

AN ACT

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

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

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

Sec. 3781.19. There is hereby established in the department of commerce a board of building appeals consisting of five members who shall be appointed by the governor with the advice and consent of the senate. Terms of office shall be for four years, commencing on the fourteenth day of October and ending on the thirteenth day of October. Each member shall hold office from the date of appointment until the end of the term for which the member was appointed. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of such term. Any member shall continue in office subsequent to the expiration date of the member's term until a successor takes office, or until a period of sixty days has elapsed, whichever occurs first. One member shall be an attorney-at-law, admitted to the bar of this state and of the remaining members, one shall be a registered architect and one shall be a professional engineer, each of whom shall be duly licensed to practice their respective professions in this state, one shall be a fire prevention officer qualified under section 3737.66 of the Revised Code, and one shall be a person with recognized ability in the plumbing or pipefitting profession. No member of the board of building standards shall be a member of the board of building appeals. Each member shall be paid an amount fixed pursuant to Chapter 124. of the Revised Code per diem. The department shall provide and assign to the board such employees as are required by the board to perform its functions. The board may adopt its own rules of procedure not inconsistent with sections 3781.06 to 3781.18 and 3791.04 of the Revised Code, and may change them in its discretion. The board may establish reasonable fees, based on actual costs for administration of filing and processing, not to exceed two hundred dollars, for the costs of filing and processing appeals. The board may establish additional fees for any expedited appeal subject to section 3781.21 of the Revised Code. A full and complete record of all proceedings of the board shall be kept and be open to public inspection.

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

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

In addition to the provisions of Chapter 119. of the Revised Code, the municipal, county, or state board of building appeals, as the agency conducting the adjudication hearing, may reverse or modify the order of the enforcing agency if it finds that the order is contrary to this chapter and Chapters 3791. and 4104., and sections 3737.41, 3737.42, 4105.011, and 4105.11 of the Revised Code and any rule made thereunder or to a fair interpretation or application of such laws or any rule made thereunder, or that a variance from the provisions of such laws or any rule made thereunder, in the specific case, will not be contrary to the public interest where a literal enforcement of such provisions will result in unnecessary hardship.

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

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

The state board of building appeals or the appropriate certified local board of building appeals shall grant variances and exemptions from the requirements of section 3781.108 of the Revised Code in accordance with rules adopted by the board of building standards pursuant to division (K) of section 3781.10 of the Revised Code.

The state board of building appeals or the appropriate certified local board of building

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

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

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

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

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

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

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

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

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

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

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

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

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

A certification may be revoked on petition to the board of building standards by any person affected by the local board of building appeals, or by the board of building standards on its own motion. Hearings shall be held and appeals permitted, on any proceedings for revocation of certification, in accordance with Chapter 119. of the Revised Code.

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

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

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

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

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

(2)(a) If a person requests an appeal of an order pursuant to section 3781.19 or 3781.20 of the Revised Code and the person did not request the appeal to be expedited under division (A)(1) of

this section, the person may request the remainder of the appeal proceeding be expedited if, during the course of the appeal, the board issues a continuance of the hearing, such that no decision is made and additional evidence is requested in order to continue the proceeding. A person may request that any follow-up hearing be expedited within five days of the continuance being issued.

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

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

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

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

(D) The board of building standards may adopt rules to implement this section.

SECTION 2. That existing sections 3781.19 and 3781.20 of the Revised Code are hereby repealed.

S. B. No. 6

136th G.A.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

S. B. No. 6

136th G.A.

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

Director, Legislative Service Commission.

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

Secretary of State.

File No. _____ Effective Date _____