

**As Passed by the Senate**

**125th General Assembly  
Regular Session  
2003-2004**

**Sub. H. B. No. 25**

**Representatives Gibbs, Grendell, Peterson, Seitz, Otterman, McGregor, Core,  
Gilb, Hollister, Niehaus, Setzer, Wagner, DeBose, Domenick, Skindell,  
Carmichael, Aslanides, Buehrer, Cates, Chandler, Cirelli, Clancy, Collier,  
Flowers, Hoops, Hughes, Kearns, Koziura, S. Patton, Reidelbach, Taylor,  
Wolpert  
Senators Spada, Amstutz, Armbruster, Austria, Harris, Mumper, Stivers**

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**A B I L L**

To amend sections 307.37 and 711.131 and to repeal 1  
section 4740.14 of the Revised Code to permit 2  
counties to include regulations in their building 3  
codes to protect existing surface and subsurface 4  
drainage, and to eliminate the Residential 5  
Construction Advisory Committee. 6

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

**Section 1.** That sections 307.37 and 711.131 of the Revised 7  
Code be amended to read as follows: 8

**Sec. 307.37.** (A)~~(1)~~ As used in this section, "proposed new 9  
construction" means a proposal to erect, construct, repair, alter, 10  
redevelop, or maintain a single-family, two-family, or 11  
three-family dwelling or any structure that is regulated by the 12  
Ohio building code. 13

(B)(1) The board of county commissioners, in addition to its 14  
other powers, may adopt, amend, rescind, administer, and enforce 15

regulations pertaining to the erection, construction, repair, 16  
alteration, redevelopment, and maintenance of single-family, 17  
two-family, and three-family dwellings within the unincorporated 18  
territory of the county, or the board may establish districts in 19  
any part of the unincorporated territory and may adopt, amend, 20  
rescind, administer, and enforce such regulations in the 21  
districts. When adopted, all regulations, including service 22  
charges, shall be uniform within all districts in which building 23  
codes are established; however, more stringent regulations may be 24  
imposed in flood hazard areas and in Lake Erie coastal erosion 25  
areas identified under section 1506.06 of the Revised Code in 26  
order to prevent or reduce the hazard resulting from flooding and 27  
from erosion along Lake Erie. ~~It~~ Except as provided in division 28  
(B)(3) of this section, in no case shall the regulations go beyond 29  
the scope of regulating the safety, health, and sanitary 30  
conditions of ~~such~~ those buildings. ~~Any~~ 31

Any person adversely affected by an order of the board 32  
adopting, amending, or rescinding a regulation under this section 33  
may appeal to the court of common pleas of the county on the 34  
ground that the board failed to comply with the law in adopting, 35  
amending, rescinding, publishing, or distributing the ~~regulations~~ 36  
regulation, ~~or~~ that the regulation, as adopted or amended by the 37  
board, is unreasonable or unlawful, or that the revision of the 38  
regulation was unreasonable or unlawful. 39

(2) A county building code may include regulations for 40  
participation in the national flood insurance program established 41  
in the "Flood Disaster Protection Act of 1973," 87 Stat. 975, 42  
U.S.C.A. 4002, as amended, and regulations adopted for the 43  
purposes of section 1506.04 or 1506.07 of the Revised Code 44  
governing the prohibition, location, erection, construction, 45  
redevelopment, or floodproofing of new buildings or structures, 46  
substantial improvements to existing buildings or structures, or 47

other development in unincorporated territory within flood hazard 48  
areas identified under the "Flood Disaster Protection Act of 49  
1973," 87 Stat. 975, 42 U.S.C.A. 4002, as amended, or within Lake 50  
Erie coastal erosion areas identified under section 1506.06 of the 51  
Revised Code, including, but not limited to, residential, 52  
commercial, institutional, or industrial buildings or structures 53  
or other permanent structures, as ~~that term is~~ defined in section 54  
1506.01 of the Revised Code. Rules adopted under division 55  
(A)(B)(2) of this section shall not conflict with the Ohio 56  
building code. 57

(3)(a) A county building code may include regulations that 58  
provide for a review of the specific effects of a proposed new 59  
construction on existing surface or subsurface drainage. The 60  
regulations may require reasonable drainage mitigation and 61  
reasonable alteration of a proposed new construction before a 62  
building permit is issued in order to prevent or correct any 63  
adverse effects that the proposed new construction may have on 64  
existing surface or subsurface drainage. The regulations shall not 65  
be inconsistent with, more stringent than, or broader in scope 66  
than standards adopted by the natural resource conservation 67  
service in the United States department of agriculture concerning 68  
drainage or rules adopted by the environmental protection agency 69  
for reducing, controlling, or mitigating storm water runoff from 70  
construction sites, where applicable. The regulations shall allow 71  
a person who is registered under Chapter 4703. or 4733. of the 72  
Revised Code to prepare and submit relevant plans and other 73  
documents for review, provided that the person is authorized to 74  
prepare the plans and other documents pursuant to the person's 75  
registration. 76

(b) If regulations are adopted under division (B)(3) of this 77  
section, the board shall specify in the regulations a procedure 78  
for the review of the specific effects of a proposed new 79

construction on existing surface or subsurface drainage. The 80  
procedure shall include at a minimum all of the following: 81

(i) A meeting at which the proposed new construction shall be 82  
examined for those specific effects. The meeting shall be held 83  
within thirty days after an application for a building permit is 84  
filed or a review is requested unless the applicant agrees in 85  
writing to extend that time period or to postpone the meeting to 86  
another date, time, or place. The meeting shall be scheduled 87  
within five days after an application for a building permit is 88  
filed or a review is requested. 89

(ii) Written notice of the date, time, and place of that 90  
meeting, sent by regular mail to the applicant. The written notice 91  
shall be mailed at least seven days before the scheduled meeting 92  
date. 93

(iii) Completion of the review by the board of county 94  
commissioners not later than thirty days after the application for 95  
a building permit is filed or a review is requested unless the 96  
applicant has agreed in writing to extend that time period or 97  
postpone the meeting to a later time, in which case the review 98  
shall be completed not later than two days after the date of the 99  
meeting. A complete review shall include the issuance of any order 100  
of the board of county commissioners regarding necessary 101  
reasonable drainage mitigation and necessary reasonable 102  
alterations to the proposed new construction to prevent or correct 103  
any adverse effects on existing surface or subsurface drainage. If 104  
the review is not completed within the thirty-day period or an 105  
extended or postponed period that the applicant has agreed to, the 106  
proposed new construction shall be deemed to have no adverse 107  
effects on existing surface or subsurface drainage, and those 108  
effects shall not be a valid basis for the denial of a building 109  
permit. 110

(iv) A written statement, provided to the applicant at the meeting or in an order for alterations to a proposed new construction, informing the applicant of the right to seek appellate review of the denial of a building permit under division (B)(3)(b)(iii) of this section by filing a petition in accordance with Chapter 2506. of the Revised Code. 111  
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(c) The regulations may authorize the board, after obtaining the advice of the county engineer, to enter into an agreement with the county engineer or another qualified person or entity to carry out any necessary inspections and make evaluations about what, if any, alterations are necessary to prevent or correct any adverse effects that a proposed new construction may have on existing surface or subsurface drainage. 117  
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(d) Regulations authorized by division (B)(3) of this section shall not apply to any property that has been approved by a platting authority under section 711.05, 711.09, 711.10, or 711.131 of the Revised Code. 124  
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(e) As used in division (B)(3) of this section, "subsurface drainage" does not include a household sewage disposal system as defined in section 3709.091 of the Revised Code. 128  
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~~(B)~~(C) Regulations or amendments may be adopted under this section only after public hearing at not fewer than two regular sessions of the board. The board shall cause to be published in a newspaper of general circulation in the county notice of the public hearings, including time, date, and place, once a week for two weeks immediately preceding the hearings. The proposed regulations or amendments shall be made available by the board to the public at the board office. The regulations or amendments shall take effect on the thirty-first day following the date of their adoption. 131  
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~~(C)~~(D) No person shall violate any regulation of the board 141

adopted under sections 307.37 to 307.40 of the Revised Code. 142

Each day during which an illegal location, erection, 143  
construction, floodproofing, repair, alteration, development, 144  
redevelopment, or maintenance continues may be considered a 145  
separate offense. 146

~~(D)~~(E) Regulations or amendments adopted by resolution of the 147  
board do not affect buildings or structures that exist or on which 148  
construction has begun on or before the date the regulation or 149  
amendment is adopted by the board. 150

~~(E)~~(F) The board may provide for a building regulation 151  
department and may employ ~~such~~ personnel ~~as~~ that it determines to 152  
be necessary for the purpose of enforcing its regulations. Upon 153  
certification of the building department under section 3781.10 of 154  
the Revised Code, the board may direct the county building 155  
department to exercise enforcement authority and to accept and 156  
approve plans pursuant to sections 3781.03 and 3791.04 of the 157  
Revised Code for any other kind or class of building in the 158  
unincorporated territory of the county. 159

**Sec. 711.131.** Notwithstanding sections 711.001 to 711.13 of 160  
the Revised Code, a proposed division of a parcel of land along an 161  
existing public street, not involving the opening, widening, or 162  
extension of any street or road, and involving no more than five 163  
lots after the original tract has been completely subdivided, may 164  
be submitted to the authority having approving jurisdiction of 165  
plats under section 711.05, 711.09, or 711.10 of the Revised Code 166  
for approval without plat. If the authority acting through a 167  
properly designated representative is satisfied that the proposed 168  
division is not contrary to applicable platting, subdividing, 169  
zoning, or access management regulations or regulations adopted 170  
under division (B)(3) of section 307.37 of the Revised Code 171  
regarding existing surface or subsurface drainage, it shall within 172

seven working days after submission approve the proposed division 173  
and, on presentation of a conveyance of the parcel, shall stamp 174  
the conveyance "approved by (planning authority); no plat 175  
required" and have it signed by its clerk, secretary, or other 176  
official as may be designated by it. The planning authority may 177  
require the submission of a sketch and other information that is 178  
pertinent to its determination under this section. 179

**Section 2.** That existing sections 307.37 and 711.131 and 180  
section 4740.14 of the Revised Code are hereby repealed. 181

**Section 3.** The provisions of Section 1 of this act regarding 182  
surface or subsurface drainage regulations shall not apply to any 183  
property for which a plat is submitted for approval under section 184  
711.05, 711.09, or 711.10 of the Revised Code, or for which a 185  
proposed division is submitted for approval without plat under 186  
section 711.131 of the Revised Code, on or before the effective 187  
date of this act if the approval of the submitted plat or proposed 188  
division is pending on the effective date of this act. 189