

As Introduced

132nd General Assembly

Regular Session

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H. B. No. 128

Representative Roegner

**Cosponsors: Representatives Antani, Becker, Brenner, Brinkman, DeVitis,
Goodman, Hood, Keller, Koehler, Perales, Riedel, Romanchuk, Seitz, Slaby,
Thompson, Vitale, Young**

A BILL

To amend sections 121.083 and 3781.10 and to enact 1
sections 3781.181 and 3781.182 of the Revised 2
Code to permit a general contractor or owner of 3
specified buildings to enter into a contract 4
with a third-party private inspector or a 5
certified building department for building 6
inspection and to make other changes relating to 7
building inspections. 8

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

Section 1. That sections 121.083 and 3781.10 be amended 9
and sections 3781.181 and 3781.182 of the Revised Code be 10
enacted to read as follows: 11

Sec. 121.083. (A) The superintendent of industrial 12
compliance in the department of commerce shall do all of the 13
following: 14

~~(A)~~ (1) Administer and enforce the general laws of this 15
state pertaining to buildings, pressure piping, boilers, 16

bedding, upholstered furniture, and stuffed toys, steam 17
engineering, elevators, plumbing, licensed occupations regulated 18
by the department, and travel agents, as they apply to plans 19
review, inspection, code enforcement, testing, licensing, 20
registration, and certification. 21

~~(B)~~ (2) Exercise the powers and perform the duties 22
delegated to the superintendent by the director of commerce 23
under Chapters 4109., 4111., and 4115. of the Revised Code. 24

~~(C)~~ (3) Collect and collate statistics as are necessary. 25

~~(D)~~ (4) Examine and license persons who desire to act as 26
steam engineers, to operate steam boilers, and to act as 27
inspectors of steam boilers, provide for the scope, conduct, and 28
time of such examinations, provide for, regulate, and enforce 29
the renewal and revocation of such licenses, inspect and examine 30
steam boilers and make, publish, and enforce rules and orders 31
for the construction, installation, inspection, and operation of 32
steam boilers, and do, require, and enforce all things necessary 33
to make such examination, inspection, and requirement efficient. 34

~~(E)~~ (5) Rent and furnish offices as needed in cities in 35
this state for the conduct of its affairs. 36

~~(F)~~ (6) Oversee a chief of construction and compliance, a 37
chief of operations and maintenance, a chief of licensing and 38
certification, a chief of worker protection, and other designees 39
appointed by the director to perform the duties described in 40
this section. 41

~~(G)~~ (7) Enforce the rules the board of building standards 42
adopts pursuant to division (A) (2) of section 4104.43 of the 43
Revised Code under the circumstances described in division (D) 44
of that section. 45

~~(H)~~ (8) Accept submissions, establish a fee for 46
submissions, and review submissions of certified welding and 47
brazing procedure specifications, procedure qualification 48
records, and performance qualification records for building 49
services piping as required by section 4104.44 of the Revised 50
Code. 51

(B) The superintendent of industrial compliance may 52
contract with a municipal corporation, township, county, or 53
other political subdivision certified by the board of building 54
standards pursuant to section 3781.10 of the Revised Code or 55
municipal or county health districts, to exercise enforcement 56
authority, to accept and approve plans and specifications, and 57
to make inspections, pursuant to sections 3781.03, 3791.04, and 58
4104.43 of the Revised Code. 59

Sec. 3781.10. (A) (1) The board of building standards shall 60
formulate and adopt rules governing the erection, construction, 61
repair, alteration, and maintenance of all buildings or classes 62
of buildings specified in section 3781.06 of the Revised Code, 63
including land area incidental to those buildings, the 64
construction of industrialized units, the installation of 65
equipment, and the standards or requirements for materials used 66
in connection with those buildings. The board shall incorporate 67
those rules into separate residential and nonresidential 68
building codes. The standards shall relate to the conservation 69
of energy and the safety and sanitation of those buildings. 70

(2) The rules governing nonresidential buildings are the 71
lawful minimum requirements specified for those buildings and 72
industrialized units, except that no rule other than as provided 73
in division (C) of section 3781.108 of the Revised Code that 74
specifies a higher requirement than is imposed by any section of 75

the Revised Code is enforceable. The rules governing residential 76
buildings are uniform requirements for residential buildings in 77
any area with a building department certified to enforce the 78
state residential building code. In no case shall any local code 79
or regulation differ from the state residential building code 80
unless that code or regulation addresses subject matter not 81
addressed by the state residential building code or is adopted 82
pursuant to section 3781.01 of the Revised Code. 83

(3) The rules adopted pursuant to this section are 84
complete, lawful alternatives to any requirements specified for 85
buildings or industrialized units in any section of the Revised 86
Code. Except as otherwise provided in division (I) of this 87
section, the board shall, on its own motion or on application 88
made under sections 3781.12 and 3781.13 of the Revised Code, 89
formulate, propose, adopt, modify, amend, or repeal the rules to 90
the extent necessary or desirable to effectuate the purposes of 91
sections 3781.06 to 3781.18 of the Revised Code. 92

(B) The board shall report to the general assembly 93
proposals for amendments to existing statutes relating to the 94
purposes declared in section 3781.06 of the Revised Code that 95
public health and safety and the development of the arts require 96
and shall recommend any additional legislation to assist in 97
carrying out fully, in statutory form, the purposes declared in 98
that section. The board shall prepare and submit to the general 99
assembly a summary report of the number, nature, and disposition 100
of the petitions filed under sections 3781.13 and 3781.14 of the 101
Revised Code. 102

(C) On its own motion or on application made under 103
sections 3781.12 and 3781.13 of the Revised Code, and after 104
thorough testing and evaluation, the board shall determine by 105

rule that any particular fixture, device, material, process of 106
manufacture, manufactured unit or component, method of 107
manufacture, system, or method of construction complies with 108
performance standards adopted pursuant to section 3781.11 of the 109
Revised Code. The board shall make its determination with regard 110
to adaptability for safe and sanitary erection, use, or 111
construction, to that described in any section of the Revised 112
Code, wherever the use of a fixture, device, material, method of 113
manufacture, system, or method of construction described in that 114
section of the Revised Code is permitted by law. The board shall 115
amend or annul any rule or issue an authorization for the use of 116
a new material or manufactured unit on any like application. No 117
department, officer, board, or commission of the state other 118
than the board of building standards or the board of building 119
appeals shall permit the use of any fixture, device, material, 120
method of manufacture, newly designed product, system, or method 121
of construction at variance with what is described in any rule 122
the board of building standards adopts or issues or that is 123
authorized by any section of the Revised Code. Nothing in this 124
section shall be construed as requiring approval, by rule, of 125
plans for an industrialized unit that conforms with the rules 126
the board of building standards adopts pursuant to section 127
3781.11 of the Revised Code. 128

(D) The board shall recommend rules, codes, and standards 129
to help carry out the purposes of section 3781.06 of the Revised 130
Code and to help secure uniformity of state administrative 131
rulings and local legislation and administrative action to the 132
bureau of workers' compensation, the director of commerce, any 133
other department, officer, board, or commission of the state, 134
and to legislative authorities and building departments of 135
counties, townships, and municipal corporations, and shall 136

recommend that they audit those recommended rules, codes, and standards by any appropriate action that they are allowed pursuant to law or the constitution.

(E) (1) The board shall certify municipal, township, and county building departments and the personnel of those building departments, and persons and employees of individuals, firms, or corporations as described in division (E) (7) of this section to exercise enforcement authority, to accept and approve plans and specifications, and to make inspections, pursuant to sections 3781.03, 3791.04, and 4104.43 of the Revised Code.

(2) The board shall certify departments, personnel, and persons to enforce the state residential building code, to enforce the nonresidential building code, or to enforce both the residential and the nonresidential building codes. Any department, personnel, or person may enforce only the type of building code for which certified.

(3) The board shall not require a building department, its personnel, or any persons that it employs to be certified for residential building code enforcement if that building department does not enforce the state residential building code. The board shall specify, in rules adopted pursuant to Chapter 119. of the Revised Code, the requirements for certification for residential and nonresidential building code enforcement, which shall be consistent with this division. The requirements for residential and nonresidential certification may differ. Except as otherwise provided in this division, the requirements shall include, but are not limited to, the satisfactory completion of an initial examination and, to remain certified, the completion of a specified number of hours of continuing building code education within each three-year period following the date of

certification which shall be not less than thirty hours. The 167
rules shall provide that continuing education credits and 168
certification issued by the council of American building 169
officials, national model code organizations, and agencies or 170
entities the board recognizes are acceptable for purposes of 171
this division. The rules shall specify requirements that are 172
consistent with the provisions of section 5903.12 of the Revised 173
Code relating to active duty military service and are 174
compatible, to the extent possible, with requirements the 175
council of American building officials and national model code 176
organizations establish. 177

(4) The board shall establish and collect a certification 178
and renewal fee for building department personnel, and persons 179
and employees of persons, firms, or corporations as described in 180
this section, who are certified pursuant to this division. 181

(5) Any individual certified pursuant to this division 182
shall complete the number of hours of continuing building code 183
education that the board requires or, for failure to do so, 184
forfeit certification. 185

(6) This division does not require or authorize the board 186
to certify personnel of municipal, township, and county building 187
departments, and persons and employees of persons, firms, or 188
corporations as described in this section, whose 189
responsibilities do not include the exercise of enforcement 190
authority, the approval of plans and specifications, or making 191
inspections under the state residential and nonresidential 192
building codes. 193

(7) Enforcement authority for approval of plans and 194
specifications and enforcement authority for inspections may be 195
exercised, and plans and specifications may be approved and 196

inspections may be made on behalf of a municipal corporation, 197
township, or county, by any of the following who the board of 198
building standards certifies: 199

(a) Officers or employees of the municipal corporation, 200
township, or county; 201

(b) Persons, or employees of persons, firms, or 202
corporations, pursuant to a contract to furnish architectural, 203
engineering, or other services to the municipal corporation, 204
township, or county; 205

(c) Officers or employees of, and persons under contract 206
with, a municipal corporation, township, county, health 207
district, or other political subdivision, pursuant to a contract 208
to furnish architectural, engineering, or other services; 209

(d) The division of industrial compliance in the 210
department of commerce pursuant to a contract to exercise 211
enforcement authority, to accept and approve plans and 212
specifications, and to make inspections for nonresidential 213
buildings, pursuant to sections 3781.03, 3791.04, and 4104.43 of 214
the Revised Code; 215

(e) Persons, or employees of persons, firms, or 216
corporations, or officers or employees of other municipal 217
corporations, townships, or counties certified by the board of 218
building standards to make inspections under the conditions 219
established in rules adopted under division (E)(11)(c) of this 220
section. 221

(8) Municipal, township, and county building departments 222
have jurisdiction within the meaning of sections 3781.03, 223
3791.04, and 4104.43 of the Revised Code, only with respect to 224
the types of buildings and subject matters for which they are 225

certified under this section.	226
(9) A certified municipal, township, or county building	227
department may exercise enforcement authority, accept and	228
approve plans and specifications, and make inspections pursuant	229
to sections 3781.03, 3791.04, and 4104.43 of the Revised Code	230
for a park district created pursuant to Chapter 1545. of the	231
Revised Code upon the approval, by resolution, of the board of	232
park commissioners of the park district requesting the	233
department to exercise that authority and conduct those	234
activities, as applicable.	235
(10) Certification shall be granted upon application by	236
the municipal corporation, the board of township trustees, or	237
the board of county commissioners and approval of that	238
application by the board of building standards. The application	239
shall set forth:	240
(a) Whether the certification is requested for residential	241
or nonresidential buildings, or both;	242
(b) The number and qualifications of the staff composing	243
the building department;	244
(c) The names, addresses, and qualifications of persons,	245
firms, or corporations contracting to furnish work or services	246
pursuant to division (E) (7) (b) of this section;	247
(d) The names of any other municipal corporation,	248
township, county, health district, or political subdivision	249
under contract to furnish work or services pursuant to division	250
(E) (7) of this section;	251
(e) The proposed budget for the operation of the building	252
department.	253

(11) The board of building standards shall adopt rules governing all of the following:	254 255
(a) The certification of building department personnel and persons and employees of persons, firms, or corporations exercising authority pursuant to division (E)(7) of this section. The rules shall disqualify any employee of the department or person who contracts for services with the department <u>or a general contractor or owner under section 3781.181 of the Revised Code</u> from performing services for the department <u>or the general contractor or owner</u> when that employee or person would have to pass upon, inspect, or otherwise exercise authority over any labor, material, or equipment the employee or person furnishes for the construction, alteration, or maintenance of a building or the preparation of working drawings or specifications for work within the jurisdictional area of the department. The <u>Except in the case of a contract under division (D)(2)(a) of section 3781.181 of the Revised Code, the</u> department shall provide other similarly qualified personnel to enforce the residential and nonresidential building codes as they pertain to that work.	256 257 258 259 260 261 262 263 264 265 266 267 268 269 270 271 272 273
(b) The minimum services to be provided by a certified building department;	274 275
<u>(c) Rules necessary to implement section 3781.181 of the Revised Code.</u>	276 277
(12) The board of building standards may revoke or suspend certification to enforce the residential and nonresidential building codes, on petition to the board by any person affected by that enforcement or approval of plans, or by the board on its own motion. Hearings shall be held and appeals permitted on any proceedings for certification or revocation or suspension of	278 279 280 281 282 283

certification in the same manner as provided in section 3781.101 284
of the Revised Code for other proceedings of the board of 285
building standards. 286

(13) Upon certification, and until that authority is 287
revoked, any county or township building department shall 288
enforce the residential and nonresidential building codes for 289
which it is certified without regard to limitation upon the 290
authority of boards of county commissioners under Chapter 307. 291
of the Revised Code or boards of township trustees under Chapter 292
505. of the Revised Code. 293

(F) In addition to hearings sections 3781.06 to 3781.18 294
and 3791.04 of the Revised Code require, the board of building 295
standards shall make investigations and tests, and require from 296
other state departments, officers, boards, and commissions 297
information the board considers necessary or desirable to assist 298
it in the discharge of any duty or the exercise of any power 299
mentioned in this section or in sections 3781.06 to 3781.18, 300
3791.04, and 4104.43 of the Revised Code. 301

(G) The board shall adopt rules and establish reasonable 302
fees for the review of all applications submitted where the 303
applicant applies for authority to use a new material, assembly, 304
or product of a manufacturing process. The fee shall bear some 305
reasonable relationship to the cost of the review or testing of 306
the materials, assembly, or products and for the notification of 307
approval or disapproval as provided in section 3781.12 of the 308
Revised Code. 309

(H) The residential construction advisory committee shall 310
provide the board with a proposal for a state residential 311
building code that the committee recommends pursuant to division 312
(D) (1) of section 4740.14 of the Revised Code. Upon receiving a 313

recommendation from the committee that is acceptable to the 314
board, the board shall adopt rules establishing that code as the 315
state residential building code. 316

(I) (1) The committee may provide the board with proposed 317
rules to update or amend the state residential building code 318
that the committee recommends pursuant to division (E) of 319
section 4740.14 of the Revised Code. 320

(2) If the board receives a proposed rule to update or 321
amend the state residential building code as provided in 322
division (I) (1) of this section, the board either may accept or 323
reject the proposed rule for incorporation into the residential 324
building code. If the board does not act to either accept or 325
reject the proposed rule within ninety days after receiving the 326
proposed rule from the committee as described in division (I) (1) 327
of this section, the proposed rule shall become part of the 328
residential building code. 329

(J) The board shall cooperate with the director of job and 330
family services when the director promulgates rules pursuant to 331
section 5104.05 of the Revised Code regarding safety and 332
sanitation in type A family day-care homes. 333

(K) The board shall adopt rules to implement the 334
requirements of section 3781.108 of the Revised Code. 335

Sec. 3781.181. (A) As used in this section: 336

(1) "Nonresidential building" and "residential building" 337
have the same meanings as in section 3781.06 of the Revised 338
Code. 339

(2) "Owner" means the fee owner of any building or 340
structure. 341

(3) "Third-party private inspector" means an inspector 342
that is certified under section 3781.10 of the Revised Code to 343
conduct inspections of residential or nonresidential building 344
construction projects but who is not directly employed by a 345
governmental entity. 346

(B) Inspections of residential and nonresidential building 347
construction projects shall be performed by the building 348
department having jurisdiction within twenty-four hours of an 349
inspection request. 350

(C) The board of building standards shall maintain a list 351
of third-party private inspectors and certified building 352
departments that have authority from the board to provide 353
inspections for residential and nonresidential buildings. The 354
board shall provide this list to a general contractor, owner, or 355
certified building department when requested under division (D) 356
or (F) of this section. 357

(D) (1) A general contractor or owner of a residential or 358
nonresidential building construction project may make a request 359
to the board for an independent inspection to be conducted of 360
the building. Upon receipt of such a request, the board shall do 361
both of the following: 362

(a) Process the request in accordance with rules adopted 363
pursuant to this section; 364

(b) Provide to the general contractor or owner a list of 365
third-party private inspectors and certified building 366
departments maintained by the board. 367

(2) After obtaining the list of inspectors and departments 368
from the board, a general contractor or owner may enter into a 369
contract with either of the following to inspect a residential 370

<u>or nonresidential building construction project:</u>	371
<u>(a) A third-party private inspector;</u>	372
<u>(b) A building department certified under section 3781.10</u> <u>of the Revised Code.</u>	373 374
<u>(3) (a) The general contractor or owner shall be</u> <u>responsible for payment of any fee pursuant to a contract under</u> <u>division (D) (2) (a) of this section and any fee established by</u> <u>the certified building department fee schedule for inspections</u> <u>under division (D) (2) (b) of this section.</u>	375 376 377 378 379
<u>(b) If an inspection is conducted pursuant to division (D)</u> <u>(2) (a) of this section, the building department having</u> <u>jurisdiction may charge any standard fee that is customary for</u> <u>the approval, including an administrative or filing fee, but</u> <u>shall not charge any fee related to inspection.</u>	380 381 382 383 384
<u>(4) Once the inspection pursuant to the contract under</u> <u>division (D) (1) of this section has been completed, the third-</u> <u>party private inspector or the inspector employed by the</u> <u>certified building department shall send a copy of the</u> <u>inspection results within twenty-four hours after the inspection</u> <u>to the building department having jurisdiction.</u>	385 386 387 388 389 390
<u>(5) The rules adopted by the board shall prescribe</u> <u>procedures for the review and processing of the inspection</u> <u>reports by the building official of the building department</u> <u>having jurisdiction.</u>	391 392 393 394
<u>(E) The board may do any of the following after receiving</u> <u>a request under division (D) of this section:</u>	395 396
<u>(1) Investigate the building department having</u> <u>jurisdiction;</u>	397 398

<u>(2) Investigate the employees of the building department</u>	399
<u>having jurisdiction;</u>	400
<u>(3) Evaluate the building department having jurisdiction;</u>	401
<u>(4) Evaluate the employees of the building department</u>	402
<u>having jurisdiction.</u>	403
<u>(F) (1) A building department having jurisdiction of</u>	404
<u>residential or nonresidential building inspection may make a</u>	405
<u>request to the board for an independent inspector. The board</u>	406
<u>shall provide a list of inspectors that may, as described by</u>	407
<u>division (B) of this section, conduct inspections on behalf of</u>	408
<u>the building department having jurisdiction.</u>	409
<u>(2) The building department having jurisdiction shall pay</u>	410
<u>the third-party private inspector or certified building</u>	411
<u>department the fee collected for such inspection in accordance</u>	412
<u>with the fee schedule established by the building department</u>	413
<u>having jurisdiction for similar inspections.</u>	414
<u>(3) The board shall adopt rules describing procedures for</u>	415
<u>this division.</u>	416
<u>(G) A general contractor or owner of a residential or</u>	417
<u>nonresidential construction project may request a certificate of</u>	418
<u>occupancy from either of the following:</u>	419
<u>(1) The building department having jurisdiction;</u>	420
<u>(2) The board of building standards.</u>	421
<u>Sec. 3781.182.</u> (A) <u>The department of commerce shall</u>	422
<u>establish an expedited arbitration process in which a general</u>	423
<u>contractor or owner of a residential or nonresidential building</u>	424
<u>construction project may appeal inspection results. The process</u>	425
<u>established by the department under this section may allow for</u>	426

an appeal to be heard via conference call. The process shall 427
include all of the following: 428

(1) A requirement that the arbitration hearing be 429
conducted within twenty-four hours of the request by the general 430
contractor or owner; 431

(2) A requirement that the party making the request for 432
arbitration have the burden of showing both of the following: 433

(a) That there was a malicious purpose in the inspection 434
results by the inspector; 435

(b) That the delay will cause irreparable harm. 436

(3) A requirement that the arbitrator's review be narrowly 437
tailored such that the arbitrator shall review each case as a 438
preliminary matter to determine whether the inspector's decision 439
should be overruled so that the harm can be prevented. If the 440
inspector's decision is overruled by the arbitrator, the general 441
contractor or owner may proceed with the construction project. 442

(4) A provision specifying that, if the arbitrator does 443
not overrule the inspector's decision, then the matter shall 444
proceed to the existing appellate system; 445

(5) A requirement that the inspector's professional 446
judgment receive deference and not be a matter of discussion 447
during the arbitration hearings; 448

(6) General contractor or owner liability for any false or 449
misleading statements made during the arbitration process. 450

(B) The department shall adopt rules to implement this 451
section. 452

Section 2. That existing sections 121.083 and 3781.10 of 453

the Revised Code are hereby repealed.

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