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I N S E N A T E

June 11, 2010

Introduced by Sens. KRUEGER, 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:

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

3 ARTICLE 15

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. 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 BUILDING OF THREE OR FEWER DWELLING UNITS WHICH
25 IS DESIGNED AS, OR INTENDED FOR OCCUPANCY AS A RESIDENCE.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

55 (I) TWO BACKING REINFORCEMENTS ON THE BACK WALL OF THE BATHTUB, EACH
56 AT LEAST TWENTY-FOUR INCHES LONG, AT LEAST TWENTY INCHES WIDE AND NOT

1 MORE THAN TWENTY-FOUR INCHES FROM THE HEAD END WALL AND NOT MORE THAN
2 TWELVE INCHES FROM THE FOOT END WALL, ONE IN A HORIZONTAL POSITION AT
3 LEAST THIRTY-THREE INCHES, BUT NOT MORE THAN THIRTY-SIX INCHES, ABOVE
4 THE FLOOR, AND ONE NINE INCHES ABOVE THE RIM OF THE BATHTUB;

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

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

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

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

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

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