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Bill Analysis

Version: As Introduced

Primary Sponsor: Sen. Reynolds

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SUMMARY

Residential building code applicability

- Adds a four-family dwelling house and any accessory structure incidental to that dwelling house as a “residential building” for purposes of the Building Standards Law.
- Requires the Board of Building Standards to adopt rules to apply the Residential Building Code to a four-family dwelling house and any accessory structure incidental to that dwelling house.

Other laws applied to four-family dwellings

- Applies various provisions of law that are currently applicable to three-family and less dwellings to also include four-family dwellings, such as, for example, the definition of “proposed new construction” under the law relating to county building codes and the law regarding municipal specialty contractor license acceptance.
- Exempts contracts entered into prior to the bill’s effective date relating to four-family dwellings from being subject to the Residential Contractor Right to Cure Law and Home Construction Service Suppliers Law.

Bill title

- Titles the bill as the Build Smart Act.

DETAILED ANALYSIS

Residential Building Code applicability

The bill adds a four-family dwelling house, and any accessory structure incidental to that dwelling house, including such a house used as a model to promote the sale of a similar dwelling house, as a “residential building” for purposes of the Building Standards Law. Additionally, the

bill requires the Board of Building Standards (BBS) to adopt rules to apply the Residential Building Code to a four-family dwelling house and any accessory structure incidental to that dwelling house.

The existing Building Standards Law defines “residential building” as a one-family, two-family, or three-family dwelling house, and any accessory structure incidental to that dwelling house, including such a house used as a model to promote the sale of a similar dwelling house.

Under continuing law, BBS must formulate and adopt rules governing the erection, construction, repair, alteration, and maintenance of various buildings or classes of buildings described by law, including residential buildings and nonresidential buildings. These rules must be incorporated into separate residential and nonresidential building codes.

Existing law, unchanged by the bill, defines (1) “nonresidential building” as any building that is not a residential building or a manufactured or mobile home, and (2) “accessory structure” as a structure that is attached to a residential building and serves the principal use of the residential building, including a garage, porch, or screened-in patio.¹

Other laws applied to four-family dwellings

Various provisions of existing law apply to dwellings that are three-family and less. The bill applies some of these provisions to four-family dwellings as well, as described below.

County building code “proposed new construction” definition

The bill defines “proposed new construction,” in the law permitting a county to adopt a building code, as a proposal to erect, construct, repair, alter, redevelop, or maintain a single-family, two-family, three-family, or four-family dwelling or any structure that is regulated by the Ohio Building Code.²

Municipal specialty contractors license acceptance

Under the bill, a municipal corporation that licenses specialty contractors is permitted to accept, for purposes of satisfying its licensing requirements, a valid license issued pursuant to the Construction Industry Licensing Board Law that a specialty contractor holds, for the construction, replacement, maintenance, or repair of one-family, two-family, three-family, or four-family dwelling houses and incidental structures.³

Residential Contractor Right to Cure Law

The bill defines “residential building” under the Residential Contractor Right to Cure Law as a structure that is a one-family, two-family, three-family, or four-family dwelling house or a dwelling unit within that structure, any accessory structures incidental to that dwelling house,

¹ R.C. 3781.06(C)(9) - (11), and 3781.10(A)(1) and (L).

² R.C. 307.37(A).

³ R.C. 715.27(E).

and a unit in a condominium development in which the owner holds title to that unit, including any structure that is used as a model to promote the sale of a similar dwelling house.

Additionally, the bill provides that the Residential Contractor Right to Cure Law does not apply to a contract entered into prior to the bill's effective date for the construction or substantial rehabilitation of a four-family dwelling house, dwelling unit within that house, or any accessory structures incidental to that house.

The current Residential Contractor Right to Cure Law imposes certain requirements concerning the construction or substantial rehabilitation of residential buildings, such as, for example, requiring a residential contractor that enters into a contract for the construction or substantial rehabilitation of a residential building to provide a notice to a residential building owner of the contractor's right to resolve an alleged construction defect before the owner may commence an action against the contractor.⁴

Coastal Management Law “permanent structure” definition

The bill defines “permanent structure” in the Coastal Management Law as any residential, commercial, industrial, institutional, or agricultural building, any mobile home, any manufactured home, and any septic system that receives sewage from a single-family, two-family, three-family, or four-family dwelling, but excludes any recreational vehicle. The existing Coastal Management Law requires the Director of Natural Resources to adopt rules governing the erection, construction, and redevelopment of permanent structures in identified Lake Erie coastal erosion areas.⁵

Arbitration Law “commercial construction contract” definition

The bill defines “commercial construction contract” under the Arbitration Law as any written contract or agreement for the construction of any improvement to real property, other than an improvement that is used or intended to be used as a single-family, two-family, three-family, or four-family detached dwelling house and accessory structures incidental to that use. Continuing law, unchanged by the bill, provides that, when a court denies a stay of a trial pending arbitration that is based on an issue referable to arbitration under a written arbitration agreement in a commercial construction contract, that order is a final order subject to appeal.⁶

“Household sewage treatment system” definitions

The bill changes the definition of “household sewage treatment system” in two areas of law. In the law relating to the failure to pay a household sewage disposal system permit or inspection fee, “household sewage treatment system” is defined by the bill as any sewage treatment system, or part of such a system, for a single-family, two-family, three-family, or four-family dwelling that receives sewage. In the Sewage Treatment Systems Law, which governs installation, operation, and alterations of sewage systems, the bill defines “household sewage

⁴ R.C. 1312.01(D) and 1312.02(B); R.C. 1312.03 and 5321.01, not in the bill.

⁵ R.C. 1506.01(F); R.C. 1506.07, not in the bill.

⁶ R.C. 2711.02(A) and (D).

treatment system” as any sewage treatment system, or part of such a system, that receives sewage from a single-family, two-family, three-family, or four-family dwelling.⁷

Board of Health household sewage treatment system compliance

Under the bill, a board of health must ensure that a household sewage treatment system serving a two-family, three-family, or four-family dwelling or a small flow on-site sewage treatment system that is classified as a class V injection well complies with relevant Ohio Environmental Protection Agency rules relating to the underground injection control program.⁸

Building Standards Law exemption for type A family child care homes

The bill exempts existing single-family, two-family, three-family, and four-family detached dwelling houses where applications have been submitted to the Director of Children and Youth for purposes of operating type A family child care homes from the Building Standards Law.

A “type A family child care home” is defined under continuing law as the permanent residence of the administrator (who is the person responsible for the daily operation of the home) that meets certain requirements depending on the number of children to whom child care are provided.⁹

County, municipal, or township building inspection certifications

The bill declares both of the following as certified to inspect single-family, two-family, three-family, or four-family residences containing industrialized units and required to inspect the buildings or classes of buildings subject to the law relating to building code enforcement: (1) any county or municipal building department certified by BBS to enforce various building code requirements as of September 14, 1970, and that was inspecting single-family, two-family, three-family, or four-family residences as of that date (although it is not clear such inspections of four-family residences were conducted before that date by those departments), and (2) any township building department certified by BBS to enforce various building code requirements.

Continuing law, unchanged by the bill, generally requires BBS to require municipal, township, and county building departments to enforce the Building Standards Law, and imposes various other terms related to this enforcement, such as, for example, BBS cannot 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 residential building code. “Industrialized unit” is defined by continuing law as a building unit or assembly of closed construction fabricated in an off-site facility, that is substantially self-sufficient as a unit or as part of a greater structure, and that requires transportation to the site of intended use. “Industrialized unit” includes units installed on the site as independent units, as part of a group of units, or

⁷ R.C. 3709.091(A)(1) and 3718.01(F).

⁸ R.C. 3718.023(B); R.C. 6111.043, not in the bill; Ohio Administrative Code 3745-34.

⁹ R.C. 3781.06(B)(2); R.C. 5104.01(A) and (XX), not in the bill.

incorporated with standard construction methods to form a completed structural entity. “Industrialized unit” does not include a manufactured home or mobile home.¹⁰

County electrical and HVAC licensing

Under the bill, a board of county commissioners that adopts rules providing for the licensing of electrical and heating, ventilating, and air conditioning (HVAC) contractors may accept a valid and unexpired license under the Construction Industry Licensing Board Law held by an electrical or HVAC contractor for the construction, replacement, maintenance, or repair of one-family, two-family, three-family, or four-family dwelling houses or accessory structures incidental to those dwelling houses.¹¹

Home Construction Service Suppliers Law

The bill defines the following terms in the Home Construction Service Suppliers Law:

- “Home construction service” means the construction of a residential building, including the creation of a new structure and the repair, improvement, remodel, or renovation of an existing structure, excluding construction performed on a structure that contains five or more dwelling units, except for work on an individual dwelling unit within that structure, or construction performed on the common area of a condominium property.
- “Residential building” means a one-family, two-family, three-family, or four-family dwelling and any accessory construction incidental to the dwelling, with certain exclusions, such as an industrialized unit.

Further, the bill specifies that the Home Construction Service Suppliers Law does not apply to a contract entered into prior to the bill’s effective date for the construction of a four-family dwelling, including the creation of a new structure and the repair, improvement, remodel, or renovation of an existing structure, or any accessory structures incidental to that dwelling.

Continuing law generally prohibits a home construction service supplier from performing any home construction service where the cost equals or exceeds \$25,000 unless the supplier enters into a written home construction services contract with the owner.¹²

Single stairway buildings

BBS is required by the bill to adopt rules, in accordance with the Administrative Procedure Act (R.C. Chapter 119), to permit a building of group R-2 occupancy to have a single stairway serving as an exit for all dwelling units if the building meets all of the following conditions: (1) the building has not more than six stories above grade plane, (2) there are not more than four dwelling units on each floor, (3) the building is equipped with an automatic sprinkler system, and (4) each dwelling unit has at least one window or other emergency exit provision. Under the bill,

¹⁰ R.C. 3781.06(C)(3), 3781.10(E), and 3781.102(A).

¹¹ R.C. 3781.102(H).

¹² R.C. 4722.01(B) and (F), and 4722.09; R.C. 4722.02(A), not in the bill.

“dwelling unit” is defined, using current law, as a structure or the part of a structure that is used as a home, residence, or sleeping place by one person who maintains a household or by two or more persons who maintain a common household.¹³

Group R-2 is a type of residential occupancy classification in the building code. Specifically, Group R-2 refers to occupancies containing sleeping units or more than three dwelling units where the occupants are primarily permanent in nature and where the units share an exit, including, for example, apartment houses.¹⁴

Bill title

The bill is named the Build Smart Act.¹⁵

HISTORY

Action	Date
Introduced	04-27-26

ANSB0428IN-136/sb

¹³ R.C. 3781.1012; R.C. 5321.01(F), not in the bill.

¹⁴ See the BBS [Ohio Building Code 2024 Chapter 3](#) and [Section 310.3](#).

¹⁵ Section 3.