

6819

I N S E N A T E

February 10, 2010

Introduced by Sen. FOLEY -- 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 executive law, in relation to the universal design incentive

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

1 Section 1. Legislative intent and findings. The legislature hereby
2 finds that the availability of accessible housing opportunities is vital
3 to the safety and welfare of persons with limited mobility including
4 seniors and persons with either permanent or temporary physical disabilities.
5
6 This act provides for a Universal Design Incentive (UDI) permit fee
7 structure and other benefits that reduce the cost and time needed to
8 create accessible and adaptable housing. An increase in the inventory of
9 such single and multi-family dwellings is needed to meet the needs of a
10 growing number of residents and visitors with disabilities and for those
11 who wish to retire in their own homes as is commonly referred to as the
12 ability to "age-in-place".
13 The legislature hereby provides this UDI legislation to stimulate the
14 development of adaptable and accessible housing by offering permits for
15 both new dwellings and for alterations to existing dwellings under an
16 incentive based fee structure with expedited application processing. The
17 UDI also provides for the exemption from certain dimensional (setback)
18 requirements for alterations to existing dwellings that are necessary to
19 create an accessible entryway. Further, the UDI provides for an
20 exemption from maximum floor area and lot coverage calculations for new
21 and substantially altered single family dwellings. This act is intended
22 to encourage and expedite the development of additional local housing
23 opportunities for independent living.
24 The legislature seeks to facilitate the alteration of existing homes
25 and the construction of new single and multi-family dwellings that are
26 accessible or may be readily made accessible for seniors and other
27 persons with limited mobility such as persons with disabilities.

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

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1 The legislature hereby finds that the inclusion of certain accessible
2 and adaptable dwelling design features into the construction of new
3 dwelling units as well as the alteration of existing dwelling units will
4 allow seniors and persons with disabilities greater opportunity to occu-
5 py or visit homes within New York state and, to age in place which
6 avoids the considerable cost to retirees, their families and often to
7 New York state for unnecessary and unwanted residencies in assisted
8 living or nursing care facilities.

9 Therefore, this act is necessary to expand the inventory of housing
10 opportunities that are defined as accessible or adaptable.

11 S 2. The executive law is amended by adding a new section 378-a to
12 read as follows:

13 S 378-A. UNIVERSAL DESIGN INCENTIVE. THE NEW YORK STATE UNIFORM FIRE
14 PREVENTION AND BUILDING CODE SHALL CONTAIN THE PROVISIONS SET FORTH IN
15 THIS SECTION.

16 1. AS USED IN THIS SECTION, THE FOLLOWING DEFINITIONS SHALL APPLY:

17 A. "ACCESSIBLE" MEANS A BUILDING OR PORTION THEREOF THAT CAN BE
18 APPROACHED, ENTERED AND USED BY PEOPLE WITH PHYSICAL DISABILITIES.

19 B. "ACCESSIBLE DOOR" MEANS A THIRTY-SIX INCH DOOR THAT WHEN HUNG IN
20 THE STANDARD MANNER PROVIDES A MINIMUM CLEARANCE OF THIRTY-TWO INCHES
21 WITH NO MORE THAN ONE-QUARTER INCH BEVELED THRESHOLDS AND EQUIPPED OR
22 EASILY REFITTED WITH LEVER-TYPE DOOR HANDLES.

23 C. "ADAPTABLE" MEANS LIVING SPACE WHICH MAY BE READILY CONVERTED WITH-
24 OUT DEMOLITION AND WITH MINIMAL EFFORT AND COST INTO LIVING SPACE THAT
25 IS ACCESSIBLE.

26 D. "BATHROOM" MEANS A ROOM COMMONLY CONTAINING A TOILET, SINK, AND
27 EITHER A SHOWER, BATHTUB, COMBINATION BATHTUB/SHOWER, OR BOTH A SHOWER
28 AND A BATHTUB. THIS TERM SHALL INCLUDE A COMPARTMENTED BATHROOM IN WHICH
29 THE FIXTURES ARE DISTRIBUTED AMONG INTERCONNECTED ROOMS.

30 E. "BUILDING OFFICIAL" MEANS A PERSON DESIGNATED BY THE SECRETARY WHO
31 SHALL OVERSEE THAT THE PROVISIONS SET FORTH IN THIS SECTION ARE ADHERED
32 TO.

33 F. "COMMON USE ROOM" MEANS A ROOM COMMONLY USED BY RESIDENTS OR GUESTS
34 TO CONGREGATE.

35 G. "DIMENSIONAL REQUIREMENTS" MEANS ANY LOCAL ZONING ORDINANCES
36 GOVERNING THE SIZE OF ANY STRUCTURES ON A BUILDING LOT. THIS TERM SHALL
37 INCLUDE SETBACK REQUIREMENTS.

38 H. "DWELLING UNIT" MEANS ONE OR MORE ROOMS IN A BUILDING THAT ARE
39 ARRANGED, DESIGNED, USED OR INTENDED FOR USE BY ONE OR MORE FAMILIES.

40 I. "FLEX ROOM" MEANS A COMMON USE ROOM THAT CAN BE CONVERTED TO A
41 PRIVATE BEDROOM WITHOUT DEMOLITION, WITH THE EXCEPTION OF THAT WHICH IS
42 REQUIRED FOR INSTALLING A DOOR IN AN EXISTING WALL OPENING. A FLEX ROOM
43 MUST MEET SUCH CODE REQUIREMENTS AS MAY BE ADOPTED FOR FUTURE USE AS A
44 BEDROOM INCLUDING EGRESS AND SMOKE DETECTION.

45 J. "KITCHEN" MEANS A ROOM USED FOR THE COOKING OR WARMING OF FOOD.

46 K. "LOT COVERAGE RESTRICTIONS" MEANS ANY LOCAL ZONING ORDINANCES
47 GOVERNING THE RATIO OF THE OCCUPIED AREA TO THE TOTAL AREA OF A BUILDING
48 LOT. THE OCCUPIED AREA REFERS TO THE AREA OF A BUILDING LOT WHICH IS
49 COVERED BY BUILDINGS, DRIVEWAYS AND OTHER STRUCTURES.

50 L. "POWDER ROOM" MEANS A ROOM CONTAINING A TOILET AND SINK, BUT NO
51 BATHTUB OR SHOWER. IT INCLUDES A COMPARTMENTED POWDER ROOM IN WHICH THE
52 FIXTURES ARE DISTRIBUTED AMONG INTERCONNECTED ROOMS.

53 M. "SETBACK REQUIREMENTS" MEANS ANY LOCAL ZONING ORDINANCES GOVERNING
54 HOW CLOSE TO A PROPERTY LINE ANY BUILDING MAY BE BUILT.

55 N. "UNIVERSAL DESIGN INCENTIVE" MEANS THE FEE REDUCTIONS SET FORTH IN
56 SUBDIVISION TWO OF THIS SECTION.

2. THE SECRETARY SHALL GRANT SUCH NEW BUILDING OR BUILDING ALTERATION PERMIT FEE REDUCTIONS AS HE OR SHE DEEMS SUFFICIENT TO ENCOURAGE THE EXPEDITED DEVELOPMENT OF NEW DWELLING UNITS OR THE SUBSTANTIAL ALTERATION OF EXISTING SINGLE AND MULTI-FAMILY DWELLING UNITS THAT ARE TO BE ACCESSIBLE OR ADAPTABLE TO PERSONS WITH EITHER TEMPORARY OR PERMANENT PHYSICAL DISABILITIES.

3. TO QUALIFY FOR THE UNIVERSAL DESIGN INCENTIVE, APPLICATIONS FOR NEW OR SUBSTANTIALLY ALTERED EXISTING SINGLE OR MULTI-FAMILY DWELLING UNITS SHALL CONTAIN AN:

A. ACCESSIBLE ENTRANCEWAY AND ACCESSIBLE INTERNAL ROUTE OF TRAVEL. THIS REQUIRES:

(I) ONE UNOBSTRUCTED WALKWAY OF AT LEAST THIRTY-SIX INCHES IN WIDTH WITH AN APPROACH SLOPE OF NOT MORE THAN 1:20 TO THE ACCESSIBLE ENTRANCEWAY; OR

(II) ONE STEP-FREE ENTRY AT ANY OPENING OF THE DWELLING (FRONT, BACK, SIDE, GARAGE) THAT IS IDENTIFIED AS THE ACCESSIBLE ENTRANCEWAY;

(III) ALL EXTERIOR HINGED DOORS TO BE ACCESSIBLE DOORS WITH A MINIMUM OF THIRTY-TWO INCH INTERNAL CLEARANCE AND WITH NO MORE THAN ONE-QUARTER INCH BEVELED THRESHOLDS AND EQUIPPED OR EASILY REFITTED WITH LEVER-TYPE DOOR HANDLES;

(IV) ALL INTERIOR HINGED DOORS WITH LANDINGS TO BE A MINIMUM OF THIRTY-SIX INCHES WIDE (THIRTY-TWO INCH INTERNAL CLEARANCE) WITH NO MORE THAN ONE-QUARTER INCH BEVELED THRESHOLDS AND EQUIPPED OR EASILY REFITTED WITH LEVER-TYPE DOOR HANDLES;

(V) ONE DEDICATED POWER SOURCE AT ALL INTERIOR STAIRS LEADING TO HABITABLE SPACE FOR POSSIBLE FUTURE CHAIR LIFT INSTALLATION; AND

(VI) AN ACCESSIBLE ROUTE CONNECTING THE ACCESSIBLE ENTRANCEWAY WITH ALL ACCESSIBLE DWELLING SPACE, INCLUDING THE ACCESSIBLE POWDER ROOM, BATHROOM, KITCHEN, FLEX ROOM OR BEDROOM AND OTHER COMMON USE ROOMS ON THE ACCESSIBLE LEVEL OF THE DWELLING.

B. ACCESSIBLE BEDROOM OR FLEX ROOM ON THE GROUND/FIRST FLOOR OF DWELLING. THIS REQUIRES:

(I) ONE ACCESSIBLE BEDROOM ON THE GROUND/FIRST FLOOR; OR

(II) ONE FLEX ROOM ON THE GROUND/FIRST FLOOR. A FLOOR PLAN DESIGN SHALL DEMONSTRATE HOW A COMMON USE ROOM CAN BE CONVERTED INTO A PRIVATE BEDROOM WITHOUT DEMOLITION, EXCEPT FOR THAT WHICH IS REQUIRED FOR INSTALLATION OF A DOOR IN AN EXISTING WALL OPENING.

C. ACCESSIBLE OR ADAPTABLE KITCHEN. THIS REQUIRES:

(I) ONE ACCESSIBLE OR ADAPTABLE KITCHEN; OR

(II) AS DEFINED BY THE BUILDING OFFICIAL, A KITCHEN THAT PROVIDES ADEQUATE WHEELCHAIR ACCESS AND CIRCULATION WITH ACCESSIBLE LIGHT, VENT, OVEN AND STOVETOP CONTROLS AS WELL AS BREAKAWAY CABINETRY UNDER THE SINK FOR EASE OF FUTURE MODIFICATION FOR WHEELCHAIR ACCESSIBILITY.

D. ACCESSIBLE BATHROOM OR ADAPTABLE POWDER ROOM ON THE GROUND/FIRST FLOOR. THIS REQUIRES:

(I) AN INTERIOR SIXTY INCH CLEAR TURNING RADIUS;

(II) A WALL BLOCKING FOR FUTURE GRAB BARS;

(III) FAUCETS TO BE LEVER-TYPE AND PREFERABLY SINGLE LEVER OR ARE EASILY REFITTED AS SUCH; AND

(IV) EITHER:

(A) A STEP-FREE TUB OR ROLL-IN SHOWER WITH WALL BLOCKING AND GRAB BARS; OR

(B) SUFFICIENT SPACE FOR FUTURE ACCESSIBLE SHOWER OR ACCESSIBLE BATH THAT DOES NOT ENCROACH ON THE REQUIRED SIXTY INCH TURNING RADIUS. ADAPTABLE PLUMBING SHALL BE PROVIDED FOR THE FUTURE INSTALLATION OF A

1 STEP-FREE TUB OR ROLL-IN SHOWER, BROUGHT TO THE FLOOR AND WALLS AND
2 CAPPED-OFF FOR FUTURE USE.

3 4. A. AN EXEMPTION FROM ANY SETBACK REQUIREMENTS SHALL BE GRANTED FOR
4 ANY ALTERATIONS, SUCH AS AMERICANS WITH DISABILITIES ACT-COMPLIANT
5 WHEELCHAIR RAMPS, FOR EXISTING DWELLINGS THAT PROVIDE ONE ACCESSIBLE
6 ENTRYWAY FOR PERSONS WITH QUALIFYING DISABILITIES.

7 B. SUCH EXEMPTION SHALL BE GRANTED ONLY WHEN THE BUILDING OFFICIAL
8 DETERMINES THAT NO PRACTICAL AND CONFORMING ACCESSIBLE PATHWAY TO ANY
9 ENTRYWAY EXISTS.

10 C. SUCH EXEMPTION SHALL NOT APPLY TO ANY HISTORIC AND/OR CULTURAL
11 PLACE OR PROPERTY OR ANY REGISTERED PROPERTY AS THOSE TERMS ARE DEFINED
12 BY SECTION SIXTY-ONE OF THE PUBLIC BUILDINGS LAW, OR ANY HISTORIC
13 DISTRICT AS DEFINED BY SECTION ONE HUNDRED NINETEEN-BB OF THE GENERAL
14 MUNICIPAL LAW; PROVIDED, HOWEVER THAT EXEMPTIONS FOR SUCH PROPERTIES MAY
15 BE AUTHORIZED BY THE BUILDING OFFICIAL UPON REVIEW AND APPROVAL OF THE
16 NEW YORK STATE COMMISSIONER OF PARKS, RECREATION AND HISTORIC PRESERVA-
17 TION.

18 5. EXEMPTIONS FROM CERTAIN DIMENSIONAL REGULATIONS AND LOT COVERAGE
19 RESTRICTIONS FOR THE MINIMUM ADDITIONAL LIVING AREA REQUIRED SHALL BE
20 GRANTED TO PROVIDE:

21 A. ONE ACCESSIBLE BATHROOM OR ADAPTABLE BATHROOM THAT IS ACCESSED FROM
22 THE ACCESSIBLE GROUND/FIRST FLOOR LIVING AREA AND FROM BOTH THE ACCESSI-
23 BLE ENTRYWAY OF THE DWELLING UNIT AND THE ACCESSIBLE INTERIOR ROUTE OF
24 TRAVEL; AND

25 B. ONE ACCESSIBLE BEDROOM OR FLEX ROOM WHICH IS ACCESSED FROM THE
26 ACCESSIBLE GROUND/FIRST FLOOR LIVING AREA AND FROM THE ACCESSIBLE ENTRY-
27 WAY OF THE DWELLING UNIT AND THE ACCESSIBLE INTERIOR ROUTE OF TRAVEL.

28 6. A. AN EXEMPTION OF FIFTY SQUARE FEET FROM DIMENSIONAL REQUIREMENTS
29 (INCLUDING BUILDING SETBACK REQUIREMENTS) AND LOT COVERAGE RESTRICTIONS
30 SHALL BE GRANTED FOR ANY LIVING AREA WHICH EQUALS THE DIFFERENCE BETWEEN
31 THAT WHICH IS NEEDED TO CONSTRUCT A MINIMUM SIZED POWDER ROOM AND AN
32 ADAPTABLE OR ACCESSIBLE BATHROOM.

33 B. AN EXEMPTION OF ONE HUNDRED SQUARE FEET FROM DIMENSIONAL REQUIRE-
34 MENTS (INCLUDING BUILDING SETBACK REQUIREMENTS) AND LOT COVERAGE
35 RESTRICTIONS SHALL BE GRANTED FOR THE CONSTRUCTION OF ANY ADDITIONAL
36 LIVING AREA ON THE GROUND/FIRST FLOOR THAT CAN BE IDENTIFIED BY THE
37 BUILDING OFFICIAL AS A 10'X10' ACCESSIBLE BEDROOM OR FLEX ROOM. THE
38 ACCESSIBLE BEDROOM OR FLEX ROOM SHALL NOT PRECLUDE THE CONTINUED USE OF
39 GROUND/FIRST FLOOR LIVING AREAS CUSTOMARILY KNOWN AS THE LIVING, DINING
40 OR KITCHEN COMMON USE AREAS.

41 C. TO QUALIFY FOR THE EXEMPTION SET FORTH IN PARAGRAPH B OF THIS
42 SUBDIVISION, APPLICANTS MUST APPLY CONCURRENTLY FOR THE EXEMPTION SET
43 FORTH IN PARAGRAPH A OF THIS SUBDIVISION.

44 D. PURSUANT TO THE EXEMPTIONS SET FORTH IN THIS SUBDIVISION, FRONT AND
45 REAR EXTERIOR WALLS MAY ENCROACH INTO MINIMUM BUILDING SETBACK LINES BY
46 A MAXIMUM OF FIVE FEET FOR A TOTAL OF ONE HUNDRED FIFTY SQUARE FEET WHEN
47 BOTH A GROUND FLOOR ACCESSIBLE BATHROOM AND FLEX ROOM ARE INCORPORATED
48 INTO THE PLAN DOCUMENTS AND APPROVED BY THE BUILDING OFFICIAL.

49 7. ANY EXEMPTIONS PROVIDED FOR IN THIS SECTION SHALL NOT BE APPLIED TO
50 ANY NEW OR SUBSTANTIALLY RENOVATED DWELLING UNITS THAT ARE OTHERWISE
51 REQUIRED TO BE ACCESSIBLE PURSUANT TO ANY OTHER NEW YORK STATE OR LOCAL
52 LAW OR REGULATION INCLUDING THE FAIR HOUSING ACT.

53 8. ANY EXEMPTIONS PROVIDED FOR IN THIS SECTION SHALL NOT BE APPLIED TO
54 BUILDING APPLICATIONS FOR DWELLING UNITS OVER TWO THOUSAND FOUR HUNDRED
55 SQUARE FEET.

1 9. EXEMPTION FROM DIMENSIONAL AND LOT COVERAGE REQUIREMENTS SHALL NOT
2 APPLY TO PRE-EXISTING NON-CONFORMING DWELLING UNITS AND NON-CONFORMING
3 LOTS UNLESS AUTHORIZED BY THE LOCAL ZONING APPEALS OFFICER. SUCH APPLI-
4 CATIONS SHALL BE CONSIDERED WITHOUT CHARGE BY SUCH AGENT.
5 10. APPLICATION FEES MAY BE REDUCED FOR APPLICATIONS TO ALTER EXISTING
6 DWELLING UNITS THAT DEMONSTRATE TO THE SATISFACTION OF THE BUILDING
7 OFFICIAL THAT COMPLIANCE WITH THE FOUR REQUIREMENTS SET FORTH IN SUBDI-
8 VISION THREE OF THIS SECTION IS IMPRACTICABLE DUE TO CONSTRAINTS WHICH
9 ARE NOT SELF-IMPOSED.
10 S 3. This act shall take effect January 1, 2011; provided, however,
11 that effective immediately, the department of state may prescribe such
12 rules and regulations as may be necessary to carry out the purposes of
13 this act.