

3160

2013-2014 Regular Sessions

I N   S E N A T E

January 31, 2013

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Introduced by Sens. KRUEGER, ADDABBO, VALESKY -- read twice and ordered printed, and when printed to be committed to the Committee on Housing, Construction and Community Development

AN ACT to amend the real property law, in relation to the visitability of new homes by persons with disabilities

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. The real property law is amended by adding a new article 16  
2     to read as follows:

3     ARTICLE 16

4     VISITABILITY OF NEW CONSTRUCTION

5     SECTION 480. PURPOSE.

6             481. APPLICABILITY OF NEW CONSTRUCTION.

7             482. VISITABILITY REQUIREMENT.

8             483. EXCLUSION.

9             484. ENFORCEMENT.

10     S 480. PURPOSE. THE PURPOSE OF THIS ARTICLE IS TO ESTABLISH MINIMUM  
11     REGULATIONS FOR THE DESIGN AND CONSTRUCTION OF NEW HOMES TO PROVIDE  
12     VISITABILITY TO SUCH HOMES BY PERSONS WITH DISABILITIES.

13     S 481. APPLICABILITY OF NEW CONSTRUCTION. ANY NEW DWELLING UNIT WHICH  
14     WAS DESIGNED, CONSTRUCTED, OR COMMISSIONED, CONTRACTED OR OTHERWISE  
15     ARRANGED FOR DESIGN OR CONSTRUCTION, BY ANY PERSON OR ENTITY WHO, AT ANY  
16     TIME DURING THE COMMISSIONING DESIGN OR CONSTRUCTION, RECEIVED NEW YORK  
17     STATE OR FEDERAL FINANCIAL ASSISTANCE FOR SUCH DESIGN OR CONSTRUCTION  
18     SHALL COMPLY WITH THE PROVISIONS OF THIS ARTICLE. STATE FINANCIAL  
19     ASSISTANCE SHALL NOT INCLUDE LOANS BACKED BY THE STATE OF NEW YORK MORT-  
20     GAGE AGENCY (SONYMA). FEDERAL FINANCIAL ASSISTANCE SHALL NOT INCLUDE  
21     LOANS BACKED BY FEDERAL NATIONAL MORTGAGE ASSOCIATION (FANNIE MAE) OR  
22     FEDERAL HOUSING ADMINISTRATION (FHA) FINANCING OR OTHER MORTGAGE LOANS  
23     BACKED BY A FEDERAL MORTGAGE LOAN PROGRAM. FOR PURPOSES OF THIS  
24     SECTION, THE TERM "DWELLING UNIT" SHALL MEAN A DETACHED SINGLE FAMILY

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

LBD01793-01-3

HOME, A GROUND FLOOR UNIT IN A TOWN HOUSE, OR A GROUND FLOOR UNIT IN A BUILDING OF THREE OR FEWER DWELLING UNITS WHICH IS DESIGNED AS, OR INTENDED FOR OCCUPANCY AS A RESIDENCE.

S 482. VISITABILITY REQUIREMENT. THE DESIGN AND CONSTRUCTION OF A NEW DWELLING UNIT SHALL COMPLY WITH THE FOLLOWING REQUIREMENTS:

1. ACCESSIBLE ENTRANCE. (A) EXCEPT AS PROVIDED IN PARAGRAPH (B) OF THIS SUBDIVISION, THE GROUND LEVEL OF SUCH DWELLING UNIT SHALL CONTAIN AT LEAST ONE ENTRANCE TO THE DWELLING UNIT THAT:

(I) IS ACCESSIBLE TO, AND USABLE BY, PEOPLE WITH DISABILITIES SUCH THAT ALL ROOMS ON THE LEVEL ARE CONNECTED BY AN ACCESSIBLE ROUTE;

(II) DOES NOT CONTAIN ANY STEPS OR ANY DOOR THRESHOLD THAT EXCEEDS ONE-HALF INCH IN HEIGHT; AND

(III) IS LOCATED ON A CONTINUOUS UNOBSTRUCTED PATH FROM THE PUBLIC STREET OR DRIVEWAY THAT SERVES THE UNIT, WHICH PATH AT NO POINT HAS A SLOPE EXCEEDING ONE INCH IN RISE FOR EVERY TWELVE INCHES IN LENGTH, HAS A WIDTH OF NOT LESS THAN THIRTY-SIX INCHES AND HAS A CROSS SLOPE NOT GREATER THAN TWO PERCENT OF THE WIDTH. SUCH UNOBSTRUCTED PATH SHALL BE ABLE TO BE NEGOTIATED BY A PERSON AND MAY INCLUDE CURB RAMPS, PARKING ACCESS AISLES, WALKS, AND RAMPS.

(B) THE PROVISIONS OF PARAGRAPH (A) OF THIS SUBDIVISION SHALL NOT APPLY TO A DWELLING UNIT IF:

(I) THE FINISHED GRADE OF THE SITE IS TOO STEEP TO PROVIDE A PATH HAVING A SLOPE OF ONE INCH IN RISE FOR EVERY TWELVE INCHES IN LENGTH AT THE FRONT, SIDE, OR BACK OF THE UNIT;

(II) THERE IS NO DRIVEWAY SERVING THE UNIT; AND

(III) THERE IS NO ALLEY OR OTHER ROADWAY CAPABLE OF PROVIDING VEHICULAR ACCESS TO THE REAR OR SIDE OF THE UNIT.

2. ACCESSIBLE INTERIOR DOORS. ALL DOORS THAT ARE DESIGNED TO ALLOW PASSAGE WITHIN THE GROUND LEVEL OF SUCH DWELLING UNIT SHALL HAVE AN UNOBSTRUCTED OPENING OF AT LEAST THIRTY-SIX INCHES WHEN THE DOOR IS OPEN AT A NINETY-DEGREE ANGLE.

3. ACCESSIBLE ENVIRONMENTAL CONTROLS. ALL ENVIRONMENTAL CONTROLS AND OUTLETS LOCATED ON THE GROUND LEVEL OF SUCH DWELLING UNIT SHALL BE LOCATED ON THE WALL AT LEAST FIFTEEN INCHES, BUT NOT MORE THAN FORTY-EIGHT INCHES, ABOVE THE FLOOR OR, IN THE CASE OF ENVIRONMENTAL CONTROLS AND OUTLETS LOCATED DIRECTLY ABOVE A COUNTER, SINK, OR APPLIANCE, NOT MORE THAN THREE INCHES ABOVE SUCH COUNTER, SINK, OR APPLIANCE.

4. ACCESSIBLE HABITABLE SPACE AND BATHROOM. THE GROUND LEVEL OF SUCH DWELLING UNIT SHALL CONTAIN THE FOLLOWING:

(A) AT LEAST ONE INDOOR ROOM THAT HAS AN AREA OF NOT LESS THAN SEVENTY SQUARE FEET AND CONTAINS NO SIDE OR DIMENSION NARROWER THAN SEVEN FEET; AND

(B) AT LEAST ONE BATHROOM THAT CONTAINS, AT A MINIMUM, THE FOLLOWING:

(I) CLEAR FLOOR SPACE OF THIRTY BY FORTY-EIGHT INCHES CENTERED ON AND CONTIGUOUS TO THE SINK, WHICH IS NOT ENCROACHED BY THE SWING PATH OF THE BATHROOM DOOR;

(II) A SINK AND A TOILET THAT EACH ALLOW FOR A PARALLEL OR HEAD-ON APPROACH BY A PERSON IN A WHEELCHAIR; AND

(III) WALLS THAT ARE REINFORCED TO BE CAPABLE OF SUPPORTING GRAB BARS THAT RESIST SHEAR AND BENDING FORCES OF A MINIMUM OF TWO HUNDRED FIFTY POUNDS, AS FOLLOWS:

(A) ALL WALLS ADJACENT TO THE TOILET SHALL HAVE HORIZONTAL BACKING REINFORCEMENTS, EACH AT LEAST THIRTY-THREE INCHES, BUT NOT MORE THAN THIRTY-SIX INCHES, ABOVE THE FLOOR, AND SUFFICIENT TO ALLOW FOR A TWENTY-FOUR-INCH GRAB BAR ON THE WALL BEHIND THE TOILET AND ANOTHER

1 FORTY-TWO-INCH GRAB BAR ON ONE OR THE OTHER WALLS ADJACENT TO THE  
2 TOILET.

3 (B) IF A BATHTUB IS PRESENT IN THE BATHROOM, SUCH REINFORCEMENTS SHALL  
4 INCLUDE:

5 (I) TWO BACKING REINFORCEMENTS ON THE BACK WALL OF THE BATHTUB, EACH  
6 AT LEAST TWENTY-FOUR INCHES LONG, AT LEAST TWENTY INCHES WIDE AND NOT  
7 MORE THAN TWENTY-FOUR INCHES FROM THE HEAD END WALL AND NOT MORE THAN  
8 TWELVE INCHES FROM THE FOOT END WALL, ONE IN A HORIZONTAL POSITION AT  
9 LEAST THIRTY-THREE INCHES, BUT NOT MORE THAN THIRTY-SIX INCHES, ABOVE  
10 THE FLOOR, AND ONE NINE INCHES ABOVE THE RIM OF THE BATHTUB;

11 (II) ONE BACKING REINFORCEMENT ON THE FOOT END WALL OF THE BATHTUB, AT  
12 LEAST TWENTY INCHES LONG, AT LEAST EIGHTEEN INCHES WIDE AND LOCATED AT  
13 THE FRONT EDGE OF THE BATHTUB; AND

14 (III) ONE BACKING REINFORCEMENT ON THE HEAD END WALL OF THE BATHTUB,  
15 AT LEAST TWELVE INCHES LONG, AT LEAST EIGHTEEN INCHES WIDE AND LOCATED  
16 AT THE FRONT EDGE OF THE BATHTUB.

17 (C) IF A SHOWER IS PRESENT IN THE BATHROOM, SUCH REINFORCEMENTS SHALL  
18 INCLUDE BACKING REINFORCEMENTS ON AT LEAST TWO WALLS ON WHICH THE  
19 CONTROL VALVES ARE NOT LOCATED, EACH CENTERED AT LEAST THIRTY-THREE  
20 INCHES, BUT NOT MORE THAN THIRTY-SIX INCHES, ABOVE THE FLOOR AND AT  
21 LEAST EIGHTEEN INCHES WIDE.

22 S 483. EXCLUSION. THIS ARTICLE SHALL NOT APPLY TO SITES WHOSE PHYSICAL  
23 CHARACTERISTICS RENDERS COMPLIANCE WITH THIS ARTICLE UNREASONABLE.

24 S 484. ENFORCEMENT. ANY PERSON, FIRM, CORPORATION, PARTNERSHIP OR ANY  
25 OTHER BUSINESS ENTITY THAT VIOLATES ANY PROVISION OF THIS ARTICLE SHALL  
26 BE SUBJECT TO A CIVIL PENALTY OF NOT LESS THAN FIFTY NOR MORE THAN FIVE  
27 HUNDRED DOLLARS FOR EACH SUCH OFFENSE AND EACH DAY ON WHICH SUCH  
28 VIOLATION OCCURS OR CONTINUES TO OCCUR SHALL BE A SEPARATE OFFENSE. ANY  
29 VIOLATION OF THIS ARTICLE SHALL BE ENFORCEABLE BY THE ATTORNEY GENERAL  
30 AND ANY AGGRIEVED PARTY, AND ANY SUCH PARTY SHALL HAVE THE RIGHT TO SEEK  
31 LEGAL AND EQUITABLE RELIEF AND THE COURT MAY AWARD REASONABLE COSTS AND  
32 ATTORNEY'S FEES ASSOCIATED WITH SUCH ACTION.

33 S 2. This act shall take effect on the one hundred eightieth day after  
34 it shall have become a law and shall apply to dwelling units the  
35 construction of which begins on or after such date.