

As Introduced

**131st General Assembly
Regular Session
2015-2016**

S. B. No. 205

**Senators Beagle, Lehner
Cosponsors: Senators Burke, Yuko**

A BILL

To amend sections 3737.82, 3781.10, 3781.104, and 1
4740.14 and to enact section 2305.403 of the 2
Revised Code to require a separate, exterior 3
means of egress for dwelling areas above the 4
second story of certain residential rental 5
properties and to provide a qualified immunity 6
to landlords who in good faith comply with the 7
requirement. 8

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

Section 1. That sections 3737.82, 3781.10, 3781.104, and 9
4740.14 be amended and section 2305.403 of the Revised Code be 10
enacted to read as follows: 11

Sec. 2305.403. (A) As used in this section: 12

(1) "Exterior means of egress" and "residential rental 13
property" have the same meanings as in section 3737.82 of the 14
Revised Code. 15

(2) "Good faith" means honesty in fact. 16

(3) "Harm" means injury, death, or loss to person or 17

property. 18

(4) "Landlord" has the same meaning as in section 5321.01 19
of the Revised Code. 20

(B) A landlord who pursuant to the landlord's obligations 21
under section 5321.04 of the Revised Code and who in good faith 22
complies with the exterior means of egress requirement for 23
residential rental property under Chapters 3737. and 3781. of 24
the Revised Code shall not be liable in damages in a civil 25
action for any harm relating to the use of that exterior means 26
of egress. 27

(C) Division (B) of this section does not apply if acts of 28
the landlord constitute willful, wanton, or reckless misconduct 29
or grossly negligent conduct. 30

Sec. 3737.82. The fire marshal shall adopt a state fire 31
code which shall consist of rules relating to all aspects of 32
fire safety. The rules shall be the minimum standards for 33
safeguarding life and property from fire and explosion, and the 34
fire marshal may, in adopting these rules, incorporate by 35
reference existing published standards as well as amendments 36
thereto subsequently published by the same authority. The fire 37
code shall include, but not be limited to, rules relating to the 38
movable contents of any building, or class of buildings, the 39
transportation, storage, location, and use of flammable or 40
explosive materials, the procedures to be employed by persons in 41
the event of fire, the installation and location of fire 42
protection equipment, and other similar matters. The fire code 43
shall include a requirement that, unless a property has a fire 44
suppression system, an exterior means of egress exists for any 45
area that is being used for dwelling above the second story of a 46
residential rental property, separate from a shared, interior 47

means of egress. The fire code may contain rules applicable to 48
particular classes of existing buildings or structures as the 49
use and occupancy of such buildings or structures suggest are 50
necessary. The fire marshal may amend, modify, or repeal any 51
rule of the state fire code. 52

As used in this section: 53

"Exterior means of egress" means an unblocked, functional 54
window that can be opened from the interior of a structure and a 55
ladder or staircase that extends from that window to a length 56
that is not more than five feet above the land on which the 57
structure exists. 58

"Fire suppression system" has the same meaning as in 59
section 3781.108 of the Revised Code. 60

"Residential rental property" means a structure originally 61
constructed or designed as a single-family dwelling that is 62
being leased or otherwise rented to tenants as a multi-family 63
dwelling for residential purposes, but does not include a hotel 64
or a college or university dormitory. 65

Sec. 3781.10. (A) (1) The board of building standards shall 66
formulate and adopt rules governing the erection, construction, 67
repair, alteration, and maintenance of all buildings or classes 68
of buildings specified in section 3781.06 of the Revised Code, 69
including land area incidental to those buildings, the 70
construction of industrialized units, the installation of 71
equipment, and the standards or requirements for materials used 72
in connection with those buildings. The board shall incorporate 73
those rules into separate residential and nonresidential 74
building codes. The standards shall relate to the conservation 75
of energy and the safety and sanitation of those buildings. The 76

rules adopted by the board shall require that, unless a property 77
has a fire suppression system, an exterior means of egress 78
exists for any area that will be used for dwelling above the 79
second story of a residential rental property, separate from a 80
shared, interior means of egress. "Exterior means of egress," 81
"fire suppression system," and "residential rental property" 82
have the same meanings as in section 3737.82 of the Revised 83
Code. 84

(2) The rules governing nonresidential buildings are the 85
lawful minimum requirements specified for those buildings and 86
industrialized units, except that no rule other than as provided 87
in division (C) of section 3781.108 of the Revised Code that 88
specifies a higher requirement than is imposed by any section of 89
the Revised Code is enforceable. The rules governing residential 90
buildings are uniform requirements for residential buildings in 91
any area with a building department certified to enforce the 92
state residential building code. In no case shall any local code 93
or regulation differ from the state residential building code 94
unless that code or regulation addresses subject matter not 95
addressed by the state residential building code or is adopted 96
pursuant to section 3781.01 of the Revised Code. 97

(3) The rules adopted pursuant to this section are 98
complete, lawful alternatives to any requirements specified for 99
buildings or industrialized units in any section of the Revised 100
Code. Except as otherwise provided in division (I) of this 101
section, the board shall, on its own motion or on application 102
made under sections 3781.12 and 3781.13 of the Revised Code, 103
formulate, propose, adopt, modify, amend, or repeal the rules to 104
the extent necessary or desirable to effectuate the purposes of 105
sections 3781.06 to 3781.18 of the Revised Code. 106

(B) The board shall report to the general assembly 107
proposals for amendments to existing statutes relating to the 108
purposes declared in section 3781.06 of the Revised Code that 109
public health and safety and the development of the arts require 110
and shall recommend any additional legislation to assist in 111
carrying out fully, in statutory form, the purposes declared in 112
that section. The board shall prepare and submit to the general 113
assembly a summary report of the number, nature, and disposition 114
of the petitions filed under sections 3781.13 and 3781.14 of the 115
Revised Code. 116

(C) On its own motion or on application made under 117
sections 3781.12 and 3781.13 of the Revised Code, and after 118
thorough testing and evaluation, the board shall determine by 119
rule that any particular fixture, device, material, process of 120
manufacture, manufactured unit or component, method of 121
manufacture, system, or method of construction complies with 122
performance standards adopted pursuant to section 3781.11 of the 123
Revised Code. The board shall make its determination with regard 124
to adaptability for safe and sanitary erection, use, or 125
construction, to that described in any section of the Revised 126
Code, wherever the use of a fixture, device, material, method of 127
manufacture, system, or method of construction described in that 128
section of the Revised Code is permitted by law. The board shall 129
amend or annul any rule or issue an authorization for the use of 130
a new material or manufactured unit on any like application. No 131
department, officer, board, or commission of the state other 132
than the board of building standards or the board of building 133
appeals shall permit the use of any fixture, device, material, 134
method of manufacture, newly designed product, system, or method 135
of construction at variance with what is described in any rule 136
the board of building standards adopts or issues or that is 137

authorized by any section of the Revised Code. Nothing in this 138
section shall be construed as requiring approval, by rule, of 139
plans for an industrialized unit that conforms with the rules 140
the board of building standards adopts pursuant to section 141
3781.11 of the Revised Code. 142

(D) The board shall recommend rules, codes, and standards 143
to help carry out the purposes of section 3781.06 of the Revised 144
Code and to help secure uniformity of state administrative 145
rulings and local legislation and administrative action to the 146
bureau of workers' compensation, the director of commerce, any 147
other department, officer, board, or commission of the state, 148
and to legislative authorities and building departments of 149
counties, townships, and municipal corporations, and shall 150
recommend that they audit those recommended rules, codes, and 151
standards by any appropriate action that they are allowed 152
pursuant to law or the constitution. 153

(E) (1) The board shall certify municipal, township, and 154
county building departments and the personnel of those building 155
departments, and persons and employees of individuals, firms, or 156
corporations as described in division (E) (7) of this section to 157
exercise enforcement authority, to accept and approve plans and 158
specifications, and to make inspections, pursuant to sections 159
3781.03, 3791.04, and 4104.43 of the Revised Code. 160

(2) The board shall certify departments, personnel, and 161
persons to enforce the state residential building code, to 162
enforce the nonresidential building code, or to enforce both the 163
residential and the nonresidential building codes. Any 164
department, personnel, or person may enforce only the type of 165
building code for which certified. 166

(3) The board shall not require a building department, its 167

personnel, or any persons that it employs to be certified for 168
residential building code enforcement if that building 169
department does not enforce the state residential building code. 170
The board shall specify, in rules adopted pursuant to Chapter 171
119. of the Revised Code, the requirements for certification for 172
residential and nonresidential building code enforcement, which 173
shall be consistent with this division. The requirements for 174
residential and nonresidential certification may differ. Except 175
as otherwise provided in this division, the requirements shall 176
include, but are not limited to, the satisfactory completion of 177
an initial examination and, to remain certified, the completion 178
of a specified number of hours of continuing building code 179
education within each three-year period following the date of 180
certification which shall be not less than thirty hours. The 181
rules shall provide that continuing education credits and 182
certification issued by the council of American building 183
officials, national model code organizations, and agencies or 184
entities the board recognizes are acceptable for purposes of 185
this division. The rules shall specify requirements that are 186
consistent with the provisions of section 5903.12 of the Revised 187
Code relating to active duty military service and are 188
compatible, to the extent possible, with requirements the 189
council of American building officials and national model code 190
organizations establish. 191

(4) The board shall establish and collect a certification 192
and renewal fee for building department personnel, and persons 193
and employees of persons, firms, or corporations as described in 194
this section, who are certified pursuant to this division. 195

(5) Any individual certified pursuant to this division 196
shall complete the number of hours of continuing building code 197
education that the board requires or, for failure to do so, 198

forfeit certification. 199

(6) This division does not require or authorize the board 200
to certify personnel of municipal, township, and county building 201
departments, and persons and employees of persons, firms, or 202
corporations as described in this section, whose 203
responsibilities do not include the exercise of enforcement 204
authority, the approval of plans and specifications, or making 205
inspections under the state residential and nonresidential 206
building codes. 207

(7) Enforcement authority for approval of plans and 208
specifications and enforcement authority for inspections may be 209
exercised, and plans and specifications may be approved and 210
inspections may be made on behalf of a municipal corporation, 211
township, or county, by any of the following who the board of 212
building standards certifies: 213

(a) Officers or employees of the municipal corporation, 214
township, or county; 215

(b) Persons, or employees of persons, firms, or 216
corporations, pursuant to a contract to furnish architectural, 217
engineering, or other services to the municipal corporation, 218
township, or county; 219

(c) Officers or employees of, and persons under contract 220
with, a municipal corporation, township, county, health 221
district, or other political subdivision, pursuant to a contract 222
to furnish architectural, engineering, or other services. 223

(8) Municipal, township, and county building departments 224
have jurisdiction within the meaning of sections 3781.03, 225
3791.04, and 4104.43 of the Revised Code, only with respect to 226
the types of buildings and subject matters for which they are 227

certified under this section.	228
(9) Certification shall be granted upon application by the municipal corporation, the board of township trustees, or the board of county commissioners and approval of that application by the board of building standards. The application shall set forth:	229 230 231 232 233
(a) Whether the certification is requested for residential or nonresidential buildings, or both;	234 235
(b) The number and qualifications of the staff composing the building department;	236 237
(c) The names, addresses, and qualifications of persons, firms, or corporations contracting to furnish work or services pursuant to division (E) (7) (b) of this section;	238 239 240
(d) The names of any other municipal corporation, township, county, health district, or political subdivision under contract to furnish work or services pursuant to division (E) (7) of this section;	241 242 243 244
(e) The proposed budget for the operation of the building department.	245 246
(10) The board of building standards shall adopt rules governing all of the following:	247 248
(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 from performing services for the department when that employee or person would have to pass upon, inspect, or	249 250 251 252 253 254 255

otherwise exercise authority over any labor, material, or 256
equipment the employee or person furnishes for the construction, 257
alteration, or maintenance of a building or the preparation of 258
working drawings or specifications for work within the 259
jurisdictional area of the department. The department shall 260
provide other similarly qualified personnel to enforce the 261
residential and nonresidential building codes as they pertain to 262
that work. 263

(b) The minimum services to be provided by a certified 264
building department. 265

(11) The board of building standards may revoke or suspend 266
certification to enforce the residential and nonresidential 267
building codes, on petition to the board by any person affected 268
by that enforcement or approval of plans, or by the board on its 269
own motion. Hearings shall be held and appeals permitted on any 270
proceedings for certification or revocation or suspension of 271
certification in the same manner as provided in section 3781.101 272
of the Revised Code for other proceedings of the board of 273
building standards. 274

(12) Upon certification, and until that authority is 275
revoked, any county or township building department shall 276
enforce the residential and nonresidential building codes for 277
which it is certified without regard to limitation upon the 278
authority of boards of county commissioners under Chapter 307. 279
of the Revised Code or boards of township trustees under Chapter 280
505. of the Revised Code. 281

(F) In addition to hearings sections 3781.06 to 3781.18 282
and 3791.04 of the Revised Code require, the board of building 283
standards shall make investigations and tests, and require from 284
other state departments, officers, boards, and commissions 285

information the board considers necessary or desirable to assist 286
it in the discharge of any duty or the exercise of any power 287
mentioned in this section or in sections 3781.06 to 3781.18, 288
3791.04, and 4104.43 of the Revised Code. 289

(G) The board shall adopt rules and establish reasonable 290
fees for the review of all applications submitted where the 291
applicant applies for authority to use a new material, assembly, 292
or product of a manufacturing process. The fee shall bear some 293
reasonable relationship to the cost of the review or testing of 294
the materials, assembly, or products and for the notification of 295
approval or disapproval as provided in section 3781.12 of the 296
Revised Code. 297

(H) The residential construction advisory committee shall 298
provide the board with a proposal for a state residential 299
building code that the committee recommends pursuant to division 300
(D)(1) of section 4740.14 of the Revised Code. Upon receiving a 301
recommendation from the committee that is acceptable to the 302
board, the board shall adopt rules establishing that code as the 303
state residential building code. 304

(I)(1) The committee may provide the board with proposed 305
rules to update or amend the state residential building code 306
that the committee recommends pursuant to division ~~(E)~~(F) of 307
section 4740.14 of the Revised Code. 308

(2) If the board receives a proposed rule to update or 309
amend the state residential building code as provided in 310
division (I)(1) of this section, the board either may accept or 311
reject the proposed rule for incorporation into the residential 312
building code. If the board does not act to either accept or 313
reject the proposed rule within ninety days after receiving the 314
proposed rule from the committee as described in division (I)(1) 315

of this section, the proposed rule shall become part of the 316
residential building code. 317

(J) The board shall cooperate with the director of job and 318
family services when the director promulgates rules pursuant to 319
section 5104.05 of the Revised Code regarding safety and 320
sanitation in type A family day-care homes. 321

(K) The board shall adopt rules to implement the 322
requirements of section 3781.108 of the Revised Code. 323

Sec. 3781.104. (A) ~~One hundred eighty days after the board-~~ 324
~~of building standards files its rules with the secretary of-~~ 325
~~state and the director of the legislative service commission, as-~~ 326
~~required in section 119.04 of the Revised Code, as required by-~~ 327
~~this section, every~~ Every existing apartment and condominium 328
building that exceeds seventy-five feet in height, as measured 329
from ground level exclusive of any radio, television, or 330
telephone transmission antennae, or other equipment, chimneys, 331
or equipment associated with the heating or air conditioning 332
system of the building, which did not have an automatic smoke 333
detection system or sprinkler system in conformity with the 334
rules of the board of building standards adopted pursuant to 335
section 3781.10 of the Revised Code, shall have installed and in 336
operation an automatic smoke detection system as follows: 337

(1) Each dwelling unit shall have smoke detector devices 338
approved by the board and installed in the immediate vicinity 339
but outside of all sleeping rooms. Alarm signaling devices shall 340
be clearly audible in all bedrooms within the dwelling unit when 341
all intervening doors are closed. For the purpose of 342
installation and maintenance only, the applicable sections of 343
the national fire prevention association standard No. 74 344
"standard for the installation, maintenance and use of a 345

household fire warning system" shall be considered accepted 346
engineering practice. 347

(2) In those portions of a building subject to this 348
division other than dwelling units, detector spacing shall 349
conform to at least one of the following requirements: 350

(a) Where the building has a central return air system, 351
detectors shall be installed as provided by rule in or near the 352
return air stream in a manner that smoke-laden air originating 353
from any part of the building must pass by a detector before the 354
smoke-laden air leaves the floor of origin; 355

(b) In buildings with or without central return air 356
systems, detectors shall be installed on each floor on the 357
corridor or lobby side of and within five feet of all stairway 358
and elevator doors. Where horizontal exits are used, detectors 359
shall also be installed on each side of and within fifteen feet 360
of doors serving as horizontal exits through fire walls. 361

(B) Every existing residential rental property that has an 362
area that is being used for dwelling above the second story of 363
that property shall have an exterior means of egress, separate 364
from a shared, interior means of egress unless that property has 365
a fire suppression system. 366

(C) As used in this section: 367

(1) "Smoke detector" means a readily removable device, 368
sensitive to either visible or invisible particles of combustion 369
or both, which automatically detects any fire condition and 370
broadcasts locally a signal or alarm. 371

(2) "Apartment building" means any building at least 372
seventy-five per cent of the units of which are residential 373
dwelling units rented or leased to tenants upon other than a 374

transient basis and does not include a "hotel" as that term is 375
defined in section 3731.01 of the Revised Code but does include 376
a college or university dormitory. 377

(3) "Condominium" means any building composed of 378
individually owned units and operated by an association of 379
owners. 380

~~(C)~~ (4) "Exterior means of egress," "fire suppression 381
system," and "residential rental property" have the same 382
meanings as in section 3737.82 of the Revised Code. 383

(D) The board of building standards, pursuant to section 384
3781.10 of the Revised Code, shall adopt the provisions of this 385
section as a rule of the board. 386

Sec. 4740.14. (A) There is hereby created within the 387
department of commerce the residential construction advisory 388
committee consisting of nine persons the director of commerce 389
appoints. The advisory committee shall be made up of the 390
following members: 391

(1) Three shall be general contractors who have recognized 392
ability and experience in the construction of residential 393
buildings. 394

(2) Two shall be building officials who have experience 395
administering and enforcing a residential building code. 396

(3) One, chosen from a list of three names the Ohio fire 397
chief's association submits, shall be from the fire service 398
certified as a fire safety inspector who has at least ten years 399
of experience enforcing fire or building codes. 400

(4) One shall be a residential contractor who has 401
recognized ability and experience in the remodeling and 402

construction of residential buildings. 403

(5) One shall be an architect registered pursuant to 404
Chapter 4703. of the Revised Code, with recognized ability and 405
experience in the architecture of residential buildings. 406

(6) One, chosen from a list of three names the Ohio 407
municipal league submits to the director, shall be a mayor of a 408
municipal corporation in which the Ohio residential building 409
code is being enforced in the municipal corporation by a 410
certified building department. 411

(B) Terms of office shall be for three years, with each 412
term ending on the date three years after the date of 413
appointment. Each member shall hold office from the date of 414
appointment until the end of the term for which the member was 415
appointed. Vacancies shall be filled in the manner provided for 416
initial appointments. Any member appointed to fill a vacancy in 417
an unexpired term shall hold office for the remainder of that 418
term. 419

(C) The advisory committee shall do all of the following: 420

(1) Recommend to the board of building standards a 421
building code for residential buildings. The committee shall 422
recommend a code that it may model on a residential building 423
code a national model code organization issues, with adaptations 424
necessary to implement the code in this state. If the board of 425
building standards decides not to adopt a code the committee 426
recommends, the committee shall revise the code and resubmit it 427
until the board adopts a code the committee recommends as the 428
state residential building code; 429

(2) Advise the board regarding the establishment of 430
standards for certification of building officials who enforce 431

the state residential building code; 432

(3) Assist the board in providing information and guidance 433
to residential contractors and building officials who enforce 434
the state residential building code; 435

(4) Advise the board regarding the interpretation of the 436
state residential building code; 437

(5) Provide other assistance the committee considers 438
necessary; 439

(6) Provide the board with a written report of the 440
committee's findings for each consideration required by division 441
(D) of this section. 442

(D) The committee shall not make its recommendation to the 443
board pursuant to divisions (C)(1), (2), and (4) of this section 444
until the advisory committee has considered all of the 445
following: 446

(1) The impact that the state residential building code 447
may have upon the health, safety, and welfare of the public; 448

(2) The economic reasonableness of the residential 449
building code; 450

(3) The technical feasibility of the residential building 451
code; 452

(4) The financial impact that the residential building 453
code may have on the public's ability to purchase affordable 454
housing. 455

(E) The advisory committee shall include in the 456
recommendations the advisory committee makes to the board 457
pursuant to division (C)(1) of this section a requirement that, 458

unless a property has a fire suppression system, an exterior 459
means of egress exists for any area that will be used for 460
dwelling above the second story of a residential rental 461
property, separate from a shared, interior means of egress. 462
"Exterior means of egress," "fire suppression system," and 463
"residential rental property" have the same meanings as in 464
section 3737.82 of the Revised Code. 465

(F) The advisory committee may provide the board with any 466
rule the committee recommends to update or amend the state 467
residential building code or any rule that the committee 468
recommends to update or amend the state residential building 469
code after receiving a petition described in division (A) (2) of 470
section 3781.12 of the Revised Code. 471

~~(F)~~ (G) Members of the advisory committee shall receive no 472
salary for the performance of their duties as members, but shall 473
receive their actual and necessary expenses incurred in the 474
performance of their duties as members of the advisory committee 475
and shall receive a per diem for each day in attendance at an 476
official meeting of the committee, to be paid from the 477
industrial compliance operating fund in the state treasury, 478
using fees collected in connection with residential buildings 479
pursuant to division (F) (2) of section 3781.102 of the Revised 480
Code and deposited in that fund. 481

~~(G)~~ (H) The advisory committee is not subject to divisions 482
(A) and (B) of section 101.84 of the Revised Code. 483

Section 2. That existing sections 3737.82, 3781.10, 484
3781.104, and 4740.14 of the Revised Code are hereby repealed. 485

Section 3. The amendment by this act of section 3781.104 486
of the Revised Code takes effect six months after the effective 487

date of this act.

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