

As Passed by the House

136th General Assembly

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S. B. No. 6

Senator Roegner

Cosponsors: Senators Brenner, Antonio, Chavez, Cirino, Craig, Gavarone, Hicks-Hudson, Lang, O'Brien, Patton, Reineke, Reynolds, Romanchuk, Schaffer

Representatives Fischer, Glassburn, Johnson, Abdullahi, Abrams, Brennan, Brownlee, Claggett, Click, Cockley, Daniels, Deeter, Demetriou, Dovilla, Ghanbari, Gross, Hiner, Hoops, Jarrells, John, King, Kishman, Klopfenstein, Lampton, LaRe, Lear, Lorenz, Mathews, A., Mathews, T., Miller, J., Miller, M., Mohamed, Odioso, Oelslager, Peterson, Plummer, Ray, Richardson, Robb Blasdel, Roemer, Santucci, Schmidt, Sigrist, Swearingen, Thomas, D., Upchurch, White, A., White, E., Williams, Willis, Young

A BILL

To amend sections 3781.19 and 3781.20 and to enact	1
section 3781.21 of the Revised Code to make	2
changes to the law relating to building	3
inspections.	4

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

Section 1. That sections 3781.19 and 3781.20 be amended	5
and section 3781.21 of the Revised Code be enacted to read as	6
follows:	7

Sec. 3781.19. There is hereby established in the	8
department of commerce a board of building appeals consisting of	9
five members who shall be appointed by the governor with the	10
advice and consent of the senate. Terms of office shall be for	11
four years, commencing on the fourteenth day of October and	12

ending on the thirteenth day of October. Each member shall hold 13
office from the date of appointment until the end of the term 14
for which the member was appointed. Any member appointed to fill 15
a vacancy occurring prior to the expiration of the term for 16
which the member's predecessor was appointed shall hold office 17
for the remainder of such term. Any member shall continue in 18
office subsequent to the expiration date of the member's term 19
until a successor takes office, or until a period of sixty days 20
has elapsed, whichever occurs first. One member shall be an 21
attorney-at-law, admitted to the bar of this state and of the 22
remaining members, one shall be a registered architect and one 23
shall be a professional engineer, each of whom shall be duly 24
licensed to practice their respective professions in this state, 25
one shall be a fire prevention officer qualified under section 26
3737.66 of the Revised Code, and one shall be a person with 27
recognized ability in the plumbing or pipefitting profession. No 28
member of the board of building standards shall be a member of 29
the board of building appeals. Each member shall be paid an 30
amount fixed pursuant to Chapter 124. of the Revised Code per 31
diem. The department shall provide and assign to the board such 32
employees as are required by the board to perform its functions. 33
The board may adopt its own rules of procedure not inconsistent 34
with sections 3781.06 to 3781.18 and 3791.04 of the Revised 35
Code, and may change them in its discretion. The board may 36
establish reasonable fees, based on actual costs for 37
administration of filing and processing, not to exceed two 38
hundred dollars, for the costs of filing and processing appeals. 39
The board may establish additional fees for any expedited appeal 40
subject to section 3781.21 of the Revised Code. A full and 41
complete record of all proceedings of the board shall be kept 42
and be open to public inspection. 43

In the enforcement by any department of the state or any 44
political subdivision of this chapter and Chapter 3791., and 45
sections 3737.41, 3737.42, 4104.02, 4104.06, 4104.43, 4104.44, 46
4104.45, 4105.011, and 4105.11 of the Revised Code and any rule 47
made thereunder, such department is the agency referred to in 48
sections 119.07, 119.08, and 119.10 of the Revised Code. 49

The appropriate municipal or county board of appeals, 50
where one exists, certified pursuant to section 3781.20 of the 51
Revised Code shall conduct the adjudication hearing referred to 52
in sections 119.09 to 119.13 and required by section 3781.031 of 53
the Revised Code. If there is no certified municipal or county 54
board of appeals, the board of building appeals shall conduct 55
the adjudication hearing. If the adjudication hearing concerns 56
section 3781.111 of the Revised Code or any rule made 57
thereunder, reasonable notice of the time, date, place, and 58
subject of the hearing shall be given to any local corporation, 59
association, or other organization composed of or representing 60
persons with disabilities, as defined in section 3781.111 of the 61
Revised Code, or if there is no local organization, then to any 62
statewide corporation, association, or other organization 63
composed of or representing persons with disabilities. 64

In addition to the provisions of Chapter 119. of the 65
Revised Code, the municipal, county, or state board of building 66
appeals, as the agency conducting the adjudication hearing, may 67
reverse or modify the order of the enforcing agency if it finds 68
that the order is contrary to this chapter and Chapters 3791. 69
and 4104., and sections 3737.41, 3737.42, 4105.011, and 4105.11 70
of the Revised Code and any rule made thereunder or to a fair 71
interpretation or application of such laws or any rule made 72
thereunder, or that a variance from the provisions of such laws 73
or any rule made thereunder, in the specific case, will not be 74

contrary to the public interest where a literal enforcement of 75
such provisions will result in unnecessary hardship. 76

~~The~~ Except for expedited proceedings pursuant to section 77
3781.21 of the Revised Code, the state board of building appeals 78
or a certified municipal or county board of appeals shall render 79
its decision within thirty days after the date of the 80
adjudication hearing. Following the adjudication hearing, any 81
municipal or county officer, official municipal or county board, 82
or person who was a party to the hearing before the municipal or 83
county board of appeals may apply to the state board of appeals 84
for a de novo hearing before the state board, or may appeal 85
directly to the court of common pleas pursuant to section 86
3781.031 of the Revised Code. 87

In addition, any local corporation, association, or other 88
organization composed of or representing persons with 89
disabilities as defined in section 3781.111 of the Revised Code, 90
or, if no local corporation, association, or organization 91
exists, then any statewide corporation, association, or other 92
organization composed of or representing persons with 93
disabilities may apply for the de novo hearing or appeal to the 94
court of common pleas from any decision of a certified municipal 95
or county board of appeals interpreting, applying, or granting a 96
variance from section 3781.111 of the Revised Code and any rule 97
made thereunder. Application for a de novo hearing before the 98
state board shall be made no later than thirty days after the 99
municipal or county board renders its decision. 100

The state board of building appeals or the appropriate 101
certified local board of building appeals shall grant variances 102
and exemptions from the requirements of section 3781.108 of the 103
Revised Code in accordance with rules adopted by the board of 104

building standards pursuant to division (K) of section 3781.10 105
of the Revised Code. 106

The state board of building appeals or the appropriate 107
certified local board of building appeals shall, in granting a 108
variance or exemption from section 3781.108 of the Revised Code, 109
in addition to any other considerations the state or the 110
appropriate local board determines appropriate, consider the 111
architectural and historical significance of the building. 112

Sec. 3781.20. (A) The board of building standards may 113
certify municipal and county boards of building appeals to hear 114
and decide appeals from adjudication orders pertaining to the 115
enforcement of this chapter and Chapter 3791. of the Revised 116
Code and any rules adopted pursuant thereto. Any board of 117
appeals that has been certified by the board of building 118
standards may contract with any municipal corporation or county 119
certified to enforce this chapter and Chapter 3791. of the 120
Revised Code to provide for appeals from adjudication orders 121
arising from the certified municipal corporation or county. 122

(B) A certified local board of building appeals has 123
exclusive jurisdiction to hear and decide all adjudication 124
hearings arising from rulings of the local chief enforcement 125
official concerning the provisions of this chapter and Chapter 126
3791. of the Revised Code and any rules adopted pursuant 127
thereto. The local board may establish reasonable fees, based on 128
actual costs for administration of filing and processing, not to 129
exceed one hundred dollars, for the costs of filing and 130
processing appeals~~and~~. The board may charge any additional 131
fees for expedited proceeding subject to section 3781.21 of the 132
Revised Code. The board shall keep a full and complete record of 133
all of its proceedings~~+~~, and these records shall be open to 134

public inspection. 135

(C) The local board of building appeals shall consist of 136
five members, except that a municipal board may consist of more 137
than five members if so provided by the charter of the municipal 138
corporation, or any amendment to the charter, adopted prior to 139
October 13, 1983. One member shall be an attorney at law 140
admitted to the bar of this state, one shall be a registered 141
architect, one shall be a registered professional engineer, 142
specializing in structural engineering, and one shall be a 143
registered professional engineer specializing in mechanical 144
engineering, except that a municipal board need not have an 145
attorney as a member if no attorney member is required by the 146
charter of the municipal corporation, or any amendment to the 147
charter, adopted prior to October 13, 1983. Each of these four 148
members shall be licensed to practice his profession in this 149
state, and shall be a person of recognized ability and broad 150
training who is experienced in problems and practice incidental 151
to the construction and equipment of buildings and structures. 152
One member shall be a representative of organized labor who is 153
knowledgeable as to the construction and equipment of buildings 154
and structures. 155

Members shall be appointed for five-year terms, except 156
that original appointments shall be for terms of one, two, 157
three, four, and five years. Each member shall hold office from 158
the date of appointment until the end of the term for which he 159
is appointed. Any member appointed to fill a vacancy occurring 160
before the expiration of the term for which his predecessor was 161
appointed shall hold office for the remainder of that term. Any 162
member shall continue in office subsequent to the expiration 163
date of his term until his successor takes office or until sixty 164
days have elapsed, whichever occurs first. 165

(D) Certification shall be upon application by the county 166
or municipal corporation to the board of building standards. The 167
application shall set forth both of the following: 168

(1) The resolution, ordinance, or charter provision 169
establishing the local board of appeals and making or providing 170
for the making of appointments to the board; 171

(2) The dates of appointments, terms of the board members, 172
and professional requirements and experience necessary for 173
membership. 174

(E) Upon reviewing the application, the board of building 175
standards shall certify the local board if it finds all of the 176
following: 177

(1) The applicant political subdivision has a building 178
department that is certified pursuant to section 3781.10 of the 179
Revised Code and such certification is not through a contract 180
with another political subdivision; 181

(2) The local board is established pursuant to local 182
resolution, ordinance, or municipal charter; 183

(3) The local board's membership meets the requirements of 184
this section. 185

The board of building standards shall certify county and 186
municipal boards of building appeals in accordance with Chapter 187
119. of the Revised Code and shall schedule a hearing on an 188
application within sixty days after receiving the application. 189

A certification may be revoked on petition to the board of 190
building standards by any person affected by the local board of 191
building appeals, or by the board of building standards on its 192
own motion. Hearings shall be held and appeals permitted, on any 193

proceedings for revocation of certification, in accordance with 194
Chapter 119. of the Revised Code. 195

(F) Local boards of appeals certified pursuant to this 196
section have the same powers to reverse or modify orders of the 197
local enforcement official and to grant variances as are 198
conferred on the board of building appeals by section 3781.19 of 199
the Revised Code including variances and exemptions from the 200
requirements of section 3781.108 of the Revised Code. 201

Nothing in this section shall be construed to grant to a 202
municipal or county board of building appeals any authority to 203
prohibit the use of materials or assemblages that have been 204
licensed for statewide use pursuant to section 3781.12 of the 205
Revised Code. 206

Sec. 3781.21. (A) (1) Any appeal of an order requested 207
under section 3781.19 or 3781.20 of the Revised Code may be 208
requested to be expedited. If the expedited appeal is requested, 209
the state board of building appeals or a certified municipal or 210
county board of appeals shall do both of the following: 211

(a) Commence the appeal within one day after the request 212
was made, excluding Saturdays, Sundays, and legal holidays as 213
defined in section 1.14 of the Revised Code; 214

(b) Hold a hearing within five days after the request was 215
made, excluding Saturdays, Sundays, and legal holidays as 216
defined in section 1.14 of the Revised Code. 217

(2) (a) If a person requests an appeal of an order pursuant 218
to section 3781.19 or 3781.20 of the Revised Code and the person 219
did not request the appeal to be expedited under division (A) (1) 220
of this section, the person may request the remainder of the 221
appeal proceeding be expedited if, during the course of the 222

appeal, the board issues a continuance of the hearing, such that 223
no decision is made and additional evidence is requested in 224
order to continue the proceeding. A person may request that any 225
follow-up hearing be expedited within five days of the 226
continuance being issued. 227

(b) If the expedited appeal is requested under division 228
(A) (2) (a) of this section, the board shall hold the follow-up 229
hearing within five days of the request, excluding Saturdays, 230
Sundays, and legal holidays as defined in section 1.14 of the 231
Revised Code. 232

(3) Any expedited appeal under this division shall apply 233
notwithstanding the seven-day notice requirement under section 234
119.07 of the Revised Code or any other conflicting provision of 235
the Revised Code. However, a board conducting an expedited 236
appeal under this section shall provide all parties a notice of 237
the hearing prior to conducting the hearing. 238

(B) The person making the request for an expedited appeal 239
pursuant to division (A) of this section shall pay any fee 240
established by the state board of building appeals under section 241
3781.19 of the Revised Code or a certified municipal or county 242
board of appeals under section 3781.20 of the Revised Code, 243
which shall not exceed five hundred dollars for each day the 244
appeal is pending and shall not exceed a total of one thousand 245
dollars for the entire expedited appeal. 246

(C) Notwithstanding any provision of the Revised Code to 247
the contrary, the state board of building appeals or a certified 248
municipal or county board of appeals may conduct an expedited 249
hearing, as described under this section, by means of 250
teleconference, video conference, or any other similar 251
electronic technology. 252

<u>(D) The board of building standards may adopt rules to</u>	253
<u>implement this section.</u>	254
Section 2. That existing sections 3781.19 and 3781.20 of	255
the Revised Code are hereby repealed.	256