

**As Introduced**

**133rd General Assembly**

**Regular Session**

**2019-2020**

**S. B. No. 325**

**Senator Roegner**

**Cosponsors: Senators Brenner, Huffman, M., Huffman, S., McColley**

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**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  
handicapped persons, 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 handicapped persons. 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 handicapped persons as 89  
defined in section 3781.111 of the Revised Code, or, if no local 90  
corporation, association, or organization exists, then any 91  
statewide corporation, association, or other organization 92  
composed of or representing handicapped persons may apply for 93  
the de novo hearing or appeal to the court of common pleas from 94  
any decision of a certified municipal or county board of appeals 95  
interpreting, applying, or granting a variance from section 96  
3781.111 of the Revised Code and any rule made thereunder. 97  
Application for a de novo hearing before the state board shall 98  
be made no later than thirty days after the municipal or county 99  
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~~ 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, and professional requirements and experience necessary for membership.	172 173 174
(E) Upon reviewing the application, the board of building standards shall certify the local board if it finds all of the following:	175 176 177
(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;	178 179 180 181
(2) The local board is established pursuant to local resolution, ordinance, or municipal charter;	182 183
(3) The local board's membership meets the requirements of this section.	184 185
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.	186 187 188 189
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.	190 191 192 193 194 195
(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	196 197 198

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 twenty-four hours after the 212  
request was made, excluding Saturdays, Sundays, and legal 213  
holidays as defined in section 1.14 of the Revised Code; 214

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

-(2) (a) If a person requests an appeal of an order 218  
pursuant to section 3781.19 or 3781.20 of the Revised Code and 219  
the person did not request the appeal to be expedited under 220  
division (A) (1) of this section, the person may request the 221  
remainder of the appeal proceeding be expedited if, during the 222  
course of the appeal, the board issues a continuance of the 223  
hearing, such that no decision is made and additional evidence 224  
is requested in order to continue the proceeding. A person may 225  
request that any follow-up hearing be expedited and held within 226  
three days of the 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 three 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  
five hundred 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

(D) The board of building standards may adopt rules to 253  
implement this section. 254

**Section 2.** That existing sections 3781.19 and 3781.20 of 255  
the Revised Code are hereby repealed. 256