

109<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 1441

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

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 17, 2005

Ms. SCHAKOWSKY (for herself, Mr. GRIJALVA, Mr. LANTOS, Ms. JACKSON-LEE of Texas, Ms. WOOLSEY, Ms. BORDALLO, Mrs. CHRISTENSEN, Ms. LEE, Mr. RANGEL, Mr. PALLONE, Ms. BALDWIN, Ms. CARSON, Ms. WATSON, and Mr. FARR) introduced the following bill; which was referred to the Committee on Financial Services

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## 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 2005”.

6        **SEC. 2. DEFINITIONS.**

7        As used in this Act:

1           (1) ACCESSIBLE ROUTE.—The term “accessible  
2 route” means a continuous unobstructed path that—

3           (A) can be negotiated by a person with a  
4 disability using a wheelchair; and

5           (B) is safe for and usable by people with  
6 other disabilities and people without disabilities.

7           (2) COVERED DWELLING UNIT.—The term  
8 “covered dwelling unit” means a dwelling unit  
9 that—

10           (A) is a detached single family house, a  
11 townhouse or multi-level dwelling unit (whether  
12 detached or attached to other units or struc-  
13 tures), or a ground-floor unit in a building of  
14 three or fewer dwelling units;

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

17           (C) was designed, constructed, or commis-  
18 sioned, contracted or otherwise arranged for de-  
19 sign or construction, by any person or entity  
20 who, at any time during the design or construc-  
21 tion, received Federal financial assistance for  
22 any program or activity; and

23           (D) is made available for first occupancy  
24 after the expiration of the one-year period be-

1           ginning on the date of the enactment of this  
2           Act.

3           (3) ENVIRONMENTAL CONTROLS.—The term  
4           “environmental controls” means, for a dwelling unit,  
5           any switches or devices that control or regulate  
6           lights, temperature, fans, doors, security system fea-  
7           tures, or any other feature included in the new con-  
8           struction of the unit.

9           (4) FEDERAL FINANCIAL ASSISTANCE.—The  
10          term “Federal financial assistance” means—

11                 (A) any assistance that is provided or oth-  
12                 erwise made available by the Secretary of Hous-  
13                 ing and Urban Development or the Secretary of  
14                 Veterans Affairs, or any program or activity or  
15                 such agencies, through any grant, loan, con-  
16                 tract, or any other arrangement, after the expi-  
17                 ration of the one-year period beginning on the  
18                 date of the enactment of this Act, including—

19                         (i) grants, subsidies, or any other  
20                         funds;

21                         (ii) services of Federal personnel;

22                         (iii) real or personal property or any  
23                         interest in or use of such property, includ-  
24                         ing—

1 (I) transfers or leases of the  
2 property for less than the fair market  
3 value or for reduced consideration;  
4 and

5 (II) proceeds from a subsequent  
6 transfer or lease of the property if the  
7 Federal share of its fair market value  
8 is not returned to the Federal Govern-  
9 ment;

10 (iv) any tax credit, mortgage or loan  
11 guarantee or insurance; and

12 (v) community development funds in  
13 the form of obligations guaranteed under  
14 section 108 of the Housing and Commu-  
15 nity Development Act of 1974 (42 U.S.C.  
16 5308); or

17 (B) any assistance that is provided or oth-  
18 erwise made available by the Secretary of Agri-  
19 culture under title V of the Housing Act of  
20 1949 (42 U.S.C. 1471 et seq.).

21 (5) PERSON OR ENTITY.—The term “person or  
22 entity” includes one or more individuals, corpora-  
23 tions (including not-for-profit corporations), partner-  
24 ships, associations, labor organizations, legal rep-  
25 resentatives, mutual corporations, joint-stock compa-

1       nies, trusts, unincorporated associations, trustees,  
2       trustees in cases under title 11 of the United States  
3       Code, receivers, and fiduciaries.

4       **SEC. 3. VISITABILITY REQUIREMENT.**

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

9               (1) ACCESSIBLE ENTRANCE.—

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

13                       (i) is accessible to, and usable by, peo-  
14                       ple with disabilities such that all rooms on  
15                       the level are connected by an accessible  
16                       route;

17                       (ii) does not contain any steps or any  
18                       door threshold that exceeds one-half inch  
19                       in height; and

20                       (iii) is located on a continuous unob-  
21                       structed path from the public street or  
22                       driveway that serves the unit, which  
23                       path—

1 (I) at no point has a slope ex-  
2 ceeding one inch in rise for every 12  
3 inches in length;

4 (II) has a width of not less than  
5 36 inches;

6 (III) has a cross slope not great-  
7 er than two percent of the width;

8 (IV) is an accessible route; and

9 (V) may include curb ramps,  
10 parking access aisles, walks, and  
11 ramps.

12 (B) EXCEPTIONS.—The provisions of  
13 clauses (ii) and (iii) of subparagraph (A) shall  
14 not apply to a covered dwelling unit if—

15 (i) the finished grade of the site is too  
16 steep to provide a path having a slope  
17 meeting the requirements of subclause (I)  
18 of subparagraph (A)(iii) at the front, side,  
19 or back of the unit;

20 (ii) there is no driveway serving the  
21 unit; and

22 (iii) there is no alley or other roadway  
23 capable of providing vehicular access to the  
24 rear of the unit.

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

5           (3) ACCESSIBLE ENVIRONMENTAL CONTROLS.—  
6 All environmental controls located on the level shall  
7 be located on the wall—

8                 (A) at least 15 inches, but not more than  
9                 48 inches, above the floor; or

10                (B) in the case of environmental controls  
11 located directly above a counter, sink, or appli-  
12 ance, not more than three inches above such  
13 counter, sink, or appliance.

14           (4) ACCESSIBLE HABITABLE SPACE AND BATH-  
15 ROOM.—The level shall contain the following:

16                 (A) HABITABLE SPACE.—At least one in-  
17 door room that has an area of not less than 70  
18 square feet and contains no side or dimension  
19 narrower than seven feet.

20                 (B) BATHROOM.—At least one bathroom  
21 that contains, at a minimum, the following:

22                     (i) CLEAR FLOOR SPACE.—Clear floor  
23 space of 30 by 48 inches centered on and  
24 contiguous to the sink, which is not en-

1 croached by the swing path of the bath-  
2 room door.

3 (ii) ACCESSIBLE SINK AND TOILET.—

4 A sink and a toilet that each allow for a  
5 parallel or head-on approach by a person  
6 in a wheelchair.

7 (iii) REINFORCED WALLS.—Walls that  
8 are reinforced to be capable of supporting  
9 grab bars that resist shear and bending  
10 forces of a minimum of 250 pounds, as fol-  
11 lows:

12 (I) All walls adjacent to the toilet  
13 shall have horizontal backing rein-  
14 forcements, each at least 33 inches,  
15 but not more than 36 inches, above  
16 the floor, and sufficient to allow for a  
17 24-inch grab bar on the wall behind  
18 the toilet and another 42-inch grab  
19 bar.

20 (II) If a bathtub is present in the  
21 bathroom, such reinforcements shall  
22 include (aa) two backing reinforce-  
23 ments on the back wall of the bath-  
24 tub, each at least 24 inches long and  
25 not more than 24 inches from the

1 head end wall and not more than 12  
2 inches from the foot end wall, one in  
3 a horizontal position at least 33  
4 inches, but not more than 36 inches,  
5 above the floor, and one 9 inches  
6 above the rim of the bathtub, (bb) one  
7 backing reinforcement on the foot end  
8 wall of the bathtub, at least 24 inches  
9 long and located at the front edge of  
10 the bathtub, and (cc) one backing re-  
11 inforcement on the head end wall of  
12 the bathtub, at least 12 inches long  
13 and located at the front edge of the  
14 bathtub.

15 (III) If a shower is present in the  
16 bathroom, such reinforcements shall  
17 include backing reinforcements on at  
18 least two walls on which the control  
19 valve is not located, each at least 33  
20 inches, but not more than 36 inches,  
21 above the floor.

22 **SEC. 4. ENFORCEMENT.**

23 (a) REQUIREMENT FOR FEDERAL FINANCIAL AS-  
24 SISTANCE.—Each applicant for Federal financial assist-  
25 ance shall submit an assurance to the Federal agency re-

1 sponsible for such assistance that all of its programs and  
2 activities will be conducted in compliance with this Act.

3 (b) APPROVAL OF ARCHITECTURAL AND CONSTRUC-  
4 TION PLANS.—

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

17 (2) DETERMINATION OF COMPLIANCE.—

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

1 Secretary, taking the enforcement actions under  
2 subparagraph (B).

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

6 (i) reviewing any plans for a covered  
7 dwelling unit submitted pursuant to para-  
8 graph (1) and approving or disapproving  
9 such plans based upon compliance of the  
10 dwelling unit with the requirements of this  
11 Act; and

12 (ii) consistent with applicable State or  
13 local laws and procedures, withholding  
14 final approval of construction or occupancy  
15 of a covered dwelling unit unless and until  
16 such compliance is determined.

17 (c) CIVIL ACTION FOR PRIVATE PERSONS.—Any per-  
18 son aggrieved by an act or omission that is unlawful under  
19 this Act may commence a civil action in an appropriate  
20 United States district court or State court against any  
21 person or entity responsible for any part of the design or  
22 construction of a covered dwelling unit no later than two  
23 years after the occurrence or termination of the alleged  
24 unlawful conduct under this Act. For purposes of this sec-  
25 tion, a violation involving a covered dwelling unit that is

1 not designed or constructed in conformity with the re-  
2 quirements of this Act shall not be considered to terminate  
3 until the violation is corrected.

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

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

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

1 (g) EFFECT ON CERTAIN SALES, ENCUMBRANCES,  
2 AND RENTALS.—Relief granted under this section shall  
3 not affect any contract, sale, encumbrance, or lease con-  
4 summated before the granting of such relief and involving  
5 a bona fide purchaser, encumbrancer, or tenant, without  
6 actual notice of a civil action under this title.

7 **SEC. 5. EFFECT ON STATE LAWS.**

8 Nothing in this Act shall be constructed to invalidate  
9 or limit any law of a State or political subdivision of a  
10 State, or of any other jurisdiction in which this Act shall  
11 be effective, that grants, guarantees, or provides the same  
12 rights, protections, and requirements as are provided by  
13 this Act, but any law of a State, a political subdivision  
14 thereof, or other such jurisdiction that purports to require  
15 or permit any action that would violate this Act shall to  
16 that extent be invalid.

17 **SEC. 6. DISCLAIMER OF PREEMPTIVE EFFECT ON OTHER**  
18 **ACTS.**

19 Nothing in this Act shall limit any right, procedure,  
20 or remedy available under the Constitution or any other  
21 Act of the Congress.

22 **SEC. 7. SEVERABILITY OF PROVISIONS.**

23 If any provision of this Act or the application thereof  
24 to any person or circumstances is held invalid, the remain-  
25 der of the Act and the application of the provision to other

1 persons not similarly situated shall not be affected there-  
2 by.

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