

To find on web: <http://thomas.loc.gov> <http://thomas.loc.gov>

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 stand-ards of visitability for persons with disabilities. *Be it enacted by the Senate and House of Representa- 1 tives of the United States of America in Congress assembled, 2*

SECTION 1. SHORT TITLE. 3

This Act may be cited as the ÷Inclusive Home Design 4 Act of 2002øø 5

SEC. 2. DEFINITIONS. 1

As used in this Act: 2

(1) COVERED DWELLING UNIT.ô The term 3 ÷covered dwelling unitøø means a dwelling unit 4 thatô 5 (A) is a detached single family house, a 6 townhouse or multi-level dwelling unit (whether 7 detached or attached to other units or struc- 8 tures), or a ground-floor unit in a building of 9 three or fewer dwelling units; 10 (B) is designed as, or intended for occu- 11 pancy as, a residence; 12 (C) was designed, constructed, or commis- 13 sioned, contracted or otherwise arranged for de- 14 sign or construction, by any person or entity 15 who, at any time during the design or construc- 16 tion, 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 be- 20 ginning on the date of the enactment of this 21

Act . 22

(2) ENVIRONMENTAL CONTROLS.ô The term 23 ÷environmental controlsøø means, for a dwelling unit, 24 any switches or devices that control or regulate 25 lights, temperature, fuses, fans, doors, security sys- 26 tem features, or any other feature included in the 1 new construction of the unit. 2

(3) FEDERAL FINANCIAL ASSISTANCE.ô The 3 term ÷Federal financial assistanceøø means any as- 4 sistance that is provided or otherwise made available 5 by the Secretary of Housing and Urban Develop- 6 ment, the Secretary of Agriculture, or the Secretary 7 of Veterans Affairs, or any program or activity or 8 such agencies, through

any grant, loan, contract, or any other arrangement, after the expiration of the one-year period beginning on the date of the enactment of this Act, including (A) grants, subsidies, or any other funds; (B) services of Federal personnel; (C) real or personal property or any interest in or use of such property, including (i) transfers or leases of the property for less than the fair market value or for reduced consideration; and (ii) proceeds from a subsequent transfer or lease of the property if the Federal share of its fair market value is not returned to the Federal Government; (D) any tax credit, mortgage or loan guarantee or insurance; and (E) community development funds in the form of obligations guaranteed under section 2108 of the Housing and Community Development Act of 1974 (42 U.S.C. 5308).

(4) PERSON OR ENTITY. The term "person or entity" includes one or more individuals, corporations (including not-for-profit corporations), partnerships, associations, labor organizations, legal representatives, mutual corporations, joint-stock companies, trusts, unincorporated associations, trustees, trustees in cases under title 11 of the United States Code, receivers, and fiduciaries.

SEC. 3. VISITABILITY REQUIREMENT. It shall be unlawful for any person referred to in section 2(2)(C) with respect to a covered dwelling unit to fail to ensure that such dwelling unit contains at least one level that complies with the following requirements: (1) ACCESSIBLE ENTRANCE. (A) IN GENERAL. Except as provided in subparagraph (B), the level shall contain at least one entrance to the dwelling unit that (i) is accessible to, and usable by, people with disabilities; and (ii) does not contain any steps or any rise that exceeds one-half inch; and (iii) is located on a continuous unobstructed path from the entrance of the building that contains or consists of the dwelling unit to the street, which path (I) can be negotiated by a person with a disability who uses a wheelchair, (II) is safe for and usable by people with other disabilities and people without disabilities, and (III) may include curb ramps, parking access aisles, walks, ramps and lifts. (B) EXCEPTION. The provisions of subparagraph (A) shall not apply to a covered dwelling unit if such compliance with the requirements under such subparagraph would be severely impractical because of the terrain or unusual physical limitations of the site of the dwelling unit.

(2) ACCESSIBLE INTERIOR DOORS. All doors that are designed to allow passage within the level shall have an unobstructed opening of at least 20 inches when the door is open at a 90-degree angle. (3) ACCESSIBLE ENVIRONMENTAL CONTROLS. All environmental controls located on the level shall be located

(A) no higher than 48 inches and no lower than 15 inches on the wall; and (B) in the case of environmental controls located directly above a counter, sink, or appliance, no higher than three inches above such counter, sink, or appliance. (4) ACCESSIBLE HABITABLE SPACE AND BATHROOM. The level shall contain (A) at least one indoor room that has an area of not less than 70 square feet and contains no side or dimension narrower than seven feet; and (B) at least one bathroom that contains, at a minimum, a toilet, sink, and walls that are reinforced to allow for the later installation of grab bars.

SEC. 4. ENFORCEMENT. (a) REQUIREMENT FOR FEDERAL FINANCIAL AS-

SISTANCE. 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. (b) APPROVAL OF ARCHITECTURAL AND CONSTRUCTION PLANS. (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.

(A) CONDITION OF FEDERAL HOUSING ASSISTANCE.

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. 1 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. (g) EFFECT ON CERTAIN SALES, ENCUMBRANCES, AND RENTALS. Relief granted under this section shall not affect any contract, sale, encumbrance, or lease consummated 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. **SEC. 5. REGULATIONS AND MINIMUM GUIDELINES.**

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 Code Requirements for Housing Accessibility established by the International Council Code may be used as the basis for such guidelines and requirements.

SEC. 6. EFFECT ON STATE LAWS.

Nothing in this Act shall be construed 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

11

H.L.C.

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

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

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

Act of the Congress.

SEC. 8. SEVERABILITY OF PROVISIONS. 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 there- by.