SENATE . . . . . No. 2168

The Commonwealth of Massachusetts

In the Year Two Thousand Twelve

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:

SECTION 1. Section 4 of Chapter 22D is hereby amended by inserting in line 8, after the word "board" the following:-

The Commissioner of the Boston Fire Department, ex-officio

SECTION 2. Said Section 4 is further amended by striking out in line 8 the word "thirteen" and inserting in place thereof the following figure:-

"14"

SECTION 3. Said Section 4 is further amended by striking out in line 18 the word "ten" and inserting in place thereof the following figure:-

"11"

SECTION 4. Said Section 4 is further amended by inserting in line 35, after the word "explosives" the following:-

"1 shall be an inspector of buildings in a city or town"

SECTION 5. Chapter 22D of the General Laws is hereby amended by adding the following section:-

Section 5. (a) There is hereby established a fire prevention regulations appeals board, hereinafter referred to as the appeals board. The appeals board shall consist of the 16 members of the board of fire prevention regulations, established pursuant to section 4.

The Chairman of the board of fire prevention regulations shall serve as chairman of the appeals board.

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

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

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

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

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

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

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

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

58 SECTION 6. This act shall take effect on January 1, 2013