



Ohio Revised Code

Section 1121.23 Criminal records check to be requested by superintendent.

Effective: October 3, 2023

Legislation: House Bill 33

(A) As used in this section:

(1) "Control" means either of the following:

(a) The power to vote, directly or indirectly, at least twenty-five per cent of outstanding voting shares or voting interests of a licensee or person in control of a licensee;

(b) The power to elect or appoint a majority of executive officers or directors.

(2) "Director" means an individual elected to serve as the director of a for-profit corporation pursuant to section 1701.55 of the Revised Code or an individual elected to serve as the director of a nonprofit corporation pursuant to section 1702.26 of the Revised Code.

(3) "Executive officer" means president, treasurer, secretary, any individual at or above the senior vice-president level or its functional equivalent, any individual at the vice-president level or its functional equivalent if the organization does not have senior vice-presidents, and "manager" as that term is defined in section 1706.01 of the Revised Code.

(4) "Incorporator" has the same meaning as in section 1701.01 of the Revised Code.

(5) "Organizer" has the same meaning as in section 1706.01 of the Revised Code.

(B)(1) A person is presumed to exercise control when the person holds the power to vote, directly or indirectly, at least ten per cent of outstanding voting shares or voting interests of a licensee or person in control of a licensee.

(2) A person presumed to exercise control under division (B)(1) of this section can rebut the presumption by establishing, by a preponderance of the evidence, that the person is a passive



investor.

(C) For purposes of determining the percentage of a person controlled by any person, the person's interest shall be aggregated with the interest of any other immediate family member, including the person's spouse, parents, children, siblings, mothers- and fathers-in law, sons- and daughters-in law, brothers- and sisters-in law, and any other person who shares such person's home.

(D) Whenever the approval of the superintendent of financial institutions is required under Chapters 1101. to 1127. of the Revised Code, or under an order or supervisory action issued or taken under those chapters, for a person to serve as an organizer, incorporator, director, executive officer, or person who exercises control, the superintendent 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 person's fingerprints in accordance with section 109.572 of the Revised Code. The superintendent of financial institutions shall request that criminal record information from the federal bureau of investigation be obtained 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 person who is the subject of the request.

(E) Nothing in this section prohibits the superintendent of financial institutions from conditionally approving a person to serve as an organizer, incorporator, director, executive officer, or person who exercises control, subject to receiving satisfactory results of the criminal records check. If the superintendent does not receive the results within ninety days after the criminal records check was requested, the superintendent may extend the conditional approval for not more than ninety days.