



The Ohio Fire Officials Association (OFOA)



May 30, 2023

The Honorable Matt Dolan
Chair, Senate Finance Committee
1 Capitol Sq. Floor 1 Room 127
Columbus, Ohio 43215-4275
Via e-mail Elizabeth.Baumgartner@ohiosenate.gov

Subject: Sub HB 33 before the Senate Finance Committee, Building and Fire Code Issues
Interested Party Testimony

Chairman Dolan, Vice Chairman Cirino, Ranking Member Sykes, and members of this committee. Thank you for the opportunity to submit interested party testimony on Substitute House Bill 33 (HB33), I am Captain Michael Kocab of the Willoughby Fire Department. I have been in the fire service for 31 years. I'm here today representing the Ohio Fire Chiefs Association and the Ohio Fire Officials Association. The Ohio Fire Chiefs is a statewide organization supporting the interests of Ohio's fire chief officers with over 1,800 members. The Ohio Fire Officials Association is also a state organization of fire code officials which is comprised of more than 500 Certified Fire Safety Inspectors from across Ohio, it is the Official State Chapter for the International Fire Marshals Association of the National Fire Protection Association and the Official State Chapter of the International Code Council. I am also the Vice President of the Northeastern Ohio Fire Prevention Association which is one of the five regional fire official's associations and is made up of around 250 members from Cleveland and Northeastern Ohio.

First off, we have serious concerns about House Bill 33, with reference to the changes in the ORC. The apparent intent of the amendment to R.C. 3737.83 (an incorporation of the text of HB 65/SB 67) is to require the SFM to exempt attached publicly accessible patios at all qualifying buildings across Ohio (this amendment would not just apply to agricultural buildings) from the fire code's requirements. This amendment is unsafe, unfair and will have unintended consequences. It drops the standard of nationally accepted life safety standards without incorporating any additional requirements. Many current occupancies including restaurants and bars across Ohio already comply with this standard. Code officials and owners have worked together to achieve compliance. This language will have an adverse effect on occupant load calculations and does not consider the other variables that go into the life safety of these establishments. For instance, many patios are off main entrances and exits from the building. These buildings require egress through the patio. If an unlimited occupancy load is allowed this will hamper patrons from leaving the building and could cause serious injury or deaths. Many patios have

roofs and in colder climates use portable heaters and enclose them to provide protection from the elements. This will further hamper egress in a life threatening event. This amendment creates a loophole in the fire and building codes for buildings that the public assembles in. These occupancies throughout history have provided some of the largest loss of life incidents in the United States. In many of these incident's panic was induced and people could not get out of building to safe areas because of exits and capacity issues (Triangle Shirtwaist Factory, Coconut Grove, Beverly Hills Supper Club, Station Night Club are examples of this). There is a process in place for businesses to have their arguments heard and a variance issued through the Board of Building Appeals that is the preferred solution to these issues.

The second issue in this bill relates to amendments added by the House Committee to R.C. 3781.062 which pertains to Building and Fire Code Coordination. We feel this is redundant and already exists. The OBC and OFC already have chapters that relate to each other, and the codes already address discrepancies between them. When the new codes are developed and adopted there is coordination between the BBS and SFM as well as input from local building and fire officials that enforce the code. This amendment excludes local involvement in the code process and could cause more local or regional codes which are counterproductive in the State of Ohio. Regional groups such as ours have monthly training on codes and code issues after new codes are adopted to improve the educational level of inspectors.

The third issue I would like to address is the amendments added by the House Committee to R.C. 3737.833, 3781.032 related to temporary fire and building permits. HB 33, page 1788 lines 54857-54875 adds new ORC 3781.032 stating if the building or fire department "... is unable to conduct an inspection or issue a permit ... for more than five business days ..." the building owner's representative "... may seek a temporary permit from any code official authorized to conduct such an inspection or issue such a permit elsewhere in this state. ..."

There are many possibilities that could prevent the fire official or building official from completing the inspection, examples are, a fire official is unable to do an inspection or issue a permit because the site is not otherwise in compliance with the OFC, OBC or any other federal, state or local legal requirement, another reason could be inspection fees have not been paid. Most fire officials will not conduct an inspection until proper application is made or plans are received, additionally the site/project may be in the appeals process, have zoning issues, or the project is not completed, etc. This rule will allow a builder/developer to go to any other code official and get a permit and operate. Without having any documentation on the project or site how can compliance with the OBC or OFC be verified?

The Sub HB 33 text regarding "permit" is flawed. Neither ORC 3781, 3791, Ohio Administrative Code (OAC) 4101:1 (Ohio Building Code), not any other rule promulgated by the Ohio Board of Building Standards describe a "permit." Instead, they describe certificate of plan approval, certificate of occupancy, certificate of completion, and adjudication order. Additionally, a local code official will rarely, or never for the



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most AHJ's conduct an inspection or issue a permit for a site not in their home jurisdiction and most will not take on the legal liability for such actions.

The changes to the ORC if incorporated as it is today will reduce the effectiveness of the OBC and OFC and it puts Ohioans -- and first responders -- at serious risk of injury, or even death.

We strongly urge the committee to remove these three amendments from the bill and keep Ohioans and first responders safe. Thank you for your attention to this important matter. If you have any questions, I will be more than happy to address them.

Sincerely,

Michael J. Kocab
OFC, Legislative Committee Member
OFOA, President
NEOFPA, Vice-President