

113TH CONGRESS
1ST SESSION

H. R. 2352

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

JUNE 13, 2013

Ms. SCHAKOWSKY (for herself, Mr. CARSON of Indiana, Mr. ELLISON, Mr. LANGEVIN, Ms. MOORE, Ms. NORTON, and Mr. RANGEL) introduced the following bill; which was referred to the Committee on Financial Services

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 “Eleanor Smith Inclu-
5 sive Home Design Act of 2013”.

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
13 construction, by any person or entity who, at
14 any time before the design or construction, re-
15 ceived or was guaranteed Federal financial as-
16 sistance for 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) FEDERAL FINANCIAL ASSISTANCE.—The
22 term “Federal financial assistance” means—

23 (A) any assistance that is provided or oth-
24 erwise made available by the Secretary of Hous-
25 ing and Urban Development or the Secretary of

1 Veterans Affairs, or any program or activity or
2 such agencies, through any grant, loan, con-
3 tract, or any other arrangement, after the expi-
4 ration of the one-year period beginning on the
5 date of the enactment of this Act, including—

6 (i) grants, subsidies, or any other
7 funds;

8 (ii) services of Federal personnel;

9 (iii) real or personal property or any
10 interest in or use of such property, includ-
11 ing—

12 (I) transfers or leases of the
13 property for less than the fair market
14 value or for reduced consideration;
15 and

16 (II) proceeds from a subsequent
17 transfer or lease of the property if the
18 Federal share of its fair market value
19 is not returned to the Federal Govern-
20 ment;

21 (iv) any tax credit, mortgage or loan
22 guarantee or insurance; and

23 (v) community development funds in
24 the form of obligations guaranteed under
25 section 108 of the Housing and Commu-

1 nity Development Act of 1974 (42 U.S.C.
2 5308); or

3 (B) any assistance that is provided or oth-
4 erwise made available by the Secretary of Agri-
5 culture under title V of the Housing Act of
6 1949 (42 U.S.C. 1471 et seq.).

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

15 **SEC. 3. VISITABILITY REQUIREMENT.**

16 It shall be unlawful for any person referred to in sec-
17 tion 2(1)(C) with respect to a covered dwelling unit to fail
18 to ensure that such dwelling unit contains at least one
19 level that complies with the Standards for Type C (Visit-
20 able) Units of the American National Standards Institute
21 (ANSI) Standards for Accessible and Usable Buildings
22 and Facilities (1005–ICC ANSI A117.1–2009) and any
23 future revisions thereto.

1 **SEC. 4. ENFORCEMENT.**

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

7 (b) APPROVAL OF ARCHITECTURAL AND CONSTRUC-
8 TION PLANS.—

9 (1) SUBMISSION.—Any applicant for or recipi-
10 ent of Federal financial assistance for a covered
11 dwelling unit shall submit for approval the architec-
12 tural and construction plans for such unit to the
13 State or local department or agency that is respon-
14 sible, under applicable State or local law, for the re-
15 view and approval of construction plans for compli-
16 ance with generally applicable building codes or re-
17 quirements (in this subsection referred to as the
18 “appropriate State or local agency”).

19 (2) DETERMINATION OF COMPLIANCE.—

20 (A) ENFORCEMENT ACTIONS.—The en-
21 forcement actions under this subparagraph
22 are—

23 (i) reviewing any plans for a covered
24 dwelling unit submitted pursuant to para-
25 graph (1) and approving or disapproving
26 such plans based upon compliance of the

1 dwelling unit with the requirements of this
2 Act; and

3 (ii) consistent with applicable State or
4 local laws and procedures, withholding
5 final approval of construction or occupancy
6 of a covered dwelling unit unless and until
7 such compliance is determined.

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

18 (c) CIVIL ACTION FOR PRIVATE PERSONS.—

19 (1) ACTION.—Any person aggrieved by an act
20 or omission that is unlawful under this Act may
21 commence a civil action in an appropriate United
22 States district court or State court against any per-
23 son or entity responsible for any part of the design
24 or construction of a covered dwelling unit no later

1 than two years after the occurrence or termination
2 of the alleged unlawful conduct under this Act.

3 (2) LIABILITY.—In any action under this sub-
4 section for a violation involving architectural or con-
5 struction plans for a covered dwelling unit that were
6 approved by the appropriate State or local depart-
7 ment or agency—

8 (A) if such approved plans violate this Act
9 and any construction on such dwelling that vio-
10 lates this Act was performed in accordance with
11 such approved plans, such State or local depart-
12 ment or agency shall be liable for such con-
13 struction in violation; and

14 (B) if such approved plans comply with
15 this Act and any construction on such dwelling
16 violates this Act, the person or entity respon-
17 sible for the construction shall be liable for such
18 construction in violation.

19 (d) ENFORCEMENT BY ATTORNEY GENERAL.—
20 Whenever the Attorney General has reasonable cause to
21 believe that any person or group of persons has violated
22 this Act, the Attorney General may commence a civil ac-
23 tion in any appropriate United States district court. The
24 Attorney General may also, upon timely application, inter-
25 vene in any civil action brought under subsection (c) by

1 a private person if the Attorney General certifies that the
2 case is of general public importance.

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

12 (f) VIOLATIONS.—For purposes of this section, a vio-
13 lation involving a covered dwelling unit that is not de-
14 signed or constructed in conformity with the requirements
15 of this Act shall not be considered to terminate until the
16 violation is corrected.

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

21 (h) EFFECT ON CERTAIN SALES, ENCUMBRANCES,
22 AND RENTALS.—Relief granted under this section shall
23 not affect any contract, sale, encumbrance, or lease con-
24 summated before the granting of such relief and involving

1 a bona fide purchaser, encumbrancer, or tenant, without
2 actual notice of a civil action under this title.

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

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

13 **SEC. 6. DISCLAIMER OF PREEMPTIVE EFFECT ON OTHER**
14 **ACTS.**

15 Nothing in this Act shall limit any right, procedure,
16 or remedy available under the Constitution or any other
17 Act of the Congress.

18 **SEC. 7. SEVERABILITY OF PROVISIONS.**

19 If any provision of this Act or the application thereof
20 to any person or circumstances is held invalid, the remain-
21 der of the Act and the application of the provision to other
22 persons not similarly situated shall not be affected there-
23 by.

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