

3160

2013-2014 Regular Sessions

I N S E N A T E

January 31, 2013

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 A R T I C L E 1 6

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. 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

52 (A) ALL WALLS ADJACENT TO THE TOILET SHALL HAVE HORIZONTAL BACKING
53 REINFORCEMENTS, EACH AT LEAST THIRTY-THREE INCHES, BUT NOT MORE THAN
54 THIRTY-SIX INCHES, ABOVE THE FLOOR, AND SUFFICIENT TO ALLOW FOR A TWEN-
55 TY-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.