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Introduced 10-16-02 HB 5683

Committees:
House Financial Services Committee: 202/225-7502> Veterans' Affairs Committee: 202/225-3527
> House Agriculture Committee: 202/225-2171
>

..............................(Original Signature of Member)

107TH CONGRESS
2D SESSION
H. R. __

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
Ms. SCHAKOWSKY introduced the following bill; which was referred to the Committee on ________________

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. Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.
This Act may be cited as the "Inclusive Home Design Act of 2002"

SEC. 2. DEFINITIONS.
As used in this Act:

(1) COVERED DWELLING UNIT. The term "covered dwelling unit" means a dwelling unit that is a detached single family house, a 6 townhouse or multi-level dwelling unit (whether detached or attached to other units or structures), or a ground-floor unit in a building of 9 three or fewer dwelling units; 10 (B) is designed as, or intended for occupancy as, a residence; 12 (C) was designed, constructed, or commissioned, or otherwise arranged for design or construction, by any person or entity who, at any time during the design or construction, received Federal financial assistance for 17 any program or activity; and 18 (D) is made available for first occupancy 19 after the expiration of the one-year period beginning on the date of enactment of this Act.

(2) ENVIRONMENTAL CONTROLS. The term "environmental controls" means, for a dwelling unit, 24 any switches or devices that control or regulate 25 lights, temperature, fuses, fans, doors, security systems, or any other feature included in the new construction of the unit.

(3) FEDERAL FINANCIAL ASSISTANCE. The term "Federal financial assistance" means any assistance that is provided or otherwise made available by the Secretary of Housing and Urban Development, the Secretary of Agriculture, or the Secretary of Veterans Affairs, or any program or activity or 8 such agencies, through
any grant, loan, contract, or 9 any other arrangement, after the expiration of the 10 one-
year period beginning on the date of the enact- 11 ment of this Act, including Secretary
12 (A) grants, subsidies, or any other funds; 13 (B) services of Federal personnel; 14 (C) real or
personal property or any inter- 15 est in or use of such property, including 16 (i)
transfers or leases of the property 17 for less than the fair market value or for 18 reduced
consideration; and 19 (ii) proceeds from a subsequent transfer- 20 fer or lease of the
property if the Federal 21 share of its fair market value is not re- 22 turned to the Federal
Government; 23 (D) any tax credit, mortgage or loan guar- 24 antee or insurance; and 25
(E) community development funds in the 1 form of obligations guaranteed under section

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

SEC. 3. VISITABILITY REQUIREMENT. 13 It shall be unlawful for any person
referred to in sec- 14 tion 2(2)(C) with respect to a covered dwelling unit to fail 15 to
ensure that such dwelling unit contains at least one 16 level that complies with the
following requirements: 17 (1) ACCESSIBLE ENTRANCE. 18 (A) IN GENERAL.
Except as provided in 19 subparagraph (B), the level shall contain at 20 least one
entrance to the dwelling unit that 21 (i) is accessible to, and usable by, a person with a dis- 22 ability who uses a wheelchair, (II) is safe 23 for and usable by people with other disabil- 24 ities and people without disabilities, and
8 (III) may include curb ramps, parking ac- 9 cess aisles, walks, ramps and lifts. 10 (B)
EXCEPTION. The provisions of sub- 11 paragraph (A) shall not apply to a covered
12 dwelling unit if such compliance with the re- 13 quirements under such subparagraph
would be 14 severely impractical because of the terrain or 15 unusual physical limitations
of the site of the 16 dwelling unit. 17
(2) ACCESSIBLE INTERIOR DOORS. All doors 18 that are designed to allow
passage within the level 19 shall have an unobstructed opening of at least 32 20 inches
when the door is open at a 90-degree angle. 21 (3) ACCESSIBLE ENVIRONMENTAL
CONTROLS. 22 All environmental controls located on the level shall be located 23

(A) no higher than 48 inches and no lower than 15 inches on the wall; and 2 (B) in the
case of environmental controls 3 located directly above a counter, sink, or appli- 4 ance,
no higher than three inches above such 5 counter, sink, or appliance. 6 (4) ACCESSIBLE
HABITABLE SPACE AND BATH- 7 ROOM. The level shall contain 8 (A) at least
one indoor room that has an 9 area of not less than 70 square feet and con- 10 tains no
side or dimension narrower than seven 11 feet; and 12 (B) at least one bathroom that
contains, at 13 a minimum, a toilet, sink, and walls that are re- 14 inforced to allow for
the later installation of 15 grab bars. 16

SEC. 4. ENFORCEMENT. 17 (a) REQUIREMENT FOR FEDERAL FINANCIAL
AS- 18
Each applicant for Federal financial assistance shall submit an assurance to the Federal agency responsible for such assistance that all of its programs and activities will be conducted in compliance with this Act. 

(1) Submission. Any applicant for or recipient of Federal financial assistance who designs, constructs, or commissions, contracts, or otherwise arranges for design or construction, of a covered dwelling unit shall submit architectural and construction plans for such unit to the State or local department or agency that is responsible, under applicable State or local law, for the review and approval of construction plans for compliance with generally applicable building codes or requirements (in this subsection referred to as the appropriate State or local agency).

(2) Determination of Compliance. The Secretary of Housing and Urban Development may not provide any Federal financial assistance under any program administered by such Secretary to a State or unit of general local government (or any agency thereof) unless the appropriate State or local agency thereof is, in the determination of the Secretary, taking the enforcement actions under subparagraph (B).

(B) Enforcement Actions. The enforcement actions under this subparagraph are—

(i) reviewing any plans for a covered dwelling unit submitted pursuant to paragraph (1) and approving or disapproving such plans based upon compliance of the dwelling unit with the requirements of this Act; and

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

(c) Civil Action for Private Persons. Any person aggrieved by an act that is unlawful under this Act may commence a civil action in an appropriate United States District Court or State court no later than two years after the occurrence or termination of any alleged unlawful conduct under this Act. For purposes of this section, a violation involving a covered dwelling unit that is not designed or constructed in conformity with the requirements of this Act shall not be considered to terminate until the violation is corrected.

(d) Enforcement by Attorney General. Whenever the Attorney General has reasonable cause to believe that any person or group of persons has violated this Act, the Attorney General may commence a civil action in any appropriate United States district court. The Attorney General may also, upon timely application, intervene in any civil action brought under subsection (c) by a private person if the Attorney General certifies that the case is of general public importance.

(e) Relief. In any civil action brought under this section, if the court finds that a violation of this title has occurred or is about to occur, it may award to the plaintiff actual and punitive damages, and subject to subsection (g), may grant as relief, as the Court finds appropriate, any permanent or temporary injunction, temporary restraining order, or other order (including an order enjoining the defendant from violating the Act or ordering such affirmative action as may be appropriate).
(f) ATTORNEY’S FEES. In any civil action brought under this section, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee and costs. 22 (g) EFFECT ON CERTAIN SALES, ENCUMBRANCES, AND RENTALS. Relief granted under this section shall not affect any contract, sale, encumbrance, or lease commenced before the granting of such relief and involving a bona fide purchaser, encumbrancer, or tenant, without actual notice of a civil action under this title. 3 SEC. 5. REGULATIONS AND MINIMUM GUIDELINES. 4

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

SEC. 6. EFFECT ON STATE LAWS. 17

Nothing in this Act shall be constructed to invalidate or limit any law of a State or political subdivision of a State, or of any other jurisdiction in which this Act shall be effective, that grants, guarantees, or provides the same rights, protections and requirements as are provided by this Act, but any law of a State, a political subdivision thereof, or other such jurisdiction that purports to require any action that would violate this Act shall to that extent be invalid. 2

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

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

SEC. 8. SEVERABILITY OF PROVISIONS. 8 If any provision of this Act of the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of the provision to other persons not similarly situated shall not be affected thereby.