

107TH CONGRESS
2D SESSION

H. R. 5683

To require all newly constructed, federally assisted single-family houses and town houses to meet minimum standards of visitability for persons with disabilities.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 16, 2002

Ms. SCHAKOWSKY introduced the following bill; which was referred to the Committee on Financial Services, and in addition to the Committees on Agriculture, and Veterans' Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To require all newly constructed, federally assisted single-family houses and town houses to meet minimum standards of visitability for persons with disabilities.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Inclusive Home Design
5 Act of 2002”.

6 **SEC. 2. DEFINITIONS.**

7 As used in this Act:

1 (1) COVERED DWELLING UNIT.—The term
2 “covered dwelling unit” means a dwelling unit
3 that—

4 (A) is a detached single family house, a
5 townhouse or multi-level dwelling unit (whether
6 detached or attached to other units or struc-
7 tures), or a ground-floor unit in a building of
8 three or fewer dwelling units;

9 (B) is designed as, or intended for occu-
10 pancy as, a residence;

11 (C) was designed, constructed, or commis-
12 sioned, contracted or otherwise arranged for de-
13 sign or construction, by any person or entity
14 who, at any time during the design or construc-
15 tion, received Federal financial assistance for
16 any program or activity; and

17 (D) is made available for first occupancy
18 after the expiration of the one-year period be-
19 ginning on the date of the enactment of this
20 Act.

21 (2) ENVIRONMENTAL CONTROLS.—The term
22 “environmental controls” means, for a dwelling unit,
23 any switches or devices that control or regulate
24 lights, temperature, fuses, fans, doors, security sys-

1 tem features, or any other feature included in the
2 new construction of the unit.

3 (3) FEDERAL FINANCIAL ASSISTANCE.—The
4 term “Federal financial assistance” means any as-
5 sistance that is provided or otherwise made available
6 by the Secretary of Housing and Urban Develop-
7 ment, the Secretary of Agriculture, or the Secretary
8 of Veterans Affairs, or any program or activity or
9 such agencies, through any grant, loan, contract, or
10 any other arrangement, after the expiration of the
11 one-year period beginning on the date of the enact-
12 ment of this Act, including—

13 (A) grants, subsidies, or any other funds;

14 (B) services of Federal personnel;

15 (C) real or personal property or any inter-
16 est in or use of such property, including—

17 (i) transfers or leases of the property
18 for less than the fair market value or for
19 reduced consideration; and

20 (ii) proceeds from a subsequent trans-
21 fer or lease of the property if the Federal
22 share of its fair market value is not re-
23 turned to the Federal Government;

24 (D) any tax credit, mortgage or loan guar-
25 antee or insurance; and

1 (E) community development funds in the
 2 form of obligations guaranteed under section
 3 108 of the Housing and Community Develop-
 4 ment Act of 1974 (42 U.S.C. 5308).

5 (4) PERSON OR ENTITY.—The term “person or
 6 entity” includes one or more individuals, corpora-
 7 tions (including not-for-profit corporations), partner-
 8 ships, associations, labor organizations, legal rep-
 9 resentatives, mutual corporations, joint-stock compa-
 10 nies, trusts, unincorporated associations, trustees,
 11 trustees in cases under title 11 of the United States
 12 Code, receivers, and fiduciaries.

13 **SEC. 3. VISITABILITY REQUIREMENT.**

14 It shall be unlawful for any person referred to in sec-
 15 tion 2(2)(C) with respect to a covered dwelling unit to fail
 16 to ensure that such dwelling unit contains at least one
 17 level that complies with the following requirements:

18 (1) ACCESSIBLE ENTRANCE.—

19 (A) IN GENERAL.—Except as provided in
 20 subparagraph (B), the level shall contain at
 21 least one entrance to the dwelling unit that—

22 (i) is accessible to, and usable by, peo-
 23 ple with disabilities;

24 (ii) does not contain any steps or any
 25 rise that exceeds one-half inch; and

1 (iii) is located on a continuous unob-
2 structed path from the entrance of the
3 building that contains or consists of the
4 dwelling unit to the street, which path (I)
5 can be negotiated by a person with a dis-
6 ability who uses a wheelchair, (II) is safe
7 for and usable by people with other disabil-
8 ities and people without disabilities, and
9 (III) may include curb ramps, parking ac-
10 cess aisles, walks, ramps and lifts.

11 (B) EXCEPTION.—The provisions of sub-
12 paragraph (A) shall not apply to a covered
13 dwelling unit if such compliance with the re-
14 quirements under such subparagraph would be
15 severely impractical because of the terrain or
16 unusual physical limitations of the site of the
17 dwelling unit.

18 (2) ACCESSIBLE INTERIOR DOORS.—All doors
19 that are designed to allow passage within the level
20 shall have an unobstructed opening of at least 32
21 inches when the door is open at a 90-degree angle.

22 (3) ACCESSIBLE ENVIRONMENTAL CONTROLS.—
23 All environmental controls located on the level shall
24 be located—

1 (A) no higher than 48 inches and no lower
 2 than 15 inches on the wall; and

3 (B) in the case of environmental controls
 4 located directly above a counter, sink, or appli-
 5 ance, no higher than three inches above such
 6 counter, sink, or appliance.

7 (4) ACCESSIBLE HABITABLE SPACE AND BATH-
 8 ROOM.—The level shall contain—

9 (A) at least one indoor room that has an
 10 area of not less than 70 square feet and con-
 11 tains no side or dimension narrower than seven
 12 feet; and

13 (B) at least one bathroom that contains, at
 14 a minimum, a toilet, sink, and walls that are re-
 15 inforced to allow for the later installation of
 16 grab bars.

17 **SEC. 4. ENFORCEMENT.**

18 (a) REQUIREMENT FOR FEDERAL FINANCIAL AS-
 19 SISTANCE.—Each applicant for Federal financial assist-
 20 ance shall submit an assurance to the Federal agency re-
 21 sponsible for such assistance that all of its programs and
 22 activities will be conducted in compliance with this Act.

23 (b) APPROVAL OF ARCHITECTURAL AND CONSTRUC-
 24 TION PLANS.—

1 (1) SUBMISSION.—Any applicant for or recipi-
2 ent of Federal financial assistance who designs, con-
3 structs, or commissions, contracts, or otherwise ar-
4 ranges for design or construction, of a covered dwell-
5 ing unit shall submit architectural and construction
6 plans for such unit to the State or local department
7 or agency that is responsible, under applicable State
8 or local law, for the review and approval of construc-
9 tion plans for compliance with generally applicable
10 building codes or requirements (in this subsection
11 referred to as the “appropriate State or local agen-
12 cy”).

13 (2) DETERMINATION OF COMPLIANCE.—

14 (A) CONDITION OF FEDERAL HOUSING AS-
15 SISTANCE.—The Secretary of Housing and
16 Urban Development may not provide any Fed-
17 eral financial assistance under any program ad-
18 ministered by such Secretary to a State or unit
19 of general local government (or any agency
20 thereof) unless the appropriate State or local
21 agency thereof is, in the determination of the
22 Secretary, taking the enforcement actions under
23 subparagraph (B).

1 (B) ENFORCEMENT ACTIONS.—The en-
2 forcement actions under this subparagraph
3 are—

- 4 (i) reviewing any plans for a covered
5 dwelling unit submitted pursuant to para-
6 graph (1) and approving or disapproving
7 such plans based upon compliance of the
8 dwelling unit with the requirements of this
9 Act; and
- 10 (ii) consistent with applicable State or
11 local laws and procedures, withholding
12 final approval of construction or occupancy
13 of a covered dwelling unit unless and until
14 such compliance is determined.

15 (c) CIVIL ACTION FOR PRIVATE PERSONS.—Any per-
16 son aggrieved by an act that is unlawful under this Act
17 may commence a civil action in an appropriate United
18 States District Court or State court no later than two
19 years after the occurrence or termination of any alleged
20 unlawful conduct under this Act. For purposes of this sec-
21 tion, a violation involving a covered dwelling unit that is
22 not designed or constructed in conformity with the re-
23 quirements of this Act shall not be considered to terminate
24 until the violation is corrected.

1 (d) ENFORCEMENT BY ATTORNEY GENERAL.—

2 Whenever the Attorney General has reasonable cause to
3 believe that any person or group of persons has violated
4 this Act, the Attorney General may commence a civil ac-
5 tion in any appropriate United States district court. The
6 Attorney General may also, upon timely application, inter-
7 vene in any civil action brought under subsection (c) by
8 a private person if the Attorney General certifies that the
9 case is of general public importance.

10 (e) RELIEF.—In any civil action brought under this
11 section, if the court finds that a violation of this title has
12 occurred or is about to occur, it may award to the plaintiff
13 actual and punitive damages, and subject to subsection
14 (g), may grant as relief, as the Court finds appropriate,
15 any permanent or temporary injunction, temporary re-
16 straining order, or other order (including an order enjoin-
17 ing the defendant from violating the Act or ordering such
18 affirmative action as may be appropriate).

19 (f) ATTORNEY'S FEES.—In any civil action brought
20 under this section, the court, in its discretion, may allow
21 the prevailing party, other than the United States, a rea-
22 sonable attorney's fee and costs.

23 (g) EFFECT ON CERTAIN SALES, ENCUMBRANCES,
24 AND RENTALS.—Relief granted under this section shall
25 not affect any contract, sale, encumbrance, or lease con-

1 summated before the granting of such relief and involving
2 a bona fide purchaser, encumbrancer, or tenant, without
3 actual notice of a civil action under this title.

4 **SEC. 5. REGULATIONS AND MINIMUM GUIDELINES.**

5 Not later than 1 year after the date of the enactment
6 of this Act, the Secretary of Housing and Urban Develop-
7 ment, the Secretary of Agriculture, and the Secretary of
8 Veterans Affairs shall issue any regulations necessary to
9 carry out this Act. The Architectural and Transportation
10 Barriers Compliance Board established under section 502
11 of the Rehabilitation Act of 1973 (29 U.S.C. 792) shall
12 establish and maintain minimum guidelines and require-
13 ments for the standards issued pursuant to this Act. The
14 Code Requirements for Housing Accessibility established
15 by the International Council Code may be used as the
16 basis for such guidelines and requirements.

17 **SEC. 6. EFFECT ON STATE LAWS.**

18 Nothing in this Act shall be constructed to invalidate
19 or limit any law of a State or political subdivision of a
20 State, or of any other jurisdiction in which this Act shall
21 be effective, that grants, guarantees, or provides the same
22 rights, protections and requirements as are provided by
23 this Act, but any law of a State, a political subdivision
24 thereof, or other such jurisdiction that purports to require

1 or permit any action that would violate this Act shall to
2 that extent be invalid.

3 **SEC. 7. DISCLAIMER OF PREEMPTIVE EFFECT ON OTHER**
4 **ACTS.**

5 Nothing in this Act shall limit any right, procedure,
6 or remedy available under the Constitution or any other
7 Act of the Congress.

8 **SEC. 8. SEVERABILITY OF PROVISIONS.**

9 If any provision of this Act or the application thereof
10 to any person or circumstances is held invalid, the remain-
11 der of the Act and the application of the provision to other
12 persons not similarly situated shall not be affected there-
13 by.

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