



Ohio Legislative Service Commission

Bill Analysis

Carla Napolitano

S.B. 205

131st General Assembly
(As Introduced)

Sens. Beagle and Lehner, Burke, Yuko

BILL SUMMARY

- Requires certain residential rental properties to contain an exterior means of egress from any living space that is above the second floor.
- Provides a qualified immunity to a landlord who in good faith complies with the requirement.

CONTENT AND OPERATION

General requirement

The bill requires, beginning six months after the bill's effective date, every existing residential rental property to have an exterior means of egress from any living space that is above the second floor. This method of egress must be a ladder or staircase that descends from a functional window to a height of no more than five feet above the ground. It must also be distinct from a shared, interior method of egress. The bill's requirements apply to buildings that were originally designed as single-family dwellings, but are leased or otherwise rented to tenants as multi-family dwellings. It does not apply to hotels, college or university dormitories, or buildings that contain a fire suppression system. A fire suppression system is a system that includes devices and equipment to detect a fire, actuate an alarm, and suppress or control a fire.¹

Any person found violating this requirement in a manner that is detrimental to the health, safety, or welfare of any person is guilty of a minor misdemeanor (see **COMMENT**).² A person guilty of a minor misdemeanor is subject to a fine of up to \$150

¹ R.C. 3781.104 and 3737.82; Section 3; and, by reference, R.C. 3781.108, not in the bill.

² R.C. 3781.99(C), not in the bill.

and community service of up to 30 hours in lieu of all or part of the fine, but is not subject to a jail term.³

Fire and building codes

Additionally, the bill requires that the State Fire Code, Residential Building Code (RBC), and Nonresidential Building Code (NBC) each include a similar requirement.⁴

The State Fire Code applies to all buildings, and specified officers are authorized to enforce that Code. A person who violates the State Fire Code may receive a civil penalty of up to \$1,000. The Fire Safety Law also prohibits a person from knowingly violating the State Fire Code. Such a violation is a first degree misdemeanor, the penalties for which include a fine of up to \$1,000 and a jail term of up to 180 days.⁵

The building codes establish minimum standards for the erection, construction, repair, alteration, and maintenance of buildings: generally these activities must occur for a building inspector to become involved. The RBC applies, generally, to one-family, two-family, or three-family dwelling houses. The NBC applies, generally, to other buildings. The NBC applies statewide. The RBC applies in any area with a building department certified to enforce the RBC (but, a local building department is not required to be certified to enforce the Code). If a local government adopts a local residential building code, then that local code may only differ from the RBC by addressing matters not already addressed in the RBC. Note, however, that a local government may choose to enforce no residential building code, either the RBC or a local code.⁶

Qualified immunity

The bill specifies that a landlord who pursuant to the landlord's obligations under the Landlord Tenant Law and who in good faith complies with the exterior means of egress requirement for residential rental property under the bill is not liable in damages in a lawsuit for any harm (injury, death, or loss to person or property) relating to the use of that exterior means of egress. This qualified immunity does not apply if

³ R.C. 2929.26(D), 2929.27(D), and 2929.28(A)(2), not in the bill.

⁴ R.C. 3737.82, 3781.10, and 4740.14.

⁵ R.C. 2929.24, 2929.28, 3737.22, 3737.51, and 3737.99, not in the bill.

⁶ R.C. 3781.10(A)(2) and (E) and R.C. 3781.01 and 3781.11, not in the bill.

acts of the landlord constitute willful, wanton, or reckless misconduct or grossly negligent conduct. For purposes of this provision, "good faith" means honesty in fact.⁷

COMMENT

The bill creates a new criminal offense for any person found violating the bill's requirement for an exterior means of egress if the violation is detrimental to the health, safety, or welfare of any person.⁸ S.B. 361 of the 130th General Assembly requires any new criminal offense to specify a culpable mental state, meaning the state of mind with which a person must act in order to be legally responsible for the offense.⁹ Under S.B. 361, if a new offense does not specify a culpable mental state, the offense is void and therefore the penalty for the offense cannot be imposed. The bill does not specify a culpable mental state for the offense created by the bill, nor does it indicate an intention to impose strict liability for that offense. Under S.B. 361, a court could determine that the new criminal offense is void.

HISTORY

ACTION	DATE
Introduced	08-26-15

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⁷ R.C. 2305.403, by reference to R.C. 5321.04, not in the bill.

⁸ R.C. 3781.104(B) and R.C. 3781.99(C), not in the bill.

⁹ R.C. 2901.20, not in the bill.

