S T A T E O F N E W Y O R K

1499

2009-2010 Regular Sessions

I N S E N A T E

February 2, 2009

Introduced by Sen. DeFRANCISCO -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

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:

Section 1. The real property law is amended by adding a new article 15 to read as follows:

ARTICLE 15

VISITABILITY OF NEW CONSTRUCTION

SECTION 480. PURPOSE.
481. APPLICABILITY OF NEW CONSTRUCTION.
482. VISITABILITY REQUIREMENT.
483. EXCLUSION.
484. ENFORCEMENT.

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

S 481. APPLICABILITY OF NEW CONSTRUCTION. ANY NEW DWELLING UNIT WHICH WAS DESIGNED, CONSTRUCTED, OR COMMISSIONED, CONTRACTED OR OTHERWISE ARRANGED FOR DESIGN OR CONSTRUCTION, BY ANY PERSON OR ENTITY WHO, AT ANY TIME DURING THE COMMISSIONING DESIGN OR CONSTRUCTION, RECEIVED NEW YORK STATE OR FEDERAL FINANCIAL ASSISTANCE FOR SUCH DESIGN OR CONSTRUCTION SHALL COMPLY WITH THE PROVISIONS OF THIS ARTICLE. FEDERAL FINANCIAL ASSISTANCE SHALL NOT INCLUDE LOANS BACKED BY FEDERAL NATIONAL MORTGAGE ASSOCIATION (FANNIE MAE) OR FEDERAL HOUSING ADMINISTRATION (FHA) FINANCING OR OTHER MORTGAGE LOANS BACKED BY A FEDERAL MORTGAGE LOAN PROGRAM. FOR PURPOSES OF THIS SECTION, THE TERM "DWELLING UNIT" SHALL MEAN A DETACHED SINGLE FAMILY HOME, A GROUND FLOOR UNIT IN A TOWN HOUSE OR A GROUND FLOOR UNIT IN A MULTI-LEVEL DWELLING UNIT, OR A GROUND FLOOR UNIT

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

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

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

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

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

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

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

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

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

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