

**As Introduced**

**132nd General Assembly**

**Regular Session**

**2017-2018**

**H. B. No. 128**

**Representative Roegner**

**Cosponsors: Representatives Antani, Becker, Brenner, Brinkman, DeVitis,  
Goodman, Hood, Keller, Koehler, Perales, Riedel, Romanchuk, Seitz, Slaby,  
Thompson, Vitale, Young**

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**A BILL**

To amend sections 121.083 and 3781.10 and to enact 1  
sections 3781.181 and 3781.182 of the Revised 2  
Code to permit a general contractor or owner of 3  
specified buildings to enter into a contract 4  
with a third-party private inspector or a 5  
certified building department for building 6  
inspection and to make other changes relating to 7  
building inspections. 8

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

**Section 1.** That sections 121.083 and 3781.10 be amended 9  
and sections 3781.181 and 3781.182 of the Revised Code be 10  
enacted to read as follows: 11

**Sec. 121.083.** (A) The superintendent of industrial 12  
compliance in the department of commerce shall do all of the 13  
following: 14

~~(A)~~ (1) Administer and enforce the general laws of this 15  
state pertaining to buildings, pressure piping, boilers, 16

bedding, upholstered furniture, and stuffed toys, steam 17  
engineering, elevators, plumbing, licensed occupations regulated 18  
by the department, and travel agents, as they apply to plans 19  
review, inspection, code enforcement, testing, licensing, 20  
registration, and certification. 21

~~(B)~~ (2) Exercise the powers and perform the duties 22  
delegated to the superintendent by the director of commerce 23  
under Chapters 4109., 4111., and 4115. of the Revised Code. 24

~~(C)~~ (3) Collect and collate statistics as are necessary. 25

~~(D)~~ (4) Examine and license persons who desire to act as 26  
steam engineers, to operate steam boilers, and to act as 27  
inspectors of steam boilers, provide for the scope, conduct, and 28  
time of such examinations, provide for, regulate, and enforce 29  
the renewal and revocation of such licenses, inspect and examine 30  
steam boilers and make, publish, and enforce rules and orders 31  
for the construction, installation, inspection, and operation of 32  
steam boilers, and do, require, and enforce all things necessary 33  
to make such examination, inspection, and requirement efficient. 34

~~(E)~~ (5) Rent and furnish offices as needed in cities in 35  
this state for the conduct of its affairs. 36

~~(F)~~ (6) Oversee a chief of construction and compliance, a 37  
chief of operations and maintenance, a chief of licensing and 38  
certification, a chief of worker protection, and other designees 39  
appointed by the director to perform the duties described in 40  
this section. 41

~~(G)~~ (7) Enforce the rules the board of building standards 42  
adopts pursuant to division (A) (2) of section 4104.43 of the 43  
Revised Code under the circumstances described in division (D) 44  
of that section. 45

~~(H)~~ (8) Accept submissions, establish a fee for 46  
submissions, and review submissions of certified welding and 47  
brazing procedure specifications, procedure qualification 48  
records, and performance qualification records for building 49  
services piping as required by section 4104.44 of the Revised 50  
Code. 51

(B) The superintendent of industrial compliance may 52  
contract with a municipal corporation, township, county, or 53  
other political subdivision certified by the board of building 54  
standards pursuant to section 3781.10 of the Revised Code or 55  
municipal or county health districts, to exercise enforcement 56  
authority, to accept and approve plans and specifications, and 57  
to make inspections, pursuant to sections 3781.03, 3791.04, and 58  
4104.43 of the Revised Code. 59

**Sec. 3781.10.** (A) (1) The board of building standards shall 60  
formulate and adopt rules governing the erection, construction, 61  
repair, alteration, and maintenance of all buildings or classes 62  
of buildings specified in section 3781.06 of the Revised Code, 63  
including land area incidental to those buildings, the 64  
construction of industrialized units, the installation of 65  
equipment, and the standards or requirements for materials used 66  
in connection with those buildings. The board shall incorporate 67  
those rules into separate residential and nonresidential 68  
building codes. The standards shall relate to the conservation 69  
of energy and the safety and sanitation of those buildings. 70

(2) The rules governing nonresidential buildings are the 71  
lawful minimum requirements specified for those buildings and 72  
industrialized units, except that no rule other than as provided 73  
in division (C) of section 3781.108 of the Revised Code that 74  
specifies a higher requirement than is imposed by any section of 75

the Revised Code is enforceable. The rules governing residential 76  
buildings are uniform requirements for residential buildings in 77  
any area with a building department certified to enforce the 78  
state residential building code. In no case shall any local code 79  
or regulation differ from the state residential building code 80  
unless that code or regulation addresses subject matter not 81  
addressed by the state residential building code or is adopted 82  
pursuant to section 3781.01 of the Revised Code. 83

(3) The rules adopted pursuant to this section are 84  
complete, lawful alternatives to any requirements specified for 85  
buildings or industrialized units in any section of the Revised 86  
Code. Except as otherwise provided in division (I) of this 87  
section, the board shall, on its own motion or on application 88  
made under sections 3781.12 and 3781.13 of the Revised Code, 89  
formulate, propose, adopt, modify, amend, or repeal the rules to 90  
the extent necessary or desirable to effectuate the purposes of 91  
sections 3781.06 to 3781.18 of the Revised Code. 92

(B) The board shall report to the general assembly 93  
proposals for amendments to existing statutes relating to the 94  
purposes declared in section 3781.06 of the Revised Code that 95  
public health and safety and the development of the arts require 96  
and shall recommend any additional legislation to assist in 97  
carrying out fully, in statutory form, the purposes declared in 98  
that section. The board shall prepare and submit to the general 99  
assembly a summary report of the number, nature, and disposition 100  
of the petitions filed under sections 3781.13 and 3781.14 of the 101  
Revised Code. 102

(C) On its own motion or on application made under 103  
sections 3781.12 and 3781.13 of the Revised Code, and after 104  
thorough testing and evaluation, the board shall determine by 105

rule that any particular fixture, device, material, process of 106  
manufacture, manufactured unit or component, method of 107  
manufacture, system, or method of construction complies with 108  
performance standards adopted pursuant to section 3781.11 of the 109  
Revised Code. The board shall make its determination with regard 110  
to adaptability for safe and sanitary erection, use, or 111  
construction, to that described in any section of the Revised 112  
Code, wherever the use of a fixture, device, material, method of 113  
manufacture, system, or method of construction described in that 114  
section of the Revised Code is permitted by law. The board shall 115  
amend or annul any rule or issue an authorization for the use of 116  
a new material or manufactured unit on any like application. No 117  
department, officer, board, or commission of the state other 118  
than the board of building standards or the board of building 119  
appeals shall permit the use of any fixture, device, material, 120  
method of manufacture, newly designed product, system, or method 121  
of construction at variance with what is described in any rule 122  
the board of building standards adopts or issues or that is 123  
authorized by any section of the Revised Code. Nothing in this 124  
section shall be construed as requiring approval, by rule, of 125  
plans for an industrialized unit that conforms with the rules 126  
the board of building standards adopts pursuant to section 127  
3781.11 of the Revised Code. 128

(D) The board shall recommend rules, codes, and standards 129  
to help carry out the purposes of section 3781.06 of the Revised 130  
Code and to help secure uniformity of state administrative 131  
rulings and local legislation and administrative action to the 132  
bureau of workers' compensation, the director of commerce, any 133  
other department, officer, board, or commission of the state, 134  
and to legislative authorities and building departments of 135  
counties, townships, and municipal corporations, and shall 136

recommend that they audit those recommended rules, codes, and standards by any appropriate action that they are allowed pursuant to law or the constitution.

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

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

(3) The board shall not 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 state residential building code. The board shall specify, in rules adopted pursuant to Chapter 119. of the Revised Code, the requirements for certification for residential and nonresidential building code enforcement, which shall be consistent with this division. The requirements for residential and nonresidential certification may differ. Except as otherwise provided in this division, the requirements shall include, but are not limited to, the satisfactory completion of an initial examination and, to remain certified, the completion of a specified number of hours of continuing building code education within each three-year period following the date of

certification which shall be not less than thirty hours. The 167  
rules shall provide that continuing education credits and 168  
certification issued by the council of American building 169  
officials, national model code organizations, and agencies or 170  
entities the board recognizes are acceptable for purposes of 171  
this division. The rules shall specify requirements that are 172  
consistent with the provisions of section 5903.12 of the Revised 173  
Code relating to active duty military service and are 174  
compatible, to the extent possible, with requirements the 175  
council of American building officials and national model code 176  
organizations establish. 177

(4) The board shall establish and collect a certification 178  
and renewal fee for building department personnel, and persons 179  
and employees of persons, firms, or corporations as described in 180  
this section, who are certified pursuant to this division. 181

(5) Any individual certified pursuant to this division 182  
shall complete the number of hours of continuing building code 183  
education that the board requires or, for failure to do so, 184  
forfeit certification. 185

(6) This division does not require or authorize the board 186  
to certify personnel of municipal, township, and county building 187  
departments, and persons and employees of persons, firms, or 188  
corporations as described in this section, whose 189  
responsibilities do not include the exercise of enforcement 190  
authority, the approval of plans and specifications, or making 191  
inspections under the state residential and nonresidential 192  
building codes. 193

(7) Enforcement authority for approval of plans and 194  
specifications and enforcement authority for inspections may be 195  
exercised, and plans and specifications may be approved and 196

inspections may be made on behalf of a municipal corporation, 197  
township, or county, by any of the following who the board of 198  
building standards certifies: 199

(a) Officers or employees of the municipal corporation, 200  
township, or county; 201

(b) Persons, or employees of persons, firms, or 202  
corporations, pursuant to a contract to furnish architectural, 203  
engineering, or other services to the municipal corporation, 204  
township, or county; 205

(c) Officers or employees of, and persons under contract 206  
with, a municipal corporation, township, county, health 207  
district, or other political subdivision, pursuant to a contract 208  
to furnish architectural, engineering, or other services; 209

(d) The division of industrial compliance in the 210  
department of commerce pursuant to a contract to exercise 211  
enforcement authority, to accept and approve plans and 212  
specifications, and to make inspections for nonresidential 213  
buildings, pursuant to sections 3781.03, 3791.04, and 4104.43 of 214  
the Revised Code; 215

(e) Persons, or employees of persons, firms, or 216  
corporations, or officers or employees of other municipal 217  
corporations, townships, or counties certified by the board of 218  
building standards to make inspections under the conditions 219  
established in rules adopted under division (E)(11)(c) of this 220  
section. 221

(8) Municipal, township, and county building departments 222  
have jurisdiction within the meaning of sections 3781.03, 223  
3791.04, and 4104.43 of the Revised Code, only with respect to 224  
the types of buildings and subject matters for which they are 225

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| certified under this section.   | 226   |
| (9) A certified municipal, township, or county building department may exercise enforcement authority, accept and approve plans and specifications, and make inspections pursuant to sections 3781.03, 3791.04, and 4104.43 of the Revised Code for a park district created pursuant to Chapter 1545. of the Revised Code upon the approval, by resolution, of the board of park commissioners of the park district requesting the department to exercise that authority and conduct those activities, as applicable. | 227<br>228<br>229<br>230<br>231<br>232<br>233<br>234<br>235 |
| (10) 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:   | 236<br>237<br>238<br>239<br>240                             |
| (a) Whether the certification is requested for residential or nonresidential buildings, or both;  | 241<br>242  |
| (b) The number and qualifications of the staff composing the building department;   | 243<br>244  |
| (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;   | 245<br>246<br>247   |
| (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;  | 248<br>249<br>250<br>251                                    |
| (e) The proposed budget for the operation of the building department.   | 252<br>253  |

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| (11) The board of building standards shall adopt rules governing all of the following:   | 254<br>255   |
| (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 <u>or a general contractor or owner under section 3781.181 of the Revised Code</u> from performing services for the department <u>or the general contractor or owner</u> when that employee or person would have to pass upon, inspect, or otherwise exercise authority over any labor, material, or equipment the employee or person furnishes for the construction, alteration, or maintenance of a building or the preparation of working drawings or specifications for work within the jurisdictional area of the department. <del>The</del> <u>Except in the case of a contract under division (D)(2)(a) of section 3781.181 of the Revised Code,</u> the department shall provide other similarly qualified personnel to enforce the residential and nonresidential building codes as they pertain to that work. | 256<br>257<br>258<br>259<br>260<br>261<br>262<br>263<br>264<br>265<br>266<br>267<br>268<br>269<br>270<br>271<br>272<br>273 |
| (b) The minimum services to be provided by a certified building department;  | 274<br>275   |
| <u>(c) Rules necessary to implement section 3781.181 of the Revised Code.</u>  | 276<br>277   |
| (12) The board of building standards may revoke or suspend certification to enforce the residential and nonresidential building codes, on petition to the board by any person affected by that enforcement or approval of plans, or by the board on its own motion. Hearings shall be held and appeals permitted on any proceedings for certification or revocation or suspension of   | 278<br>279<br>280<br>281<br>282<br>283   |

certification in the same manner as provided in section 3781.101 284  
of the Revised Code for other proceedings of the board of 285  
building standards. 286

(13) Upon certification, and until that authority is 287  
revoked, any county or township building department shall 288  
enforce the residential and nonresidential building codes for 289  
which it is certified without regard to limitation upon the 290  
authority of boards of county commissioners under Chapter 307. 291  
of the Revised Code or boards of township trustees under Chapter 292  
505. of the Revised Code. 293

(F) In addition to hearings sections 3781.06 to 3781.18 294  
and 3791.04 of the Revised Code require, the board of building 295  
standards shall make investigations and tests, and require from 296  
other state departments, officers, boards, and commissions 297  
information the board considers necessary or desirable to assist 298  
it in the discharge of any duty or the exercise of any power 299  
mentioned in this section or in sections 3781.06 to 3781.18, 300  
3791.04, and 4104.43 of the Revised Code. 301

(G) The board shall adopt rules and establish reasonable 302  
fees for the review of all applications submitted where the 303  
applicant applies for authority to use a new material, assembly, 304  
or product of a manufacturing process. The fee shall bear some 305  
reasonable relationship to the cost of the review or testing of 306  
the materials, assembly, or products and for the notification of 307  
approval or disapproval as provided in section 3781.12 of the 308  
Revised Code. 309

(H) The residential construction advisory committee shall 310  
provide the board with a proposal for a state residential 311  
building code that the committee recommends pursuant to division 312  
(D) (1) of section 4740.14 of the Revised Code. Upon receiving a 313

recommendation from the committee that is acceptable to the 314  
board, the board shall adopt rules establishing that code as the 315  
state residential building code. 316

(I) (1) The committee may provide the board with proposed 317  
rules to update or amend the state residential building code 318  
that the committee recommends pursuant to division (E) of 319  
section 4740.14 of the Revised Code. 320

(2) If the board receives a proposed rule to update or 321  
amend the state residential building code as provided in 322  
division (I) (1) of this section, the board either may accept or 323  
reject the proposed rule for incorporation into the residential 324  
building code. If the board does not act to either accept or 325  
reject the proposed rule within ninety days after receiving the 326  
proposed rule from the committee as described in division (I) (1) 327  
of this section, the proposed rule shall become part of the 328  
residential building code. 329

(J) The board shall cooperate with the director of job and 330  
family services when the director promulgates rules pursuant to 331  
section 5104.05 of the Revised Code regarding safety and 332  
sanitation in type A family day-care homes. 333

(K) The board shall adopt rules to implement the 334  
requirements of section 3781.108 of the Revised Code. 335

**Sec. 3781.181.** (A) As used in this section: 336

(1) "Nonresidential building" and "residential building" 337  
have the same meanings as in section 3781.06 of the Revised 338  
Code. 339

(2) "Owner" means the fee owner of any building or 340  
structure. 341

(3) "Third-party private inspector" means an inspector 342  
that is certified under section 3781.10 of the Revised Code to 343  
conduct inspections of residential or nonresidential building 344  
construction projects but who is not directly employed by a 345  
governmental entity. 346

(B) Inspections of residential and nonresidential building 347  
construction projects shall be performed by the building 348  
department having jurisdiction within twenty-four hours of an 349  
inspection request. 350

(C) The board of building standards shall maintain a list 351  
of third-party private inspectors and certified building 352  
departments that have authority from the board to provide 353  
inspections for residential and nonresidential buildings. The 354  
board shall provide this list to a general contractor, owner, or 355  
certified building department when requested under division (D) 356  
or (F) of this section. 357

(D) (1) A general contractor or owner of a residential or 358  
nonresidential building construction project may make a request 359  
to the board for an independent inspection to be conducted of 360  
the building. Upon receipt of such a request, the board shall do 361  
both of the following: 362

(a) Process the request in accordance with rules adopted 363  
pursuant to this section; 364

(b) Provide to the general contractor or owner a list of 365  
third-party private inspectors and certified building 366  
departments maintained by the board. 367

(2) After obtaining the list of inspectors and departments 368  
from the board, a general contractor or owner may enter into a 369  
contract with either of the following to inspect a residential 370

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| <u>or nonresidential building construction project:</u>  | 371                                    |
| <u>(a) A third-party private inspector;</u>  | 372                                    |
| <u>(b) A building department certified under section 3781.10</u><br><u>of the Revised Code.</u>  | 373<br>374                             |
| <u>(3) (a) The general contractor or owner shall be</u><br><u>responsible for payment of any fee pursuant to a contract under</u><br><u>division (D) (2) (a) of this section and any fee established by</u><br><u>the certified building department fee schedule for inspections</u><br><u>under division (D) (2) (b) of this section.</u>   | 375<br>376<br>377<br>378<br>379        |
| <u>(b) If an inspection is conducted pursuant to division (D)</u><br><u>(2) (a) of this section, the building department having</u><br><u>jurisdiction may charge any standard fee that is customary for</u><br><u>the approval, including an administrative or filing fee, but</u><br><u>shall not charge any fee related to inspection.</u>  | 380<br>381<br>382<br>383<br>384        |
| <u>(4) Once the inspection pursuant to the contract under</u><br><u>division (D) (1) of this section has been completed, the third-</u><br><u>party private inspector or the inspector employed by the</u><br><u>certified building department shall send a copy of the</u><br><u>inspection results within twenty-four hours after the inspection</u><br><u>to the building department having jurisdiction.</u> | 385<br>386<br>387<br>388<br>389<br>390 |
| <u>(5) The rules adopted by the board shall prescribe</u><br><u>procedures for the review and processing of the inspection</u><br><u>reports by the building official of the building department</u><br><u>having jurisdiction.</u>  | 391<br>392<br>393<br>394               |
| <u>(E) The board may do any of the following after receiving</u><br><u>a request under division (D) of this section:</u>   | 395<br>396                             |
| <u>(1) Investigate the building department having</u><br><u>jurisdiction;</u>  | 397<br>398                             |

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| <u>(2) Investigate the employees of the building department</u>          | 399 |
| <u>having jurisdiction;</u>  | 400 |
| <u>(3) Evaluate the building department having jurisdiction;</u>         | 401 |
| <u>(4) Evaluate the employees of the building department</u>             | 402 |
| <u>having jurisdiction.</u>  | 403 |
| <u>(F) (1) A building department having jurisdiction of</u>              | 404 |
| <u>residential or nonresidential building inspection may make a</u>      | 405 |
| <u>request to the board for an independent inspector. The board</u>      | 406 |
| <u>shall provide a list of inspectors that may, as described by</u>      | 407 |
| <u>division (B) of this section, conduct inspections on behalf of</u>    | 408 |
| <u>the building department having jurisdiction.</u>                      | 409 |
| <u>(2) The building department having jurisdiction shall pay</u>         | 410 |
| <u>the third-party private inspector or certified building</u>           | 411 |
| <u>department the fee collected for such inspection in accordance</u>    | 412 |
| <u>with the fee schedule established by the building department</u>      | 413 |
| <u>having jurisdiction for similar inspections.</u>                      | 414 |
| <u>(3) The board shall adopt rules describing procedures for</u>         | 415 |
| <u>this division.</u>  | 416 |
| <u>(G) A general contractor or owner of a residential or</u>             | 417 |
| <u>nonresidential construction project may request a certificate of</u>  | 418 |
| <u>occupancy from either of the following:</u>                           | 419 |
| <u>(1) The building department having jurisdiction;</u>                  | 420 |
| <u>(2) The board of building standards.</u>                              | 421 |
| <b><u>Sec. 3781.182.</u></b> (A) <u>The department of commerce shall</u> | 422 |
| <u>establish an expedited arbitration process in which a general</u>     | 423 |
| <u>contractor or owner of a residential or nonresidential building</u>   | 424 |
| <u>construction project may appeal inspection results. The process</u>   | 425 |
| <u>established by the department under this section may allow for</u>    | 426 |

an appeal to be heard via conference call. The process shall 427  
include all of the following: 428

(1) A requirement that the arbitration hearing be 429  
conducted within twenty-four hours of the request by the general 430  
contractor or owner; 431

(2) A requirement that the party making the request for 432  
arbitration have the burden of showing both of the following: 433

(a) That there was a malicious purpose in the inspection 434  
results by the inspector; 435

(b) That the delay will cause irreparable harm. 436

(3) A requirement that the arbitrator's review be narrowly 437  
tailored such that the arbitrator shall review each case as a 438  
preliminary matter to determine whether the inspector's decision 439  
should be overruled so that the harm can be prevented. If the 440  
inspector's decision is overruled by the arbitrator, the general 441  
contractor or owner may proceed with the construction project. 442

(4) A provision specifying that, if the arbitrator does 443  
not overrule the inspector's decision, then the matter shall 444  
proceed to the existing appellate system; 445

(5) A requirement that the inspector's professional 446  
judgment receive deference and not be a matter of discussion 447  
during the arbitration hearings; 448

(6) General contractor or owner liability for any false or 449  
misleading statements made during the arbitration process. 450

(B) The department shall adopt rules to implement this 451  
section. 452

**Section 2.** That existing sections 121.083 and 3781.10 of 453

the Revised Code are hereby repealed.

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