

Senate, No. 2570

[Senate, July 26, 2010 - Substituted by amendment by the Senate (Ways and Means) for Senate, No. 983.]



The Commonwealth of Massachusetts

IN THE YEAR OF TWO THOUSAND AND TEN

AN ACT ESTABLISHING THE FIRE PREVENTION REGULATIONS APPEALS BOARD.

Be it enacted by the Senate and House of Representatives in General Court assembled,

And by the authority of the same, as follows:

1 **SECTION 1.** Chapter 22D of the General Laws is hereby amended by adding the following
2 section:-

3 Section 5. (a) There is hereby established a fire prevention regulations appeals board,
4 hereinafter referred to as the appeals board. The appeals board shall consist of the 14 members of the
5 board of fire prevention regulations, established pursuant to section 4.

6 The governor shall, from time to time, designate a member of the appeals board as chairman.

7 The appeals board may, subject to appropriation and the approval of the state fire marshal,
8 employ such clerical, technical and other assistants as may be required by the appeals board.

9 (b) Whoever is aggrieved by any act, rule, order, decision, requirement of, or direction by, any
10 state or local official charged with the enforcement of the state fire code relative to the fire protection
11 requirements for buildings or structures, may appeal therefrom to the appeals board within 45 days
12 following the service of notice of such act, rule, order, decision, requirement or direction. Appeals filed
13 pursuant to this section shall be made on a form as prescribed or approved by the appeals board and shall
14 be accompanied by such reasonable filing fee as established by the appeals board. The keeper of the
15 records, and any other person in possession or control of records related to an appeal, for the
16 commonwealth, a city or a town shall, upon request of the appeals board, forthwith transmit such records
17 to the appeals board.

18 An appeal shall stay all proceedings in the furtherance of the action or failure to act which is the
19 subject of the appeal, unless the state or local agency or person charged with the administration or
20 enforcement of the state fire code, or any of its rules and regulations presents evidence that a stay would
21 cause imminent peril of life or property.

22 The chairman of the appeals board shall designate 3 members of the appeals board to hold public
23 hearings, hear testimony and take evidence. The appeals board shall not be bound by the strict rules of
24 evidence prevailing in courts of law or equity. The chairman shall fix the time and place for hearings and
25 a hearing shall take place not later than 60 days following the filing of an appeal, unless such time is
26 extended by agreement with the appellant. The chairman shall give not less than 10 days notice of the
27 time and place of said hearing to all interested parties. Any party may appear in person, by agent or by
28 attorney at the hearing.

29 Decisions on appeal shall be made by the 3-member appeals board conducting the hearing. Every
30 decision shall require the concurrence of at least 2 of the 3 members and the appeals board shall state, in
31 writing, its findings of fact, conclusions and reasons for decision and indicate the vote of each member
32 participating in the decision.

33 The appeals board shall issue a decision or order reversing, affirming or modifying, in whole or
34 in part, such interpretation, order or decision, or a postponement of the application thereof, within 45 days
35 following the hearing unless such time is extended by agreement with the appellant.

36 The appeals board may grant a variance from any provision of the state fire code and related rules
37 and regulations in any particular case, determine the suitability of alternate materials or methods of
38 compliance and provide reasonable interpretations of the state fire code consistent with the purpose
39 thereof.

40 A record of all appeals board decisions and of votes thereunder, properly indexed, shall be
41 maintained in the office of the department of fire services and shall be open to public inspection at all
42 times during regular business hours.

43 **SECTION 2.** This act shall take effect on January 1, 2012.