

1499

2009-2010 Regular Sessions

I N   S E N A T E

February 2, 2009

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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 ASSEM-  
BLY, DO ENACT AS FOLLOWS:

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

3     A R T I C L E   1 5

4     V I S I T A B I L I T Y   O F   N E W   C O N S T R U C T I O N

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. FEDERAL FINANCIAL  
19     ASSISTANCE SHALL NOT INCLUDE LOANS BACKED BY FEDERAL NATIONAL MORTGAGE  
20     ASSOCIATION (FANNIE MAE) OR FEDERAL HOUSING ADMINISTRATION (FHA) FINANC-  
21     ING OR OTHER MORTGAGE LOANS BACKED BY A FEDERAL MORTGAGE LOAN PROGRAM.  
22     FOR PURPOSES OF THIS SECTION, THE TERM "DWELLING UNIT" SHALL MEAN A  
23     DETACHED SINGLE FAMILY HOME, A GROUND FLOOR UNIT IN A TOWN HOUSE OR A  
24     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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1 IN A BUILDING OF THREE OR FEWER DWELLING UNITS WHICH IS DESIGNED AS, OR  
2 INTENDED FOR OCCUPANCY AS A RESIDENCE.

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

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

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

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

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

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

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

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

25 (III) THERE IS NO ALLEY OR OTHER ROADWAY CAPABLE OF PROVIDING VEHICU-  
26 LAR ACCESS TO THE REAR OR SIDE OF THE UNIT.

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

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

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

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

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

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

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

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

51 (A) ALL WALLS ADJACENT TO THE TOILET SHALL HAVE HORIZONTAL BACKING  
52 REINFORCEMENTS, EACH AT LEAST THIRTY-THREE INCHES, BUT NOT MORE THAN  
53 THIRTY-SIX INCHES, ABOVE THE FLOOR, AND SUFFICIENT TO ALLOW FOR A TWEN-  
54 TY-FOUR-INCH GRAB BAR ON THE WALL BEHIND THE TOILET AND ANOTHER  
55 FORTY-TWO-INCH GRAB BAR ON ONE OR THE OTHER WALLS ADJACENT TO THE  
56 TOILET.

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

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

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

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

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

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

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

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