forwarding fingerprint impressions and information necessary to conduct a criminal records check, which methods shall include, but not be limited to, an electronic method.

(D) The results of a criminal records check conducted under this section, other than a criminal records check specified in division (A)(7) of this section, are valid for the person who is the subject of the criminal records check for a period of one year from the date upon which the superintendent completes the criminal records check. If during that period the superintendent receives another request for a criminal records check to be conducted under this section for that person, the superintendent shall provide the results from the previous criminal records check of the person at a lower fee than the fee prescribed for the initial criminal records check.

(E) When the superintendent receives a request for information from a registered private provider, the superintendent shall proceed as if the request was received from a school district board of education under section 3319.39 of the Revised Code. The superintendent shall apply division (A)(1)(c) of this section to any such request for an applicant who is a teacher.

(F)(1) Subject to division (F)(2) of this section, all information regarding the results of a criminal records check conducted under this section that the superintendent reports or sends under division (A)(7) or (9) of this section to the director of public safety, the treasurer of state, or the person, board, or entity that made the request for the criminal records check shall relate to the conviction of the subject person, or the subject person's plea of guilty to, a criminal offense.

(2) Division (F)(1) of this section does not limit, restrict, or preclude the superintendent's release of information that relates to the arrest of a person who is eighteen years of age or older, to an adjudication of a child as a delinquent child, or to a criminal conviction of a person under eighteen years of age in circumstances in which a release of that nature is authorized under division (E)(2), (3), or (4) of section 109.57 of the Revised Code pursuant to a rule adopted under division (E)(1) of that section.

(G) As used in this section:

(1) "Criminal records check" means any criminal records check conducted by the superintendent of the bureau of criminal identification and investigation in accordance with division (B) of this section.

(2) "Minor drug possession offense" has the same meaning as in section 2925.01 of the Revised Code.

(3) "OVI or OVUAC violation" means a violation of section 4511.19 of the Revised Code or a violation of an existing or former law of this state, any other state, or the United States that is substantially equivalent to section 4511.19 of the Revised Code.

(4) "Registered private provider" means a nonpublic school or entity registered with the superintendent of public instruction under section 3310.41 of the Revised Code to participate in the autism scholarship program or section 3310.58 of the Revised Code to participate in the Jon Peterson



special needs scholarship program.

Sec. 121.08. (A) There is hereby created in the department of commerce the position of deputy director of administration. This officer shall be appointed by the director of commerce, serve under the director's direction, supervision, and control, perform the duties the director prescribes, and hold office during the director's pleasure. The director of commerce may designate an assistant director of commerce to serve as the deputy director of administration. The deputy director of administration shall perform the duties prescribed by the director of commerce in supervising the activities of the division of administration of the department of commerce.

(B) Except as provided in section 121.07 of the Revised Code, the department of commerce shall have all powers and perform all duties vested in the deputy director of administration, the state fire marshal, the superintendent of financial institutions, the superintendent of real estate and professional licensing, the superintendent of liquor control, the superintendent of industrial compliance, the superintendent of unclaimed funds, and the commissioner of securities, and shall have all powers and perform all duties vested by law in all officers, deputies, and employees of those offices. Except as provided in section 121.07 of the Revised Code, wherever powers are conferred or duties imposed upon any of those officers, the powers and duties shall be construed as vested in the department of commerce.

(C)(1) There is hereby created in the department of commerce a division of financial institutions, which shall have all powers and perform all duties vested by law in the superintendent of financial institutions. Wherever powers are conferred or duties imposed upon the superintendent of financial institutions, those powers and duties shall be construed as vested in the division of financial institutions. The division of financial institutions shall be administered by the superintendent of financial institutions.

(2) All provisions of law governing the superintendent of financial institutions shall apply to and govern the superintendent of financial institutions provided for in this section; all authority vested by law in the superintendent of financial institutions with respect to the management of the division of financial institutions shall be construed as vested in the superintendent of financial institutions created by this section with respect to the division of financial institutions provided for in this section; and all rights, privileges, and emoluments conferred by law upon the superintendent of financial institutions shall be construed as conferred upon the superintendent of financial institutions as head of the division of financial institutions. The director of commerce shall not transfer from the division of financial institutions any of the functions specified in division (C)(2) of this section.

(D) There is hereby created in the department of commerce a division of liquor control, which shall have all powers and perform all duties vested by law in the superintendent of liquor control. Wherever powers are conferred or duties are imposed upon the superintendent of liquor control, those powers and duties shall be construed as vested in the division of liquor control. The division of liquor control shall be administered by the superintendent of liquor control.

(E) The director of commerce shall not be interested, directly or indirectly, in any firm or corporation which is a dealer in securities as defined in sections 1707.01 and 1707.14 of the Revised Code, or in any firm or corporation licensed under sections 1321.01 to 1321.19 of the Revised Code.

(F) The director of commerce shall not have any official connection with a savings and loan association, a savings bank, a bank, a bank holding company, a savings and loan association holding

company, a consumer finance company, or a credit union that is under the supervision of the division of financial institutions, or a subsidiary of any of the preceding entities, or be interested in the business thereof.

(G) There is hereby created in the state treasury the division of administration fund. The fund shall receive assessments on the operating funds of the department of commerce in accordance with procedures prescribed by the director of commerce and approved by the director of budget and management. All operating expenses of the division of administration shall be paid from the division of administration fund.

(H) There is hereby created in the department of commerce a division of real estate and professional licensing, which shall be under the control and supervision of the director of commerce. The division of real estate and professional licensing shall be administered by the superintendent of real estate and professional licensing. The superintendent of real estate and professional licensing shall exercise the powers and perform the functions and duties delegated to the superintendent under Chapters 4735., 4763., ~~4764.~~, 4767., and 4768. of the Revised Code.

(I) There is hereby created in the department of commerce a division of industrial compliance, which shall have all powers and perform all duties vested by law in the superintendent of industrial compliance. Wherever powers are conferred or duties imposed upon the superintendent of industrial compliance, those powers and duties shall be construed as vested in the division of industrial compliance. The division of industrial compliance shall be under the control and supervision of the director of commerce and be administered by the superintendent of industrial compliance.

(J) There is hereby created in the department of commerce a division of unclaimed funds, which shall have all powers and perform all duties delegated to or vested by law in the superintendent of unclaimed funds. Wherever powers are conferred or duties imposed upon the superintendent of unclaimed funds, those powers and duties shall be construed as vested in the division of unclaimed funds. The division of unclaimed funds shall be under the control and supervision of the director of commerce and shall be administered by the superintendent of unclaimed funds. The superintendent of unclaimed funds shall exercise the powers and perform the functions and duties delegated to the superintendent by the director of commerce under section 121.07 and Chapter 169. of the Revised Code, and as may otherwise be provided by law.

(K) The department of commerce or a division of the department created by the Revised Code that is acting with authorization on the department's behalf may request from the bureau of criminal identification and investigation pursuant to section 109.572 of the Revised Code, or coordinate with appropriate federal, state, and local government agencies to accomplish, criminal records checks for the persons whose identities are required to be disclosed by an applicant for the issuance or transfer of a permit, license, certificate of registration, or certification issued or transferred by the department or division. At or before the time of making a request for a criminal records check, the department or division may require any person whose identity is required to be disclosed by an applicant for the issuance or transfer of such a license, permit, certificate of registration, or certification to submit to the department or division valid fingerprint impressions in a format and by any media or means acceptable to the bureau of criminal identification and investigation and, when applicable, the federal bureau of investigation. The department or division

may cause the bureau of criminal identification and investigation to conduct a criminal records check through the federal bureau of investigation only if the person for whom the criminal records check would be conducted resides or works outside of this state or has resided or worked outside of this state during the preceding five years, or if a criminal records check conducted by the bureau of criminal identification and investigation within this state indicates that the person may have a criminal record outside of this state.

In the case of a criminal records check under section 109.572 of the Revised Code, the department or division shall forward to the bureau of criminal identification and investigation the requisite form, fingerprint impressions, and fee described in division (C) of that section. When requested by the department or division in accordance with this section, the bureau of criminal identification and investigation shall request from the federal bureau of investigation any information it has with respect to the person who is the subject of the requested criminal records check and shall forward the requisite fingerprint impressions and information to the federal bureau of investigation for that criminal records check. After conducting a criminal records check or receiving the results of a criminal records check from the federal bureau of investigation, the bureau of criminal identification and investigation shall provide the results to the department or division.

The department or division may require any person about whom a criminal records check is requested to pay to the department or division the amount necessary to cover the fee charged to the department or division by the bureau of criminal identification and investigation under division (C) (3) of section 109.572 of the Revised Code, including, when applicable, any fee for a criminal records check conducted by the federal bureau of investigation.

(L) The director of commerce, or the director's designee, may adopt rules to enhance compliance with statutes pertaining to, and rules adopted by, divisions under the direction, supervision, and control of the department or director by offering incentive-based programs that ensure safety and soundness while promoting growth and prosperity in the state.

Sec. 2925.01. As used in this chapter:

(A) "Administer," "controlled substance," "controlled substance analog," "dispense," "distribute," "hypodermic," "manufacturer," "official written order," "person," "pharmacist," "pharmacy," "sale," "schedule I," "schedule II," "schedule III," "schedule IV," "schedule V," and "wholesaler" have the same meanings as in section 3719.01 of the Revised Code.

(B) "Drug dependent person" and "drug of abuse" have the same meanings as in section 3719.011 of the Revised Code.

(C) "Drug," "dangerous drug," "licensed health professional authorized to prescribe drugs," and "prescription" have the same meanings as in section 4729.01 of the Revised Code.

(D) "Bulk amount" of a controlled substance means any of the following:

(1) For any compound, mixture, preparation, or substance included in schedule I, schedule II, or schedule III, with the exception of any controlled substance analog, marijuana, cocaine, L.S.D., heroin, any fentanyl-related compound, and hashish and except as provided in division (D)(2), (5), or (6) of this section, whichever of the following is applicable:

(a) An amount equal to or exceeding ten grams or twenty-five unit doses of a compound, mixture, preparation, or substance that is or contains any amount of a schedule I opiate or opium derivative;

(b) An amount equal to or exceeding ten grams of a compound, mixture, preparation, or substance that is or contains any amount of raw or gum opium;

(c) An amount equal to or exceeding thirty grams or ten unit doses of a compound, mixture, preparation, or substance that is or contains any amount of a schedule I hallucinogen other than tetrahydrocannabinol or lysergic acid amide, or a schedule I stimulant or depressant;

(d) An amount equal to or exceeding twenty grams or five times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation, or substance that is or contains any amount of a schedule II opiate or opium derivative;

(e) An amount equal to or exceeding five grams or ten unit doses of a compound, mixture, preparation, or substance that is or contains any amount of phencyclidine;

(f) An amount equal to or exceeding one hundred twenty grams or thirty times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation, or substance that is or contains any amount of a schedule II stimulant that is in a final dosage form manufactured by a person authorized by the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, and the federal drug abuse control laws, as defined in section 3719.01 of the Revised Code, that is or contains any amount of a schedule II depressant substance or a schedule II hallucinogenic substance;

(g) An amount equal to or exceeding three grams of a compound, mixture, preparation, or substance that is or contains any amount of a schedule II stimulant, or any of its salts or isomers, that is not in a final dosage form manufactured by a person authorized by the Federal Food, Drug, and Cosmetic Act and the federal drug abuse control laws.

(2) An amount equal to or exceeding one hundred twenty grams or thirty times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation, or substance that is or contains any amount of a schedule III or IV substance other than an anabolic steroid or a schedule III opiate or opium derivative;

(3) An amount equal to or exceeding twenty grams or five times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation, or substance that is or contains any amount of a schedule III opiate or opium derivative;

(4) An amount equal to or exceeding two hundred fifty milliliters or two hundred fifty grams of a compound, mixture, preparation, or substance that is or contains any amount of a schedule V substance;

(5) An amount equal to or exceeding two hundred solid dosage units, sixteen grams, or sixteen milliliters of a compound, mixture, preparation, or substance that is or contains any amount of a schedule III anabolic steroid;

(6) For any compound, mixture, preparation, or substance that is a combination of a fentanyl-related compound and any other compound, mixture, preparation, or substance included in schedule III, schedule IV, or schedule V, if the defendant is charged with a violation of section 2925.11 of the Revised Code and the sentencing provisions set forth in divisions (C)(10)(b) and (C)(11) of that section will not apply regarding the defendant and the violation, the bulk amount of the controlled substance for purposes of the violation is the amount specified in division (D)(1), (2), (3), (4), or (5)

of this section for the other schedule III, IV, or V controlled substance that is combined with the fentanyl-related compound.

(E) "Unit dose" means an amount or unit of a compound, mixture, or preparation containing a controlled substance that is separately identifiable and in a form that indicates that it is the amount or unit by which the controlled substance is separately administered to or taken by an individual.

(F) "Cultivate" includes planting, watering, fertilizing, or tilling.

(G) "Drug abuse offense" means any of the following:

(1) A violation of division (A) of section 2913.02 that constitutes theft of drugs, or a violation of section 2925.02, 2925.03, 2925.04, 2925.041, 2925.05, 2925.06, 2925.11, 2925.12, 2925.13, 2925.22, 2925.23, 2925.24, 2925.31, 2925.32, 2925.36, or 2925.37 of the Revised Code;

(2) A violation of an existing or former law of this or any other state or of the United States that is substantially equivalent to any section listed in division (G)(1) of this section;

(3) An offense under an existing or former law of this or any other state, or of the United States, of which planting, cultivating, harvesting, processing, making, manufacturing, producing, shipping, transporting, delivering, acquiring, possessing, storing, distributing, dispensing, selling, inducing another to use, administering to another, using, or otherwise dealing with a controlled substance is an element;

(4) A conspiracy to commit, attempt to commit, or complicity in committing or attempting to commit any offense under division (G)(1), (2), or (3) of this section.

(H) "Felony drug abuse offense" means any drug abuse offense that would constitute a felony under the laws of this state, any other state, or the United States.

(I) "Harmful intoxicant" does not include beer or intoxicating liquor but means any of the following:

(1) Any compound, mixture, preparation, or substance the gas, fumes, or vapor of which when inhaled can induce intoxication, excitement, giddiness, irrational behavior, depression, stupefaction, paralysis, unconsciousness, asphyxiation, or other harmful physiological effects, and includes, but is not limited to, any of the following:

(a) Any volatile organic solvent, plastic cement, model cement, fingernail polish remover, lacquer thinner, cleaning fluid, gasoline, or other preparation containing a volatile organic solvent;

(b) Any aerosol propellant;

(c) Any fluorocarbon refrigerant;

(d) Any anesthetic gas.

(2) Gamma Butyrolactone;

(3) 1,4 Butanediol.

(J) "Manufacture" means to plant, cultivate, harvest, process, make, prepare, or otherwise engage in any part of the production of a drug, by propagation, extraction, chemical synthesis, or compounding, or any combination of the same, and includes packaging, repackaging, labeling, and other activities incident to production.

(K) "Possess" or "possession" means having control over a thing or substance, but may not be inferred solely from mere access to the thing or substance through ownership or occupation of the premises upon which the thing or substance is found.

(L) "Sample drug" means a drug or pharmaceutical preparation that would be hazardous to

health or safety if used without the supervision of a licensed health professional authorized to prescribe drugs, or a drug of abuse, and that, at one time, had been placed in a container plainly marked as a sample by a manufacturer.

(M) "Standard pharmaceutical reference manual" means the current edition, with cumulative changes if any, of references that are approved by the state board of pharmacy.

(N) "Juvenile" means a person under eighteen years of age.

(O) "Counterfeit controlled substance" means any of the following:

(1) Any drug that bears, or whose container or label bears, a trademark, trade name, or other identifying mark used without authorization of the owner of rights to that trademark, trade name, or identifying mark;

(2) Any unmarked or unlabeled substance that is represented to be a controlled substance manufactured, processed, packed, or distributed by a person other than the person that manufactured, processed, packed, or distributed it;

(3) Any substance that is represented to be a controlled substance but is not a controlled substance or is a different controlled substance;

(4) Any substance other than a controlled substance that a reasonable person would believe to be a controlled substance because of its similarity in shape, size, and color, or its markings, labeling, packaging, distribution, or the price for which it is sold or offered for sale.

(P) An offense is "committed in the vicinity of a school" if the offender commits the offense on school premises, in a school building, or within one thousand feet of the boundaries of any school premises, regardless of whether the offender knows the offense is being committed on school premises, in a school building, or within one thousand feet of the boundaries of any school premises.

(Q) "School" means any school operated by a board of education, any community school established under Chapter 3314. of the Revised Code, or any nonpublic school for which the state board of education prescribes minimum standards under section 3301.07 of the Revised Code, whether or not any instruction, extracurricular activities, or training provided by the school is being conducted at the time a criminal offense is committed.

(R) "School premises" means either of the following:

(1) The parcel of real property on which any school is situated, whether or not any instruction, extracurricular activities, or training provided by the school is being conducted on the premises at the time a criminal offense is committed;

(2) Any other parcel of real property that is owned or leased by a board of education of a school, the governing authority of a community school established under Chapter 3314. of the Revised Code, or the governing body of a nonpublic school for which the state board of education prescribes minimum standards under section 3301.07 of the Revised Code and on which some of the instruction, extracurricular activities, or training of the school is conducted, whether or not any instruction, extracurricular activities, or training provided by the school is being conducted on the parcel of real property at the time a criminal offense is committed.

(S) "School building" means any building in which any of the instruction, extracurricular activities, or training provided by a school is conducted, whether or not any instruction, extracurricular activities, or training provided by the school is being conducted in the school building at the time a criminal offense is committed.

(T) "Disciplinary counsel" means the disciplinary counsel appointed by the board of commissioners on grievances and discipline of the supreme court under the Rules for the Government of the Bar of Ohio.

(U) "Certified grievance committee" means a duly constituted and organized committee of the Ohio state bar association or of one or more local bar associations of the state of Ohio that complies with the criteria set forth in Rule V, section 6 of the Rules for the Government of the Bar of Ohio.

(V) "Professional license" means any license, permit, certificate, registration, qualification, admission, temporary license, temporary permit, temporary certificate, or temporary registration that is described in divisions (W)(1) to ~~(36)~~(37) of this section and that qualifies a person as a professionally licensed person.

(W) "Professionally licensed person" means any of the following:

(1) A person who has obtained a license as a manufacturer of controlled substances or a wholesaler of controlled substances under Chapter 3719. of the Revised Code;

(2) A person who has received a certificate or temporary certificate as a certified public accountant or who has registered as a public accountant under Chapter 4701. of the Revised Code and who holds an Ohio permit issued under that chapter;

(3) A person who holds a certificate of qualification to practice architecture issued or renewed and registered under Chapter 4703. of the Revised Code;

(4) A person who is registered as a landscape architect under Chapter 4703. of the Revised Code or who holds a permit as a landscape architect issued under that chapter;

(5) A person licensed under Chapter 4707. of the Revised Code;

(6) A person who has been issued a certificate of registration as a registered barber under Chapter 4709. of the Revised Code;

(7) A person licensed and regulated to engage in the business of a debt pooling company by a legislative authority, under authority of Chapter 4710. of the Revised Code;

(8) A person who has been issued a cosmetologist's license, hair designer's license, manicurist's license, esthetician's license, natural hair stylist's license, advanced cosmetologist's license, advanced hair designer's license, advanced manicurist's license, advanced esthetician's license, advanced natural hair stylist's license, cosmetology instructor's license, hair design instructor's license, manicurist instructor's license, esthetics instructor's license, natural hair style instructor's license, independent contractor's license, or tanning facility permit under Chapter 4713. of the Revised Code;

(9) A person who has been issued a license to practice dentistry, a general anesthesia permit, a conscious intravenous sedation permit, a limited resident's license, a limited teaching license, a dental hygienist's license, or a dental hygienist's teacher's certificate under Chapter 4715. of the Revised Code;

(10) A person who has been issued an embalmer's license, a funeral director's license, a funeral home license, or a crematory license, or who has been registered for an embalmer's or funeral director's apprenticeship under Chapter 4717. of the Revised Code;

(11) A person who has been licensed as a registered nurse or practical nurse, or who has been issued a certificate for the practice of nurse-midwifery under Chapter 4723. of the Revised Code;

- (12) A person who has been licensed to practice optometry or to engage in optical dispensing under Chapter 4725. of the Revised Code;
- (13) A person licensed to act as a pawnbroker under Chapter 4727. of the Revised Code;
- (14) A person licensed to act as a precious metals dealer under Chapter 4728. of the Revised Code;
- (15) A person licensed as a pharmacist, a pharmacy intern, a wholesale distributor of dangerous drugs, or a terminal distributor of dangerous drugs under Chapter 4729. of the Revised Code;
- (16) A person who is authorized to practice as a physician assistant under Chapter 4730. of the Revised Code;
- (17) A person who has been issued a license to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery under Chapter 4731. of the Revised Code or has been issued a certificate to practice a limited branch of medicine under that chapter;
- (18) A person licensed as a psychologist or school psychologist under Chapter 4732. of the Revised Code;
- (19) A person registered to practice the profession of engineering or surveying under Chapter 4733. of the Revised Code;
- (20) A person who has been issued a license to practice chiropractic under Chapter 4734. of the Revised Code;
- (21) A person licensed to act as a real estate broker or real estate salesperson under Chapter 4735. of the Revised Code;
- (22) A person registered as a registered sanitarian under Chapter 4736. of the Revised Code;
- (23) A person licensed to operate or maintain a junkyard under Chapter 4737. of the Revised Code;
- (24) A person who has been issued a motor vehicle salvage dealer's license under Chapter 4738. of the Revised Code;
- (25) A person who has been licensed to act as a steam engineer under Chapter 4739. of the Revised Code;
- (26) A person who has been issued a license or temporary permit to practice veterinary medicine or any of its branches, or who is registered as a graduate animal technician under Chapter 4741. of the Revised Code;
- (27) A person who has been issued a hearing aid dealer's or fitter's license or trainee permit under Chapter 4747. of the Revised Code;
- (28) A person who has been issued a class A, class B, or class C license or who has been registered as an investigator or security guard employee under Chapter 4749. of the Revised Code;
- (29) A person licensed and registered to practice as a nursing home administrator under Chapter 4751. of the Revised Code;
- (30) A person licensed to practice as a speech-language pathologist or audiologist under Chapter 4753. of the Revised Code;
- (31) A person issued a license as an occupational therapist or physical therapist under Chapter 4755. of the Revised Code;
- (32) A person who is licensed as a licensed professional clinical counselor, licensed



professional counselor, social worker, independent social worker, independent marriage and family therapist, or marriage and family therapist, or registered as a social work assistant under Chapter 4757. of the Revised Code;

(33) A person issued a license to practice dietetics under Chapter 4759. of the Revised Code;

(34) A person who has been issued a license or limited permit to practice respiratory therapy under Chapter 4761. of the Revised Code;

(35) A person who has been issued a real estate appraiser certificate under Chapter 4763. of the Revised Code;

(36) A person who has been issued a home inspector license under Chapter 4764. of the Revised Code;

~~(37)~~ A person who has been admitted to the bar by order of the supreme court in compliance with its prescribed and published rules.

(X) "Cocaine" means any of the following:

(1) A cocaine salt, isomer, or derivative, a salt of a cocaine isomer or derivative, or the base form of cocaine;

(2) Coca leaves or a salt, compound, derivative, or preparation of coca leaves, including ecgonine, a salt, isomer, or derivative of ecgonine, or a salt of an isomer or derivative of ecgonine;

(3) A salt, compound, derivative, or preparation of a substance identified in division (X)(1) or (2) of this section that is chemically equivalent to or identical with any of those substances, except that the substances shall not include decocainized coca leaves or extraction of coca leaves if the extractions do not contain cocaine or ecgonine.

(Y) "L.S.D." means lysergic acid diethylamide.

(Z) "Hashish" means the resin or a preparation of the resin contained in marihuana, whether in solid form or in a liquid concentrate, liquid extract, or liquid distillate form.

(AA) "Marihuana" has the same meaning as in section 3719.01 of the Revised Code, except that it does not include hashish.

(BB) An offense is "committed in the vicinity of a juvenile" if the offender commits the offense within one hundred feet of a juvenile or within the view of a juvenile, regardless of whether the offender knows the age of the juvenile, whether the offender knows the offense is being committed within one hundred feet of or within view of the juvenile, or whether the juvenile actually views the commission of the offense.

(CC) "Presumption for a prison term" or "presumption that a prison term shall be imposed" means a presumption, as described in division (D) of section 2929.13 of the Revised Code, that a prison term is a necessary sanction for a felony in order to comply with the purposes and principles of sentencing under section 2929.11 of the Revised Code.

(DD) "Major drug offender" has the same meaning as in section 2929.01 of the Revised Code.

(EE) "Minor drug possession offense" means either of the following:

(1) A violation of section 2925.11 of the Revised Code as it existed prior to July 1, 1996;

(2) A violation of section 2925.11 of the Revised Code as it exists on and after July 1, 1996, that is a misdemeanor or a felony of the fifth degree.

(FF) "Mandatory prison term" has the same meaning as in section 2929.01 of the Revised

Code.

(GG) "Adulterate" means to cause a drug to be adulterated as described in section 3715.63 of the Revised Code.

(HH) "Public premises" means any hotel, restaurant, tavern, store, arena, hall, or other place of public accommodation, business, amusement, or resort.

(II) "Methamphetamine" means methamphetamine, any salt, isomer, or salt of an isomer of methamphetamine, or any compound, mixture, preparation, or substance containing methamphetamine or any salt, isomer, or salt of an isomer of methamphetamine.

(JJ) "Lawful prescription" means a prescription that is issued for a legitimate medical purpose by a licensed health professional authorized to prescribe drugs, that is not altered or forged, and that was not obtained by means of deception or by the commission of any theft offense.

(KK) "Deception" and "theft offense" have the same meanings as in section 2913.01 of the Revised Code.

(LL) "Fentanyl-related compound" means any of the following:

- (1) Fentanyl;
- (2) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl] propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine);
- (3) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide);
- (4) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl-4-piperidinyl]-N-phenylpropanamide);
- (5) Beta-hydroxy-3-methylfentanyl (other name: N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidinyl]-N- phenylpropanamide);
- (6) 3-methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N- phenylpropanamide);
- (7) 3-methylthiofentanyl (N-[3-methyl-1-[2-(thienyl)ethyl]-4-piperidinyl]-N-phenylpropanamide);
- (8) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidinyl]propanamide;
- (9) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]-propanamide;
- (10) Alfentanil;
- (11) Carfentanil;
- (12) Remifentanil;
- (13) Sufentanil;
- (14) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-N-phenylacetamide); and
- (15) A schedule I narcotic-opiate that meets the fentanyl pharmacophore requirements specified in division (A)(56) of section 3719.41 of the Revised Code, including acetylfentanyl, furanylfentanyl, valerylfentanyl, butyrylfentanyl, isobutyrylfentanyl, 4-methoxybutyrylfentanyl, para-fluorobutyrylfentanyl, acrylfentanyl, and ortho-fluorofentanyl.

Sec. 4713.01. As used in this chapter:

"Apprentice instructor" means an individual holding a practicing license issued by the state cosmetology and barber board who is engaged in learning or acquiring knowledge of the occupation of an instructor of a branch of cosmetology at a school of cosmetology.

"Beauty salon" means a salon in which an individual is authorized to engage in all branches of cosmetology.

"Biennial licensing period" means the two-year period beginning on the first day of February of an odd-numbered year and ending on the last day of January of the next odd-numbered year.

"Boutique salon" means a salon in which an individual engages in boutique services and no other branch of cosmetology.

"Boutique services" means braiding, threading, ~~and~~ shampooing, and makeup artistry.

"Braiding" means intertwining the hair in a systematic motion to create patterns in a three-dimensional form, inverting the hair against the scalp along part of a straight or curved row of intertwined hair, or twisting the hair in a systematic motion, and includes extending the hair with natural or synthetic hair fibers.

"Branch of cosmetology" means the practice of cosmetology, practice of esthetics, practice of hair design, practice of manicuring, practice of natural hair styling, or practice of boutique services.

"Cosmetic therapy" has the same meaning as in section 4731.15 of the Revised Code.

"Cosmetologist" means an individual authorized to engage in all branches of cosmetology in a licensed facility.

"Cosmetology" means the art or practice of embellishment, cleansing, beautification, and styling of hair, wigs, postiches, face, body, or nails.

"Cosmetology instructor" means an individual authorized to teach the theory and practice of all branches of cosmetology at a school of cosmetology.

"Esthetician" means an individual who engages in the practice of esthetics but no other branch of cosmetology in a licensed facility.

"Esthetics instructor" means an individual who teaches the theory and practice of esthetics, but no other branch of cosmetology, at a school of cosmetology.

"Esthetics salon" means a salon in which an individual engages in the practice of esthetics but no other branch of cosmetology.

"Eye lash extensions" include temporary and semi-permanent enhancements designed to add length, thickness, and fullness to natural eyelashes.

"Hair designer" means an individual who engages in the practice of hair design but no other branch of cosmetology in a licensed facility.

"Hair design instructor" means an individual who teaches the theory and practice of hair design, but no other branch of cosmetology, at a school of cosmetology.

"Hair design salon" means a salon in which an individual engages in the practice of hair design but no other branch of cosmetology.

"Hair removal" includes tweezing, waxing, sugaring, and threading. "Hair removal" does not include electrolysis.

"Independent contractor" means an individual who is not an employee of a salon but practices a branch of cosmetology within a salon in a licensed facility.

"Instructor license" means a license to teach the theory and practice of a branch of cosmetology at a school of cosmetology.

"Licensed facility" means any premises, building, or part of a building licensed under section 4713.41 of the Revised Code in which cosmetology services are authorized by the state cosmetology

and barber board to be performed.

"Advanced cosmetologist" means an individual authorized to work in a beauty salon and engage in all branches of cosmetology.

"Advanced esthetician" means an individual authorized to work in an esthetics salon, but no other type of salon, and engage in the practice of esthetics, but no other branch of cosmetology.

"Advanced hair designer" means an individual authorized to work in a hair design salon, but no other type of salon, and engage in the practice of hair design, but no other branch of cosmetology.

"Advanced license" means a license to work in a salon and practice the branch of cosmetology practiced at the salon.

"Advanced manicurist" means an individual authorized to work in a nail salon, but no other type of salon, and engage in the practice of manicuring, but no other branch of cosmetology.

"Advanced natural hair stylist" means an individual authorized to work in a natural hair style salon, but no other type of salon, and engage in the practice of natural hair styling, but no other branch of cosmetology.

"Makeup artistry" means the application of cosmetics for the purpose of skin beautification. "Makeup artistry" does not include any other services described in the practice of any other branch of cosmetology.

"Manicurist" means an individual who engages in the practice of manicuring but no other branch of cosmetology in a licensed facility.

"Manicurist instructor" means an individual who teaches the theory and practice of manicuring, but no other branch of cosmetology, at a school of cosmetology.

"Nail salon" means a salon in which an individual engages in the practice of manicuring but no other branch of cosmetology.

"Natural hair stylist" means an individual who engages in the practice of natural hair styling but no other branch of cosmetology in a licensed facility.

"Natural hair style instructor" means an individual who teaches the theory and practice of natural hair styling, but no other branch of cosmetology, at a school of cosmetology.

"Natural hair style salon" means a salon in which an individual engages in the practice of natural hair styling but no other branch of cosmetology.

"Practice of braiding" means utilizing the technique of intertwining hair in a systematic motion to create patterns in a three-dimensional form, including patterns that are inverted, upright, or singled against the scalp that follow along straight or curved partings. It may include twisting or locking the hair while adding bulk or length with human hair, synthetic hair, or both and using simple devices such as clips, combs, and hairpins. "Practice of braiding" does not include application of weaving, bonding, and fusion of individual strands or wefts; application of dyes, reactive chemicals, or other preparations to alter the color or straighten, curl, or alter the structure of hair; embellishing or beautifying hair by cutting or singeing, except as needed to finish the ends of synthetic fibers used to add bulk to or lengthen hair.

"Practice of cosmetology" means the practice of all branches of cosmetology.

"Practice of esthetics" means the application of cosmetics, tonics, antiseptics, creams, lotions, or other preparations for the purpose of skin beautification and includes preparation of the skin by manual massage techniques or by use of electrical, mechanical, or other apparatus; enhancement of

the skin by skin care, facials, body treatments, hair removal, and other treatments; and eye lash extension services.

"Practice of hair design" means embellishing or beautifying hair, wigs, or hairpieces by arranging, dressing, pressing, curling, waving, permanent waving, cleansing, cutting, singeing, bleaching, coloring, braiding, weaving, or similar work. "Practice of hair design" includes utilizing techniques performed by hand that result in tension on hair roots such as twisting, wrapping, weaving, extending, locking, or braiding of the hair.

"Practice of manicuring" means cleaning, trimming, shaping the free edge of, or applying polish to the nails of any individual; applying nail enhancements and embellishments to any individual; massaging the hands and lower arms up to the elbow of any individual; massaging the feet and lower legs up to the knee of any individual; using lotions or softeners on the hands and feet of any individual; or any combination of these types of services.

"Practice of natural hair styling" means utilizing techniques performed by hand that result in tension on hair roots such as twisting, wrapping, weaving, extending, locking, or braiding of the hair. "Practice of natural hair styling" does not include the application of dyes, reactive chemicals, or other preparations to alter the color or to straighten, curl, or alter the structure of the hair. "Practice of natural hair styling" also does not include embellishing or beautifying hair by cutting or singeing, except as needed to finish off the end of a braid, or by dressing, pressing, curling, waving, permanent waving, or similar work.

"Practicing license" means a license to practice a branch of cosmetology in a licensed facility.

"Salon" means a licensed facility on any premises, building, or part of a building in which an individual engages in the practice of one or more branches of cosmetology. "Salon" does not include a barber shop licensed under Chapter 4709. of the Revised Code. "Salon" does not mean a tanning facility, although a tanning facility may be located in a salon.

"School of cosmetology" means any premises, building, or part of a building in which students are instructed in the theories and practices of one or more branches of cosmetology.

"Shampooing" means the act of cleansing and conditioning an individual's hair under the supervision of an individual licensed under this chapter and in preparation to immediately receive a service from a licensee.

"Student" means an individual, other than an apprentice instructor, who is engaged in learning or acquiring knowledge of the practice of a branch of cosmetology at a school of cosmetology.

"Tanning facility" means any premises, building, or part of a building that contains one or more rooms or booths with any of the following:

(A) Equipment or beds used for tanning human skin by the use of fluorescent sun lamps using ultraviolet or other artificial radiation;

(B) Equipment or booths that use chemicals applied to human skin, including chemical applications commonly referred to as spray-on, mist-on, or sunless tans;

(C) Equipment or beds that use visible light for cosmetic purposes.

"Threading" includes a service that results in the removal of hair from its follicle from around the eyebrows and from other parts of the face with the use of a single strand of thread and an astringent, if the service does not use chemicals of any kind, wax, or any implements, instruments, or

tools to remove hair.

Sec. 4713.69. (A) The state cosmetology and barber board shall issue a boutique services registration to an applicant who satisfies all of the following applicable conditions:

- (1) Is at least sixteen years of age;
- (2) Is of good moral character;
- (3) Has the equivalent of an Ohio public school tenth grade education;
- (4) Has submitted a written application on a form prescribed by the board containing all of the following:

- (a) The applicant's name and home address;
- (b) The applicant's home telephone number and cellular telephone number, if any;
- (c) The applicant's electronic mail address, if any;
- (d) The applicant's date of birth;
- (e) The address and telephone number where boutique services will be performed. The address shall not contain a post office box number.

(f) Whether the applicant has an occupational license, certification, or registration to provide beauty services in another state, and if so, what type of license and in what state;

(g) Whether the applicant has ever had an occupational license, certification, or registration suspended, revoked, or denied in any state;

(h) An affidavit or certificate providing proof of formal training or apprenticeship under an individual providing such services.

(B) The place of business where boutique services are performed must comply with the safety and sanitation requirements for licensed salon facilities as described in section 4713.41 of the Revised Code.

(C) The board shall specify the manner by which boutique services registrants shall fulfill the continuing education requirements set forth in section 4713.09 of the Revised Code.

Sec. 4735.181. (A) No real estate broker or salesperson licensed pursuant to this chapter shall fail to comply with divisions (B) ~~or~~ and (D) of section 4735.13, division (D) of section 4735.14, or sections 4735.22, 4735.55, 4735.56, and 4735.58 of the Revised Code or any rules adopted under those divisions or sections.

(B) When the superintendent determines that a licensee has violated division (A) of this section, the superintendent may do either of the following:

(1) Initiate disciplinary action under section 4735.051 of the Revised Code, in accordance with Chapter 119. of the Revised Code;

(2) Personally, or by certified mail, serve a citation and impose sanctions in accordance with this section upon the licensee.

(C) Every citation served under this section shall give notice to the licensee of the alleged violation or violations charged and inform the licensee of the opportunity to request a hearing in accordance with Chapter 119. of the Revised Code. The citation also shall contain a statement of a fine of up to two hundred dollars per violation. All fines collected pursuant to this section shall be credited to the real estate recovery fund, created in the state treasury under section 4735.12 of the Revised Code.

(D) If any licensee is cited three times under this section within twelve consecutive months,

the superintendent shall initiate disciplinary action pursuant to section 4735.051 of the Revised Code for any subsequent violation that occurs within the same twelve-month period.

If a licensee fails to request a hearing within thirty days after the date of service of the citation, or the licensee and the superintendent fail to reach an alternative agreement, the citation shall become final.

(E) Unless otherwise indicated, the licensee named in a final citation under this section must meet all requirements contained in the final citation within thirty days after the effective date of that citation.

(F) The superintendent shall suspend automatically a licensee's license if the licensee fails to comply with division (E) of this section.

Sec. 4735.22. If a real estate broker or real estate salesperson provides the name of a home inspector to a purchaser or seller of real estate, the broker or salesperson shall provide the buyer or seller with the names of at least three home inspectors. Any home inspector named shall be licensed under Chapter 4764. of the Revised Code. Providing a purchaser or seller of real estate with the names of licensed home inspectors does not constitute an endorsement or recommendation of those inspectors and does not obligate the broker or salesperson to satisfy any due diligence requirements with respect to the licensed home inspectors. This section does not require a broker or salesperson to provide purchasers or sellers of real estate with information on home inspection services or home inspectors. No cause of action shall arise against a broker or salesperson for providing or failing to provide the names of licensed home inspectors or information on home inspection services or for failing to recommend a licensed home inspector to a purchaser or seller.

Sec. 4735.99. (A) Whoever violates section 4735.02; ~~or 4735.021; or 4735.22~~ of the Revised Code is guilty of a misdemeanor of the first degree.

(B) Whoever violates section 4735.25 or 4735.30 of the Revised Code is guilty of a felony of the fifth degree, and the court may impose upon the offender an additional fine of not more than two thousand five hundred dollars.

Sec. 4764.01. As used in this chapter:

(A) "Client" means a person who enters into a written contract with a home inspector to retain for compensation or other valuable consideration the services of that home inspector to conduct a home inspection and to provide a written report on the condition of a residential building.

(B) "Crime of moral turpitude" has the same meaning as in section 4776.10 of the Revised Code.

(C) "Home inspection" means the process by which a home inspector conducts a visual examination of the readily accessible components of a residential building for a client. "Home inspection" does not include pest inspections; environmental testing; inspection of any property or structure conducted by an employee or representative of an insurer licensed to transact business in this state under Title XXXIX of the Revised Code for purposes related to the business of insurance; or determination of compliance with applicable statutes, rules, resolutions, or ordinances, including, without limitation, building, zoning, or historic codes.

(D) "Home inspection report" means a written report prepared by a licensed home inspector for compensation and issued after an on-site inspection of a residential property. A report shall include all of the following:

(1) Information on any system or component inspected that, in the professional opinion of the inspector, is deficient to the degree that it is deficient;

(2) The inspector's recommendation to repair or monitor deficiencies reported under division (D)(1) of this section;

(3) A list of any systems or components that were designated for inspection in the standards of practice adopted by the board under division (A)(10) of section 4764.05 of the Revised Code but that were not inspected;

(4) The reason a system or component listed under division (D)(3) of this section was not inspected.

(E) "Licensed home inspector" means a person who holds a valid license issued pursuant to section 4764.07 or 4764.10 of the Revised Code to conduct a home inspection for compensation or other valuable consideration.

(F) "Parallel inspection" means a home inspection performed by an applicant for a home inspector license at which both of the following take place concurrently:

(1) A licensed home inspector observes and evaluates the applicant during the inspection to verify the applicant's compliance with the standards of practice specified in rules adopted by the Ohio home inspector board pursuant to division (A)(10) of section 4764.05 of the Revised Code.

(2) The inspection is an on-site inspection of a residential building for the licensed home inspector's client.

(G) "Readily accessible" means available for visual inspection without requiring a person to move or dismantle personal property, take destructive measures, or take any other action that will involve risk to a person or to the property.

(H) "Residential building" has the same meaning as in section 3781.06 of the Revised Code but also includes the individual dwelling units within an apartment or condominium complex containing four or more dwelling units.

(I) "Peer review session" means a practical exercise in which a prospective applicant for a home inspector license identifies and reports defects in a residential building that contains previously identified defects for the purpose of evaluating the prospective applicant's ability to conduct a home inspection and prepare a home inspection report.

Sec. 4764.02. (A) No person shall knowingly conduct a home inspection or represent a qualification to conduct a home inspection for compensation or other valuable consideration unless that person is licensed pursuant to this chapter as a home inspector or performing a parallel inspection.

(B) No person shall perform a home inspection unless it is performed pursuant to a written contract entered into between a licensed home inspector and a client.

(C) No person shall perform a home inspection unless the home inspection conforms to requirements specified in rules adopted by the Ohio home inspector board pursuant to division (A) (10) of section 4764.05 of the Revised Code.

(D) No person shall knowingly make or cause to be made any false representation concerning a material and relevant fact relating to the person's licensure as a home inspector.

Sec. 4764.03. Section 4764.02 of the Revised Code does not apply to any person described as follows if the person is acting within the scope of practice of the person's respective profession:



(A) A person who is employed by or whose services otherwise are retained by this state or a political subdivision of this state for the purpose of enforcing building codes;

(B) A person holding a valid certificate to practice architecture issued under Chapter 4703. of the Revised Code;

(C) A person registered as a professional engineer under Chapter 4733. of the Revised Code;

(D) A heating, ventilating, and air conditioning contractor, refrigeration contractor, electrical contractor, plumbing contractor, or hydronics contractor who is licensed under Chapter 4740. or section 3781.102 of the Revised Code or who is licensed or registered under section 715.27 of the Revised Code;

(E) A real estate broker, real estate salesperson, foreign real estate dealer, or foreign real estate salesperson who is licensed under Chapter 4735. of the Revised Code;

(F) A real estate appraiser who is licensed under Chapter 4763. of the Revised Code;

(G) A public insurance adjuster who holds a valid certificate of authority issued under Chapter 3951. of the Revised Code or an employee or representative of an insurer licensed to transact business in this state under Title XXXIX of the Revised Code who conducts an inspection of any property or structure for purposes related to the business of insurance;

(H) A commercial applicator of pesticide who is licensed under Chapter 921. of the Revised Code.

Sec. 4764.04. There is hereby created the Ohio home inspector board consisting of seven members. The governor shall appoint five members who are licensed home inspectors. The president of the senate and the speaker of the house of representatives each shall appoint one member who represents the public and has no financial interest in the home inspection industry. Not more than four members of the board shall be members of the same political party.

The governor, president of the senate, and speaker of the house of representatives shall make the initial appointments to the board not later than ninety days after the effective date of this section. Of the initial appointments to the board, the governor shall appoint one member to a term ending one year after the effective date of this section, two members to a term ending three years after that date, and two members to a term ending five years after that date. The president of the senate shall appoint one member to a term ending two years after that date, and the speaker of the house of representatives shall appoint one member to a term ending four years after that date. Thereafter, each term shall be for five years, ending on the same day of the same month as the term that it succeeds. Each member shall hold office from the date of appointment until the end of the term for which the member was appointed. Vacancies shall be filled in the manner provided for original appointments. A member appointed to fill a vacancy prior to the expiration of a term shall hold office for the remainder of that term. A member shall continue in office subsequent to the expiration of the term until the member's successor takes office.

The members of the board shall not be compensated but shall be reimbursed for actual expenses reasonably incurred in the performance of their duties as members.

The person who, or office that, appointed a member may remove that member for misconduct, neglect of duty, incapacity, or malfeasance.

The Ohio home inspector board is a part of the department of commerce for administrative purposes. The director of commerce is ex officio the executive officer of the board, or the director

may designate the superintendent of real estate and professional licensing to act as executive officer of the board.

Sec. 4764.05. (A) The Ohio home inspector board shall adopt rules in accordance with Chapter 119. of the Revised Code to do all of the following:

(1) Establish standards to govern the issuance, renewal, suspension, and revocation of licenses, other sanctions that may be imposed for violations of this chapter, the conduct of hearings related to these actions, and the process of reactivating a license;

(2) Establish the amount of the following fees:

(a) Establish the following fees in an amount that is sufficient to defray necessary expenses incurred in the administration of this chapter:

(i) The fee for applying for and receiving a license issued under section 4764.07 of the Revised Code and the special assessment for the home inspection recovery fund created in section 4764.21 of the Revised Code, which together shall not exceed two hundred fifty dollars;

(ii) The fee for renewal of a license under section 4764.09 of the Revised Code and the special assessment for the home inspection recovery fund created in section 4764.21 of the Revised Code, which together shall not exceed two hundred fifty dollars.

(b) The renewal late fee described in division (B)(2) of section 4764.09 of the Revised Code;

(c) The fee an institution or organization described in division (A)(7) of this section shall pay to receive approval to offer continuing education courses and programs;

(d) The fee an institution or organization that is approved to offer continuing education courses and programs shall pay for each course or program that the institution or organization wishes to have the superintendent approve pursuant to the rules adopted by the board under division (A)(8) of this section;

(e) Any other fees as required by this chapter.

(3) In accordance with division (C) of this section, specify methods and procedures the board shall use to approve a curriculum of education a person must successfully complete to obtain a license under this chapter;

(4) In accordance with division (D) of this section, specify methods and procedures the board shall use to approve a curriculum of experience that a person may elect to complete the proof of experience requirement specified in division (D)(6) of section 4764.07 of the Revised Code;

(5) Establish the administrative reporting and review requirements for parallel inspections or equivalency for field experience to assure that an applicant for a license satisfies the requirements of division (D)(6) of section 4764.07 of the Revised Code, as applicable;

(6) Establish a curriculum for continuing education that a licensed home inspector shall complete to satisfy the requirements for continuing education specified in section 4764.08 of the Revised Code and procedures to assure continuing education requirements are updated periodically to make those requirements consistent with home inspection industry practices;

(7) Establish requirements an institution or organization shall satisfy to obtain approval to provide courses or programs that enable a licensed home inspector to satisfy the requirements for continuing education specified in section 4764.08 of the Revised Code and establish procedures that the superintendent of real estate and professional licensing shall use to approve an institution or organization that satisfies the requirements the board establishes;

(8) Establish procedures and standards that the superintendent shall use to approve courses and programs, including online courses and programs, offered by an institution or organization that is approved by the superintendent to offer continuing education courses or programs pursuant to the rules adopted by the board under division (A)(7) of this section;

(9) Establish reporting requirements for a licensed home inspector to follow to demonstrate that the licensed home inspector successfully completed the continuing education requirements specified in section 4764.08 of the Revised Code;

(10) Establish requirements for conducting home inspections, standards of practice for home inspectors, and conflict of interest prohibitions to the extent that those provisions do not conflict with divisions (B) to (E) of section 4764.14 of the Revised Code;

(11) Specify requirements for settlement agreements entered into between the superintendent and a licensed home inspector under division (C) of section 4764.13 of the Revised Code;

(12) Establish procedures for providing licensees with notice and applications for renewal under section 4764.09 of the Revised Code;

(13) Establish a set of standards of practice and canons of ethics for the home inspection industry;

(14) Establish directions for the superintendent of real estate and professional licensing to follow regarding the scheduling, instruction, and offerings of home inspection courses a person must successfully complete to obtain a license issued under this chapter;

(15) Establish requirements a licensed home inspector shall satisfy to obtain approval to prepare and conduct peer review sessions.

(B) The board shall do all of the following:

(1) On appeal by any party affected, or on its own motion, review any order of or application determination made by the superintendent, and as the board determines necessary, reverse, vacate, modify, or sustain such an order or determination;

(2) Hear appeals from orders of the superintendent regarding claims against the home inspection recovery fund created under section 4764.21 of this section;

(3) Disseminate to licensees and the public information relative to board activities and decisions;

(4) Notify licensees of changes in state and federal laws pertaining to home inspections and relevant case law and inform licensees that they are subject to disciplinary action if they do not comply with the changes.

(C) The board shall approve a curriculum of education a person must successfully complete to obtain a license issued under this chapter. The board shall approve a curriculum of education that satisfies all of the following requirements:

(1) The curriculum is offered by an accredited public or private institution of higher education or a professional organization that has been approved by the board to offer a curriculum.

(2) The curriculum includes a requirement that a person, to successfully complete the curriculum, complete at least eighty hours of classroom or online prelicensing instruction, including instruction about compliance with the requirements specified in this chapter, inspection safety, report writing, and any other administrative matters required by the board.

(3) The curriculum satisfies any other requirements the board established in rules it adopts.

(D) The board shall determine the equivalency of field experience that a person may elect to complete to satisfy the proof of experience requirement specified in division (D)(6) of section 4764.07 of the Revised Code. The board shall approve only a curriculum of experience that includes a requirement that a person, to successfully complete the curriculum, must perform at least forty hours of work in the home inspection field that allows the person to obtain practical experience or training regarding home inspections. The board shall approve only a curriculum of experience that includes a requirement that a person, to successfully complete the curriculum, must complete a peer review session with a licensed home inspector approved by the board before applying for a license. The peer review session may be used as part of the required eighty hours of prelicensing education.

Sec. 4764.06. (A) The superintendent of real estate and professional licensing shall do all of the following:

(1) Administer this chapter;

(2) Provide the Ohio home inspector board with meeting space, staff services, and other technical assistance required by the board to carry out the duties of the board under this chapter;

(3) Provide each applicant for a home inspector license with a copy of the requirements for home inspections specified in rules adopted by the board pursuant to division (A)(10) of section 4764.05 of the Revised Code, and make those requirements available to the public by posting them on the web site maintained by the department of commerce;

(4) In accordance with division (B) of this section, issue a home inspector license to, or renew a home inspector license for, any person who satisfies the requirements specified in this chapter for such licensure or renewal, and make a list of those licensed home inspectors available to the public by posting the list on the web site maintained by the department of commerce;

(5) Administer the home inspector recovery fund created under section 4764.21 of the Revised Code;

(6) Establish procedures, in accordance with division (K) of section 121.08 of the Revised Code, to have fingerprint-based criminal records checks conducted by the bureau of criminal identification and investigation for all applicants for licensure;

(7) In accordance with the procedures specified in rules adopted by the board in accordance with division (A)(7) of section 4764.05 of the Revised Code, approve an institution or organization wishing to provide continuing education courses or programs if that institution or organization satisfies the requirements specified in rules adopted by the board in accordance with that division and pays the fee established in rules adopted by the board pursuant to division (A)(2)(c) of that section;

(8) In accordance with the procedures specified in rules adopted by the board in accordance with division (A)(8) of section 4764.05 of the Revised Code, approve a course or program that a licensed home inspector may complete to satisfy the continuing education requirements specified in section 4764.08 of the Revised Code if all of the following are satisfied:

(a) The course or program is offered by an institution or organization approved by the superintendent pursuant to division (A)(7) of this section.

(b) The course or program satisfies the standards established in rules adopted by the board pursuant to division (A)(8) of section 4764.05 of the Revised Code.

(c) The institution or organization pays the fee established in rules adopted by the board pursuant to division (A)(2)(d) of section 4764.05 of the Revised Code.

(9) Issue all orders necessary to implement this chapter;

(10) In accordance with section 4764.12 of the Revised Code, investigate complaints concerning an alleged violation of this chapter or the conduct of any licensee and subpoena witnesses in connection with those investigations, as provided in that section. The subpoena may contain a direction that the witness produce and bring any documents, work files, inspection reports, records, or papers mentioned in the subpoena.

(11) Establish and maintain an investigation and audit section to investigate complaints and conduct inspections, audits, and other inquiries as in the judgment of the superintendent are appropriate to enforce this chapter. The superintendent shall utilize the investigators and auditors employed pursuant to division (B)(4) of section 4735.05 of the Revised Code to assist in performing the duties specified in division (A)(10) of this section.

(12) Specify the information that must be provided on an application for licensure under this chapter;

(13) Establish procedures for processing, approving, and denying applications for licensure under this chapter;

(14) Specify the format and content of all affidavits and other documents required for the administration of this chapter;

(15) Appoint a hearing officer for any proceeding involving a determination under section 3123.47 of the Revised Code, disciplinary action arising under section 4764.02 or division (F) of section 4764.14 of the Revised Code, or a proceeding under section 4764.16 of the Revised Code.

(B) The superintendent shall not issue a license to a corporation, limited liability company, partnership, or association, although a licensed home inspector may sign a home inspection report in a representative capacity on behalf of any of those types of entities.

Sec. 4764.07. (A) To obtain a license to perform home inspections, a person shall submit both of the following to the superintendent of real estate and professional licensing:

(1) An application meeting the requirements of division (D) of this section on a form the superintendent provides;

(2) The fee established in rules adopted by the Ohio home inspector board pursuant to division (A)(2)(a) of section 4764.05 of the Revised Code.

(B) Each person applying for a license shall submit one complete set of fingerprints directly to the superintendent of the bureau of criminal identification and investigation for the purpose of conducting a criminal records check. The person shall provide the fingerprints using a method the superintendent of the bureau of criminal identification and investigation prescribes pursuant to division (C)(2) of section 109.572 of the Revised Code and fill out the form the superintendent of the bureau of criminal identification and investigation prescribes pursuant to division (C)(1) of section 109.572 of the Revised Code. Upon receiving an application under this section, the superintendent of real estate and professional licensing shall request the superintendent of the bureau of criminal identification and investigation, or a vendor approved by the bureau, to conduct a criminal records check based on the applicant's fingerprint impressions in accordance with division (A)(15) of section 109.572 of the Revised Code. Notwithstanding division (K) of section 121.08 of the Revised Code, the superintendent of real estate and professional licensing shall request that criminal record information based on the applicant's fingerprints be obtained from the federal bureau of investigation

as part of the criminal records check. Any fee required under division (C)(3) of section 109.572 of the Revised Code shall be paid by the applicant.

(C) The superintendent shall issue a license to perform home inspections to applicants who satisfy the requirements set forth in this section, subject to section 4768.14 of the Revised Code.

(D) Except as otherwise specified in division (E) of this section, the application shall include all of the following:

(1) A pledge the applicant signs, agreeing to comply with the rules adopted by the board pursuant to division (A)(10) of section 4764.05 of the Revised Code;

(2) A statement that the applicant understands the grounds for any disciplinary action that may be initiated under this chapter;

(3) Proof of holding a comprehensive general liability insurance policy or a commercial general liability insurance policy in accordance with division (A) of section 4764.11 of the Revised Code;

(4) Proof of successfully passing, within two years before the date of the application, the national home inspector examination;

(5) Proof of successfully completing a curriculum of education approved by the board in accordance with rules the board adopts pursuant to division (A)(3) of section 4764.05 of the Revised Code;

(6) Proof that the applicant has experience in the field of home inspections through either of the following:

(a) Successful completion of a curriculum of experience approved by the board in accordance with rules the board adopts pursuant to divisions (A)(4) and (D) of section 4764.05 of the Revised Code;

(b) Successful completion of ten parallel inspections or equivalent experience as determined by the board pursuant to division (A)(5) of section 4764.05 of the Revised Code;

(7) Proof that the applicant is at least eighteen years of age;

(8) Proof that the applicant has graduated from the twelfth grade, received a general educational development diploma, or satisfactorily completed a program that is the equivalent to graduating from the twelfth grade or receiving a general educational development diploma;

(9) Any other information the board requires that the board determines is relevant to receiving a license to practice as a licensed home inspector.

(E) The superintendent shall not require a person described in division (B) or (C) of section 4764.03 of the Revised Code who wishes to obtain a license to perform home inspections under this chapter to submit proof of education and experience as required under divisions (D)(5) and (6) of this section in the person's application in order for that person to receive a license. Such a person, however, shall satisfy all other requirements specified in divisions (A) and (D) of this section and provide proof of licensure in good standing described in division (B) or (C) of section 4764.03 of the Revised Code to receive a license.

(F) The act of submitting an application to the superintendent does not create, shall not be construed as creating, and is not intended to indicate licensure as a home inspector.

Sec. 4764.08. During each three-year period that a license is valid, a licensed home inspector shall successfully complete not less than fourteen hours of continuing education instruction annually

in courses or programs directly applicable to the standards of practice and requirements specified in rules adopted by the Ohio home inspector board pursuant to division (A)(10) of section 4764.05 of the Revised Code.

The superintendent of real estate and professional licensing shall accept only those courses and programs the superintendent approves in accordance with division (A)(8) of section 4764.06 of the Revised Code prior to the date the licensed home inspector completes the course or program. The superintendent shall not include parallel inspections completed by a person for credit toward satisfying the continuing education requirements specified in this section.

Sec. 4764.09. (A) A home inspector license issued or renewed pursuant to this chapter expires three years after the date of issuance or renewal.

(B)(1) To renew a home inspector license, a licensed home inspector shall file all of the following with the superintendent of real estate and professional licensing within the ninety-day period immediately preceding the date the license expires:

(a) A renewal application pursuant to the procedures established by the Ohio home inspector board under section 4764.05 of the Revised Code;

(b) Proof of holding or being covered by a comprehensive general liability insurance policy or a commercial general liability insurance policy in accordance with division (A) of section 4764.11 of the Revised Code;

(c) Proof of satisfying the continuing education requirements specified in section 4764.08 of the Revised Code.

(2) A licensed home inspector who fails to renew a license before its expiration may, during the three months following the expiration, renew the license by following the procedures in division (B)(1) of this section and paying a late renewal fee in an amount the Ohio home inspector board establishes. A licensed home inspector who applies for a late renewal pursuant to this division shall not engage in any activities permitted under the license being renewed until the superintendent notifies the licensed home inspector that the licensed home inspector's license has been renewed.

(C) A licensed home inspector who fails to renew a license prior to its expiration or during the three months following its expiration, or who fails to submit the proof required under division (B) (1)(b) or (c) of this section, may subsequently obtain a license by applying for a license pursuant to section 4764.07 of the Revised Code.

Sec. 4764.10. The superintendent of real estate and professional licensing may issue a home inspector license to an applicant who holds a license, registration, or certification as a home inspector in another jurisdiction if that applicant submits an application on a form the superintendent provides, pays the fee the Ohio home inspector board prescribes, and satisfies all of the following requirements:

(A) The applicant is licensed, registered, or certified as a home inspector in a jurisdiction that the board determines grants the same privileges to persons licensed under this chapter as this state grants to persons in that jurisdiction.

(B) That other jurisdiction has licensing, registration, or certification requirements that are substantially similar to, or exceed, those of this state.

(C) The applicant attests that the applicant is familiar with and will abide by this chapter.

(D) The applicant attests to all of the following in a written statement that the applicant

submits to the superintendent:

(1) To provide the superintendent the name and address of an agent to receive service of process in this state or that the applicant authorizes the superintendent to act as agent for that applicant;

(2) That service of process in accordance with the Revised Code is proper and the applicant is subject to the jurisdiction of the courts of this state;

(3) That any cause of action arising out of the conduct of the applicant's business in this state shall be filed in the county in which the events that gave rise to that cause of action occurred.

Sec. 4764.11. (A) Every licensed home inspector shall maintain, or be covered by, a comprehensive general liability insurance policy or a commercial general liability insurance policy with coverage limits of not less than one hundred thousand dollars per occurrence and not less than a three-hundred-thousand-dollar aggregate limit. The insurance policy shall provide coverage against liability of the licensed home inspector for loss, damage, or expense as a result of an act that occurred while the licensed home inspector was on the premises performing a home inspection. If the employer of a licensed home inspector is not a licensed home inspector and maintains an insurance policy covering the licensed home inspector, the licensed home inspector is not required to maintain the licensed home inspector's own insurance policy.

(B) Every licensed home inspector shall retain for a period of five years the original or a true copy of each written contract for the licensee's services relating to home inspection work, all home inspection reports, and all work file documentation and data assembled in preparing those reports. The retention period begins on the date the report is submitted to the client unless, prior to expiration of the retention period, the licensee is notified that the services or report is the subject of or is otherwise involved in pending investigation or litigation, in which case the retention period begins on the date of final disposition of the litigation.

A licensee shall make available all records required to be maintained under this section for inspection and copying by the superintendent of real estate and professional licensing upon reasonable notice to the licensee.

Sec. 4764.12. (A) On receipt of a written complaint or on the superintendent's or the board's own motion, the superintendent of real estate and professional licensing may investigate licensed home inspectors concerning any alleged violation of this chapter. Investigators and auditors employed by the superintendent may review and audit, during normal business hours, the licensed home inspector's business records that are directly related to complaints. The licensed home inspector shall permit such a review and audit.

(B) Within five business days after a person files a complaint against a licensed home inspector with the superintendent, the superintendent shall provide to that person an acknowledgment of the receipt of the complaint and send a notice regarding that complaint to the licensee who is the subject of the complaint. The superintendent shall include in that notice a description of the activities in which the licensed home inspector allegedly engaged that violate this chapter. Within twenty days after the superintendent sends the notice to the complainant and the licensed home inspector who is the subject of the complainant's complaint, the complainant and the licensed home inspector may file with the superintendent a request to have an informal mediation hearing.

If both the complainant and the licensed home inspector file such a request, the



superintendent shall notify the complainant and the licensed home inspector of the date and time of the informal mediation hearing. A mediator employed by the superintendent shall conduct the informal mediation hearing. If the complainant and the licensed home inspector reach an accommodation during that informal mediation hearing, the mediator shall send a written report describing the accommodation to the superintendent, complainant, and licensee. Notwithstanding division (C) of this section, the written report describing the accommodation is confidential and is not a public record for purposes of section 149.43 of the Revised Code. The superintendent shall close the complaint upon satisfactory completion of the accommodation.

If the licensee or the complainant fails to file a request for an informal mediation hearing, or if the parties fail to agree on an accommodation during that informal mediation hearing, the superintendent shall proceed with an investigation of the complaint.

(C) This section does not prohibit the superintendent of real estate and professional licensing from releasing information relating to licensees to the superintendent of financial institutions for purposes relating to the administration of sections 1322.01 to 1322.12 of the Revised Code, to the superintendent of insurance for purposes relating to the administration of Chapter 3953. of the Revised Code, to the commissioner of the division of securities for purposes relating to the administration of Chapter 1707. of the Revised Code, to the attorney general, or to local law enforcement and appropriate prosecutorial authorities. Information released by the superintendent pursuant to this section remains confidential.

(D) The Ohio home inspector board or the superintendent may compel, by order or subpoena, the attendance of witnesses to testify in relation to any matter over which the board or superintendent has jurisdiction and that is the subject of inquiry and investigation by the board or superintendent, and may require the production of any book, paper, or document pertaining to such a matter. For that purpose, the board or superintendent shall have the same power as judges of county courts to administer oaths, compel the attendance of witnesses, and punish them for refusal to testify. Service of the subpoena may be made by sheriffs or constables, or by certified mail, return receipt requested, and the subpoena shall be considered served on the date delivery is made or the date the person refused to accept delivery. A witness shall receive, after the witness's appearance before the board or superintendent, the fees and mileage allowed in civil actions in courts of common pleas. If two or more witnesses travel together in the same vehicle, the mileage fee shall be paid to only one of those witnesses, but the witnesses may agree to divide the fee among themselves in any manner.

(E) If any person fails to file any statement or report, obey any subpoena, give testimony, answer questions, or produce any books, records, or papers as required by the board or superintendent under this chapter, the board or superintendent may apply to the court of common pleas of any county in the state setting forth the failure.

The court may make an order awarding process of subpoena or subpoena duces tecum for the person to appear and testify before the board or superintendent. The court also may order any person to give testimony and answer questions, and to produce books, records, or papers, as required by the board or superintendent.

Upon the filing of such order in the office of the clerk of the court of common pleas, the clerk, under the seal of the court, shall issue process of subpoena for the person to appear before the board or superintendent at a time and place named in the subpoena, and each day thereafter until the

examination of such person is completed. The subpoena may contain a direction that the witness bring with the witness to the examination any books, records, or papers mentioned in the subpoena. The clerk shall also issue, under the seal of the court, such other orders, in reference to the examination, appearance, and production of books, records, or papers, as the court directs.

If any person so summoned by subpoena fails to obey the subpoena, to give testimony, to answer questions as required, or to obey an order of the court, the court, on motion supported by proof, may order an attachment for contempt to be issued against the person charged with disobedience of any order or injunction issued by the court under this chapter. If the person is brought before the court by virtue of the attachment, and if upon a hearing the disobedience appears, the court may order the offender to be committed and kept in close custody.

Sec. 4764.13. (A) If, upon examining the results of an investigation, the superintendent of real estate and professional licensing determines that reasonable evidence exists that a licensed home inspector has violated this chapter or engaged in an activity described in divisions (A) to (G) of section 4764.14 of the Revised Code, the superintendent shall proceed in accordance with the notice and hearing requirements prescribed in Chapter 119. of the Revised Code. After a hearing officer conducts a hearing and issues a report pursuant to division (D) of this section, the Ohio home inspector board shall review the report and shall order the disciplinary action the board considers appropriate, which may include any one or more of the following:

- (1) A reprimand;
- (2) A fine not exceeding one thousand dollars per violation;
- (3) Completion of hours of education in subjects related to the underlying cause of the violation in an amount determined by the board;
- (4) Suspension of the license until the licensed home inspector complies with conditions the board establishes;
- (5) Suspension of the license for a specific period of time;
- (6) Revocation of the license;
- (7) Surrender of the license in lieu of discipline.

(B) The superintendent shall not credit any hours of education a licensed home inspector completes in accordance with division (A)(3) of this section toward satisfying the requirements for continuing education specified in section 4764.08 of the Revised Code.

(C) At any time after the superintendent notifies a licensee in accordance with division (A) of this section that a hearing will be held, the licensee may apply to the superintendent to enter into a settlement agreement regarding the alleged violation. The superintendent and the licensed home inspector shall comply with the requirements for settlement agreements established in rules adopted by the board pursuant to division (A)(11) of section 4764.05 of the Revised Code. If the parties enter into the settlement agreement and comply with all of the requirements set forth in that agreement, the investigation regarding that alleged violation is considered closed. Notwithstanding division (C) of section 4764.12 of the Revised Code, the settlement agreement is a public record for purposes of section 149.43 of the Revised Code.

(D) The superintendent shall appoint a hearing officer to conduct adjudication hearings in accordance with Chapter 119. of the Revised Code.

In accordance with section 119.09 of the Revised Code, after conducting a hearing, a hearing

officer shall submit to the board a report of the hearing and a recommendation for the action to be taken against the licensed home inspector. All parties may file objections to the report and recommendations as permitted under that section, and the board shall issue an order in accordance with the procedures prescribed in that section.

(E) If the board assesses a licensee a fine for a violation of section 4764.02 of the Revised Code and the person fails to pay that fine within the time period prescribed by the board, the superintendent shall forward to the attorney general the name of the person and the amount of the fine for the purpose of collecting that fine. In addition to the fine assessed pursuant to this section, the person also shall pay any fee assessed by the attorney general for collection of the fine.

(F) The decision and order of the board is final, subject to review in the manner provided in Chapter 119. of the Revised Code and appeal to the court of common pleas of Franklin county.

Sec. 4764.14. The superintendent of real estate and professional licensing may refuse to issue or renew a license if the applicant for the license or renewal has done any of the following:

(A) Failed to establish to the satisfaction of the superintendent that the applicant is honest, truthful, and of good reputation;

(B) Accepted compensation or other valuable consideration from more than one interested party for the same service without the written consent of all interested parties;

(C) Accepted commissions, allowances, or other valuable consideration, directly or indirectly, from other parties who deal with a client in connection with the home inspection for which the home inspector is responsible, or from other parties who are involved in any part of the real estate transaction involving a residential building for which that home inspector conducted a home inspection;

(D) Repaired, replaced, or upgraded, or solicited to repair, replace, or upgrade, for compensation or other valuable consideration, systems or components in a residential building after completing a home inspection of that residential building, but prior to the close of the real estate transaction associated with that home inspection and the resolution of all contingent issues involving that building and transaction;

(E) Failed to disclose to a client in writing and before entering into a written contract with the client information about any business interest of the home inspector that may affect the client in connection with the home inspection;

(F) Pleaded guilty to or been convicted of any crime of moral turpitude, a felony, or an equivalent offense under the laws of any other state or the United States, or was required to register under Chapter 2950. of the Revised Code;

(G) Failed to maintain or provide copies of records to the superintendent as required by section 4764.11 of the Revised Code or failed to cooperate with an investigation conducted by the superintendent under section 4764.12 of the Revised Code. Failure of a licensee to comply with a subpoena issued under division (D) of section 4764.12 of the Revised Code is prima facie evidence of a violation of division (B) of section 4764.11 of the Revised Code.

(H) Failed to maintain, be covered by, or submit proof of a comprehensive general liability insurance policy or a commercial general liability insurance policy as required under division (A) of section 4764.11 of the Revised Code at any point during the term of a prior license;

(I) Violated rules adopted under section 4764.05 of the Revised Code or is otherwise not in

compliance with this chapter:

(J) Failed to submit proof of satisfying the continuing education requirements specified in section 4764.08 of the Revised Code.

Sec. 4764.15. The superintendent of real estate and professional licensing may apply to any court of common pleas to enjoin a violation of this chapter. Upon a showing by the superintendent that a person has violated or is violating this chapter, the court shall grant an injunction, restraining order, or other appropriate relief.

Sec. 4764.16. (A) Upon receipt of a written complaint or upon the motion of the superintendent of real estate and professional licensing, the superintendent may investigate any person who is not a licensed home inspector who has allegedly violated section 4764.02 of the Revised Code.

(B) The superintendent has the same powers to investigate an alleged violation of section 4764.02 of the Revised Code by a person who is not licensed as a home inspector as those powers are specified in section 4764.12 of the Revised Code. If, after an investigation pursuant to section 4764.12 of the Revised Code, the superintendent determines that reasonable evidence exists that an unlicensed person has violated section 4764.02 of the Revised Code, within seven days after that determination, the superintendent shall send a written notice to that person by regular mail and shall include in the notice the information specified in section 119.07 of the Revised Code for notices given to licensees, except that the notice shall specify that a hearing will be held and specify the date, time, and place of the hearing.

(C) The Ohio home inspector board shall hold a hearing regarding the alleged violation in the same manner prescribed for an adjudication hearing under section 119.09 of the Revised Code. If the board, after the hearing, determines a violation has occurred, the board may impose a civil penalty on the person, not exceeding five hundred dollars per violation which is distinct from any criminal fine imposed pursuant to section 4764.99 of the Revised Code. Each day a violation occurs or continues is a separate violation. The superintendent may approve a payment plan if the unlicensed person requests such. The board shall maintain a transcript of the proceedings of the hearing and issue a written order to all parties, citing its findings and grounds for any action taken. The board's determination regarding a violation of section 4764.02 of the Revised Code is an order that the person may appeal in accordance with section 119.12 of the Revised Code.

(D) If the unlicensed person who allegedly committed a violation of section 4764.02 of the Revised Code fails to appear for a hearing, the board may request the court of common pleas of the county where the alleged violation occurred to compel the person to appear before the board for a hearing.

(E) If the board assesses an unlicensed person a civil penalty for a violation of section 4764.02 of the Revised Code and the person fails to pay that civil penalty within the time period prescribed by the board, the superintendent shall forward to the attorney general the name of the person and the amount of the civil penalty for the purpose of collecting that civil penalty. In addition to the civil penalty assessed pursuant to this section, the person also shall pay any fee assessed by the attorney general for collection of the civil penalty.

If the board finds, or an unlicensed person admits to the board, a violation of section 4764.02 of the Revised Code, the superintendent shall not issue to the person a home inspector license

without prior board approval.

Sec. 4764.17. (A) Except as provided in divisions (B) and (C) of this section, nothing in this chapter shall be construed to create or imply a private cause of action against a licensed home inspector for a violation of this chapter if that action is not otherwise maintainable under common law.

(B) An action for damages that is based on professional services that were rendered or that should have been rendered by a licensed home inspector shall not be brought, commenced, or maintained unless the action is filed within one year after the date that the home inspection is performed.

(C) Before bringing, commencing, or maintaining an action under division (B) of this section, a client shall notify the licensed home inspector of the alleged deficiencies and shall allow the licensed home inspector the opportunity to review and remedy the alleged deficiencies. The statute of limitations specified in division (B) of this section shall be tolled for the period that begins on the date the client notifies the licensed home inspector of the alleged deficiencies and that ends on the date that the licensed home inspector reviews, declines to review, remedies, or declines to remedy the alleged deficiencies, whichever comes later.

(D) The remedies provided under sections 4764.12 to 4764.15 of the Revised Code are the exclusive remedies for alleged violations of any conflict of interest prohibitions specified in the rules adopted by the Ohio home inspector board pursuant to division (A)(10) of section 4764.05 of the Revised Code.

(E) Nothing in this section shall be construed to prohibit the superintendent of real estate and professional licensing from investigating, or to prohibit the board from taking action against a licensed home inspector for violations of this chapter if the investigation commences more than one year after the date that the licensed home inspector conducts the home inspection that is the subject of the investigation and action.

Sec. 4764.18. Except as provided in section 4764.21 of the Revised Code, the superintendent of real estate and professional licensing shall deposit all money collected under this chapter in the state treasury to the credit of the home inspectors fund, which is hereby created. Money credited to the fund shall be used solely by the superintendent to pay costs associated with the administration and enforcement of this chapter.

Sec. 4764.19. On receipt of a notice pursuant to section 3123.43 of the Revised Code, the superintendent of real estate and professional licensing shall comply with sections 3123.41 to 3123.50 of the Revised Code and any applicable rules adopted under section 3123.63 of the Revised Code with respect to a license issued pursuant to this chapter.

Sec. 4764.20. The superintendent of real estate and professional licensing shall comply with section 4776.20 of the Revised Code.

Sec. 4764.21. (A) The home inspection recovery fund is hereby created in the state treasury, to be administered by the superintendent of real estate and professional licensing. Amounts collected by the superintendent as prescribed in this section and interest earned on the assets of the fund shall be ascertained by the superintendent as of the first day of July each year.

The Ohio home inspector board, in accordance with rules adopted under division (A)(2) of section 4764.05 of the Revised Code, shall impose a special assessment not to exceed five dollars per

year for each year of a licensing period on each person applying for a license under section 4764.07 of the Revised Code and on each licensee filing a notice of renewal under section 4764.09 of the Revised Code if the amount available in the fund is less than two hundred and fifty thousand dollars on the first day of July preceding that filing. The board may impose a special assessment not to exceed three dollars per year for each year of a licensing period if the amount available is greater than five hundred thousand dollars, but less than one million dollars on the first day of July preceding that filing. The board shall not impose a special assessment if the amount available in the fund exceeds one million dollars on the first day of July preceding that filing.

(B)(1) Any person who obtains a final judgment in any court of competent jurisdiction against any home inspector licensed under this chapter, on the grounds of conduct that is in violation of this chapter or the rules adopted under it, and that is associated with an act or transaction that only a licensed home inspector is authorized to perform as specified in section 4764.02 of the Revised Code, may file an application, as described in division (B)(3) of this section, in the court of common pleas of Franklin county for an order directing payment out of the home inspection recovery fund of the portion of the judgment that remains unpaid and that represents an actual and direct loss sustained by the applicant.

(2) Punitive damages, attorney's fees, and interest on a judgment are not recoverable from the fund. The superintendent may allow court costs to be recovered from the fund, and, if the superintendent authorizes the recovery of court costs, the order of the court of common pleas then may direct their payment from the fund.

(3) The applicant shall describe in the application the nature of the act or transaction on which the underlying judgment was based, the activities of the applicant in pursuit of remedies available under law for the collection of judgments, and the actual and direct losses, attorney's fees, and the court costs sustained or incurred by the applicant. The applicant shall attach to the application a copy of each pleading and order in the underlying court action.

(4) The court shall order the superintendent to make payments out of the fund when the person seeking the order has shown all of the following:

(a) The person has obtained a judgment, as provided in this division;

(b) All appeals from the judgment have been exhausted and the person has given notice to the superintendent, as required by division (C) of this section;

(c) The person is not a spouse of the judgment debtor, or the personal representative of the spouse;

(d) The person has diligently pursued the person's remedies against all the judgment debtors and all other persons liable to the person in the transaction for which the person seeks recovery from the fund;

(e) The person is applying not more than one year after termination of all proceedings, including appeals, in connection with the judgment.

(5) Divisions (B)(1) to (4) of this section do not apply to any of the following:

(a) Actions arising from home inspections conducted by an unlicensed individual;

(b) A bonding company when it is not a principal in the real estate transaction;

(c) A person in an action for the payment of a fee or other compensation for the performance of an act or transaction specified or comprehended in division (A) or (C) of section 4764.02 of the

Revised Code:

(d) Losses incurred by investors in real estate if the applicant and the licensee are principals in the investment.

(C) A person who applies to a court of common pleas for an order directing payment out of the fund shall file notice of the application with the superintendent. The superintendent may defend any action on behalf of the fund and shall have recourse to all appropriate means of defense and review, including examination of witnesses, verification of actual and direct losses, and challenges to the underlying judgment required in division (B)(4)(a) of this section to determine whether the underlying judgment is based on activity only a licensed home inspector is permitted to perform. The superintendent may move the court at any time to dismiss the application when it appears there are no triable issues and the application is without merit. The motion may be supported by affidavit of any person having knowledge of the facts and may be made on the basis that the application, including the judgment referred to in it, does not form the basis for a meritorious recovery claim; provided, that the superintendent shall give written notice to the applicant at least ten days before making the motion. The superintendent may, subject to court approval, compromise a claim based upon the application of an aggrieved party. The superintendent shall not be bound by any prior compromise or stipulation of the judgment debtor.

(D) Notwithstanding any other provision of this section to the contrary, the liability of the fund shall not exceed forty thousand dollars for any one licensee. If a licensee's license is reactivated as provided in division (E) of this section, the liability of the fund for the licensee under this section shall again be forty thousand dollars, but only for transactions that occur subsequent to the time of reactivation.

If the forty-thousand-dollar liability of the fund is insufficient to pay in full the valid claims of all aggrieved persons by whom claims have been filed against any one licensee, the forty thousand dollars shall be distributed among them in the ratio that their respective claims bear to the aggregate of valid claims or in any other manner as the court finds equitable. Distribution of moneys shall be among the persons entitled to share in it, without regard to the order of priority in which their respective judgments may have been obtained or their claims have been filed. Upon petition of the superintendent, the court may require all claimants and prospective claimants against one licensee to be joined in one action, to the end that the respective rights of all the claimants to the fund may be equitably adjudicated and settled.

(E) If the superintendent pays from the fund any amount in settlement of a claim or toward satisfaction of a judgment against a licensed home inspector, the superintendent may suspend the home inspector's license. The superintendent shall not reactivate the suspended license of that home inspector until the home inspector has repaid in full, plus interest per annum at the rate specified in division (A) of section 1343.03 of the Revised Code, the amount paid from the fund on the home inspector's account. A discharge in bankruptcy does not relieve a person from the suspension and requirements for reactivation provided in this section unless the underlying judgment has been included in the discharge and has not been reaffirmed by the debtor.

(F) If, at any time, the money deposited in the fund is insufficient to satisfy any duly authorized claim or portion of a claim, the superintendent shall, when sufficient money has been deposited in the fund, satisfy the unpaid claims or portions, in the order that the claims or portions

were originally filed, plus accumulated interest per annum at the rate specified in division (A) of section 1343.03 of the Revised Code.

(G) When, upon the order of the court, the superintendent has paid from the fund any sum to the judgment creditor, the superintendent shall be subrogated to all of the rights of the judgment creditor to the extent of the amount so paid, and the judgment creditor shall assign all the judgment creditor's right, title, and interest in the judgment to the superintendent to the extent of the amount so paid. Any amount and interest so recovered by the superintendent on the judgment shall be deposited in the fund.

(H) Nothing contained in this section shall limit the authority of the superintendent to take disciplinary action against any licensee under other provisions of this chapter; nor shall the repayment in full of all obligations to the fund by any licensee nullify or modify the effect of any other disciplinary proceeding brought pursuant to this chapter.

(I) The superintendent shall collect from the fund a service fee in an amount equivalent to the interest rate specified in division (A) of section 1343.03 of the Revised Code multiplied by the annual interest earned on the assets of the fund, to defray the expenses incurred in the administration of the fund.

Sec. 4764.99. (A) Whoever violates division (A) of section 4764.02 of the Revised Code is guilty of a misdemeanor of the first degree.

(B) Whoever violates division (D) of section 4764.02 of the Revised Code is guilty of a felony of the fifth degree.

Sec. 4776.10. As used in Chapters 4713., 4738., 4740., 4747., ~~and 4749.~~ and 4764. and sections 4725.40 to 4725.59 of the Revised Code:

(A) "Crime of moral turpitude" or "moral turpitude" means all of the following:

- (1) A violation of section 2903.01 or 2903.02 of the Revised Code;
- (2) A sexually oriented offense as defined in section 2950.01 of the Revised Code;
- (3) An offense that is an offense of violence as defined in section 2901.01 of the Revised Code, if the offense is a felony of the first or second degree;
- (4) Complicity in committing an offense described in division (A)(1) of this section;
- (5) An attempt or conspiracy to commit or complicity in committing any offense described in division (A)(1), (2), (3), or (4) of this section if the attempt, conspiracy, or complicity is a felony of the first or second degree;
- (6) A violation of any former law of this state, any existing or former law applicable in a military court or in an Indian tribal court, or any existing or former law of any nation other than the United States that is or was substantially equivalent to any offense listed in division (A)(1), (2), (3), (4), or (5) of this section.

(B) "Direct nexus" means that the nature of the offense for which the individual was convicted or to which the individual pleaded guilty has a direct bearing on the fitness or ability of the individual to perform one or more of the duties or responsibilities necessarily related to a particular occupation, profession, or trade.

(C) "Disqualifying offense" means an offense that is a felony and that has a direct nexus to an individual's proposed or current field of licensure, certification, or employment.

Sec. 4776.20. (A) As used in this section:



(1) "Licensing agency" means, in addition to each board identified in division (C) of section 4776.01 of the Revised Code, the board or other government entity authorized to issue a license under Chapters 4703., 4707., 4709., 4712., 4713., 4719., 4723., 4727., 4728., 4733., 4735., 4736., 4737., 4738., 4740., 4742., 4747., 4749., 4751., 4752., 4753., 4758., 4759., 4763., ~~4764.~~ 4765., 4766., 4771., 4773., and 4781. of the Revised Code. "Licensing agency" includes an administrative officer that has authority to issue a license.

(2) "Licensee" means, in addition to a licensee as described in division (B) of section 4776.01 of the Revised Code, the person to whom a license is issued by the board or other government entity authorized to issue a license under Chapters 4703., 4707., 4709., 4712., 4713., 4719., 4723., 4727., 4728., 4733., 4735., 4736., 4737., 4738., 4740., 4742., 4747., 4749., 4751., 4752., 4753., 4758., 4759., 4763., ~~4764.~~ 4765., 4766., 4771., 4773., and 4781. of the Revised Code.

(3) "Prosecutor" has the same meaning as in section 2935.01 of the Revised Code.

(B) On a licensee's conviction of, plea of guilty to, judicial finding of guilt of, or judicial finding of guilt resulting from a plea of no contest to the offense of trafficking in persons in violation of section 2905.32 of the Revised Code, the prosecutor in the case shall promptly notify the licensing agency of the conviction, plea, or finding and provide the licensee's name and residential address. On receipt of this notification, the licensing agency shall immediately suspend the licensee's license.

(C) If there is a conviction of, plea of guilty to, judicial finding of guilt of, or judicial finding of guilt resulting from a plea of no contest to the offense of trafficking in persons in violation of section 2905.32 of the Revised Code and all or part of the violation occurred on the premises of a facility that is licensed by a licensing agency, the prosecutor in the case shall promptly notify the licensing agency of the conviction, plea, or finding and provide the facility's name and address and the offender's name and residential address. On receipt of this notification, the licensing agency shall immediately suspend the facility's license.

(D) Notwithstanding any provision of the Revised Code to the contrary, the suspension of a license under division (B) or (C) of this section shall be implemented by a licensing agency without a prior hearing. After the suspension, the licensing agency shall give written notice to the subject of the suspension of the right to request a hearing under Chapter 119. of the Revised Code. After a hearing is held, the licensing agency shall either revoke or permanently revoke the license of the subject of the suspension, unless it determines that the license holder has not been convicted of, pleaded guilty to, been found guilty of, or been found guilty based on a plea of no contest to the offense of trafficking in persons in violation of section 2905.32 of the Revised Code.

Sec. 4798.01. (A) As used in this chapter:

"Certification" means a voluntary program in which a private organization or the state grants nontransferable recognition to an individual who meets personal qualifications established by the private organization or state law.

"Individual" means a natural person.

"Lawful occupation" means a course of conduct, pursuit, or profession that includes the sale of goods or services that are not themselves illegal to sell irrespective of whether the individual selling the goods or services is subject to an occupational regulation.

"Least restrictive regulation" means the public policy of relying on one of the following, listed from the least to the most restrictive, as a means of consumer protection: market competition;

third-party or consumer-created ratings and reviews; private certification; specific private civil cause of action to remedy consumer harm; actions under Chapter 1345. of the Revised Code; regulation of the process of providing the specific goods or services to consumers; inspection; bonding or insurance; registration; government certification; specialty occupational license for medical reimbursement; and occupational license.

"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.

"Occupational licensing board" means any board, commission, committee, or council, or any other similar state public body, and any administrative department enumerated under section 121.02 of the Revised Code, and any agency, division, or office of state government, that issues an occupational license.

"Occupational regulation" means a statute, policy, rule, adjudication order, practice, or other state law requiring an individual to possess certain personal 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.

"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.

"Registration" means a requirement to give notice to the government that may include the individual's name and address, the individual's agent for service of process, the location of the activity to be performed, and a description of the service the individual provides. "Registration" does not include personal qualifications but may require a bond or insurance.

"Specialty occupational license for medical reimbursement" is a nontransferable authorization in law for an individual to qualify for payment or reimbursement from a government agency, for providing identified medical services, based on meeting personal qualifications established in law, which may be recognized by a private company.

(B) For purposes of this chapter:

(1) The terms "certification" and "registration" are not synonymous with "occupational license."

(2) The use of the words "certification" and "certified" in other statutes to mean requiring an individual to meet certain personal qualifications to work legally shall be interpreted for the purposes of this chapter as requiring an individual to meet the requirements of an "occupational license."

(3) The use of the words "registration" and "registered" in other statutes to mean requiring an individual to meet certain personal qualifications to work legally shall be interpreted for the purposes of this chapter as requiring an individual to meet the requirements of an "occupational license."

Sec. 4798.02. With respect to occupational regulation of individuals, all of the following are

the policy of the state:

(A) Occupational regulations shall be construed and applied to increase economic opportunities, promote competition, and encourage innovation.

(B) Where the state finds it is necessary to displace competition, the state will use the least restrictive regulation to protect consumers from present, significant, and substantiated harms that threaten public health, safety, or welfare. The policy of employing the least restrictive regulation shall presume that market competition and private remedies are sufficient to protect consumers. Where needed, regulations shall be tailored to meet the predominate identified need to protect consumers, as follows:

(1) If regulations are intended to protect consumers against fraud, the appropriate state action shall be to strengthen powers under deceptive trade practices acts.

(2) If regulations are intended to protect consumers against unsanitary facilities and general health, safety, or welfare concerns, the appropriate state action shall be to require periodic inspections.

(3) If regulations are intended to protect consumers against potential damages to third parties who are not party to a contract between the seller and buyer, and other types of externalities, the appropriate state action shall be to require bonding or insurance.

(4) If regulations are intended to protect consumers against potential damages by transient providers, the appropriate state action shall be to require registration with the secretary of state.

(5) If regulations are intended to protect consumers against asymmetrical information between the seller and buyer, the appropriate state action shall be to offer voluntary certification, unless suitable, privately offered voluntary certification for the relevant occupation is available.

As used in this division, "suitable" means widely recognized as reflecting established standards of competency, skill, or knowledge in the field.

(6) If regulations are intended to facilitate governmental reimbursement for providing medical services for an emerging medical specialty, the appropriate state action shall be to require a specialty occupational license for medical reimbursement.

(7) If regulations are required to perform services regulated by both federal laws and laws of this state, require the state to recognize an individual's occupational license from another United States state or territory to allow that individual to practice in this state, and are based on uniform national laws, practices, and examinations that have been adopted by at least fifty United States states and territories, the appropriate state action shall be to require an occupational license.

For purposes of this division, a uniform national law is one that has been adopted in a substantially equivalent manner in at least fifty United States states and territories.

(C) An occupational regulation may be enforced against an individual only to the extent the individual sells goods and services that are included explicitly in the statute that defines the occupation's scope of practice.

(D) Nothing in this chapter is intended to restrict an occupational licensing board from requiring, as a condition of licensure or renewal of licensure, that an individual's personal qualifications include obtaining or maintaining certification from a private organization that credentials individuals in the relevant occupation.

By establishing and executing the policies in this section, in concert with section 107.56 of

the Revised Code, the state intends to ensure that occupational licensing boards and board members will avoid liability under federal antitrust laws.

Sec. 4798.03. This chapter preempts any ordinance or other local law or regulation, which conflicts with or is inconsistent with any policy of the state expressed in this chapter, by any political subdivision that regulates an occupation that is also regulated by the state.

SECTION 2. That existing sections 109.572, 121.08, 2925.01, 4713.01, 4713.69, 4735.181, 4735.99, 4776.10, and 4776.20, and of the Revised Code are hereby repealed.

SECTION 3. Nothing in this act shall be construed to apply to any rules prescribed under Section 5 of Article IV, Ohio Constitution.

SECTION 4. It is the intention of this act that for the first biennium, starting in year 2019, the Legislative Service Commission's review of approximately thirty-three per cent of the occupations listed under section 103.27 of the Revised Code shall not consist of a review of the same occupations that will be reviewed by the General Assembly under section 101.63 of the Revised Code. This will permit the General Assembly to review the same occupations beginning in the biennium starting in 2021, and every biennium thereafter, that had just been reviewed by the Legislative Service Commission in the previous biennium.

SECTION 5. Section 4764.02 of the Revised Code, as enacted by this act, takes effect two hundred ten days after the effective date of this act.

SECTION 6. Notwithstanding section 4764.04 of the Revised Code, as enacted by this act, persons appointed to the Ohio Home Inspector Board during the first year after the effective date of this act need not be licensed as required under that section.

SECTION 7. Not later than one hundred eighty days after the effective date of this act, the Ohio Home Inspector Board shall adopt the rules the Board is required to adopt under this act.

SECTION 8. (A) Notwithstanding section 4764.07 of the Revised Code, as enacted by this act, and except as provided under section 4764.14 of the Revised Code, as enacted by this act, during the period of time beginning on the date the last initial member of the Ohio Home Inspector Board is appointed pursuant to section 4764.04 of the Revised Code, as enacted by this act, and ending one hundred twenty days after that date, the Superintendent of Real Estate and Professional Licensing shall issue a home inspector license if a person applies for a license on a form the Superintendent provides and pays the fee specified in section 4764.05 of the Revised Code, as enacted by this act, and if the applicant demonstrates all of the following:

- (1) Proof of maintaining or being covered by a comprehensive general liability insurance

policy or a commercial general liability insurance policy in accordance with division (A) of section 4764.11 of the Revised Code, as enacted by this act;

(2) Proof by direct documentation or signed affidavit attesting to having met any three of the following requirements to demonstrate participation in the home inspection field prior to the effective date of this act:

(a) Having performed at least two hundred home inspections for clients for compensation or other valuable consideration;

(b) Having successfully passed a home inspector examination specified in division (D)(4) of section 4764.07 of the Revised Code, as enacted by this act;

(c) Having actively operated a home inspection business in this state for three years before the effective date of this act under a business name officially registered with the Secretary of State;

(d) Having been employed as a home inspector for the consecutive thirty-six months before the effective date of this act by an inspection company or person whose owner or manager meets the license requirement specified in this section;

(e) Having successfully completed eighty hours of instruction of the type that would qualify for continuing education credit under section 4764.08 of the Revised Code, as enacted by this act;

(f) Having a license, registration, or certification in good standing to perform the duties of a home inspector in another jurisdiction that has requirements for licensure, registration, or certification that are substantially similar to Chapter 4764. of the Revised Code, as enacted by this act;

(g) Having prepared at least five home inspection reports that have been verified as being in compliance with standards adopted by a national organization that consists of and represents home inspectors;

(h) Having completed, not more than one year before the effective date of this act, at least one peer review session conducted by a national organization that consists of and represents home inspectors.

(3) Proof of signing an attestation that the applicant agrees to comply with the requirements specified in rules adopted by the Board pursuant to division (A)(10) of section 4764.05 of the Revised Code, as enacted by this act;

(4) In a written statement, acknowledgment that the person understands the grounds for any disciplinary action that may be initiated under Chapter 4764. of the Revised Code, as enacted by this act.

The Superintendent shall have a fingerprint-based criminal records check conducted pursuant to section 121.08 of the Revised Code and the rules adopted by the Superintendent pursuant to division (A)(6) of section 4764.06 of the Revised Code, as enacted by this act, on any applicant who applies for a license under this section.

(B) Any license issued under this section shall expire three years after the date the license was issued. A licensed home inspector may renew the licensed home inspector's license in accordance with section 4764.09 of the Revised Code, as enacted by this act.

(C) As used in this section, "home inspection," "peer review session," and "residential building" have the same meanings as in section 4764.01 of the Revised Code, as enacted by this act. "Home inspector" means a person who conducts home inspections for compensation or other

valuable consideration.

SECTION 9. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the following sections, presented in this act as composites of the sections as amended by the acts indicated, are the resulting versions of the sections in effect prior to the effective date of the sections as presented in this act:

Section 109.572 of the Revised Code as amended by Am. Sub. H.B. 49, Sub. H.B. 199, and Sub. H.B. 213, all of the 132nd General Assembly.

Section 2925.01 of the Revised Code as amended by both Am. Sub. H.B. 49 and Am. Sub. S.B. 1 of the 132nd General Assembly.

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*Speaker* \_\_\_\_\_ *of the House of Representatives.*

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*President* \_\_\_\_\_ *of the Senate.*

Passed \_\_\_\_\_, 20\_\_\_\_

Approved \_\_\_\_\_, 20\_\_\_\_

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*Governor.*

Am. Sub. S. B. No. 255

132nd G.A.

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

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*Director, Legislative Service Commission.*

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

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*Secretary of State.*

File No. \_\_\_\_\_ Effective Date \_\_\_\_\_