



259196

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/26/2017	.	
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The Committee on Appropriations (Stewart) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 553.5141, Florida Statutes, is created
to read:

553.5141 Certifications of conformity and remediation
plans.-

(1) For purposes of this section:



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- 10 (a) "Commerce" means travel, trade, traffic, commerce,
11 transportation, or communication:
- 12 1. Among the several states;
13 2. Between any foreign country or any territory or
14 possession and any state; or
15 3. Between points in the same state but through another
16 state or foreign country.
- 17 (b) "Department" means the Department of Business and
18 Professional Regulation.
- 19 (c) "Facility" means all or any portion of buildings,
20 structures, sites, complexes, equipment, rolling stock or other
21 conveyances, roads, walks, passageways, parking lots, or other
22 real or personal property, including the site where the
23 building, property, structure, or equipment is located.
- 24 (d) "Qualified expert" means:
- 25 1. An engineer licensed pursuant to chapter 471.
26 2. A certified general contractor licensed pursuant to
27 chapter 489.
28 3. A certified building contractor licensed pursuant to
29 chapter 489.
30 4. A building code administrator licensed pursuant to
31 chapter 468.
32 5. A building inspector licensed pursuant to chapter 468.
33 6. A plans examiner licensed pursuant to chapter 468.
34 7. An interior designer licensed pursuant to chapter 481.
35 8. An architect licensed pursuant to chapter 481.
36 9. A landscape architect licensed pursuant to chapter 481.
37 10. Any person who has had a remediation plan related to a
38 claim under Title III of the Americans with Disabilities Act, 42



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39 U.S.C. s. 12182, accepted by a federal court in a settlement
40 agreement or court proceeding, or who has been qualified as an
41 expert in Title III of the Americans with Disabilities Act, 42
42 U.S.C. s. 12182, by a federal court.

43 (e) "Place of public accommodation" means a facility
44 operated by a private entity whose operations affect commerce
45 and is a private entity as described in 42 U.S.C. s. 12181(7).

46 (f) "Private entity" means any nongovernmental entity, such
47 as a corporation, partnership, company or nonprofit
48 organization, any other legal entity, or any natural person.

49 (g) "Registry" means the registry of certifications of
50 competency and remediation plans filed by places of public
51 accommodation and maintained by the department.

52 (2) (a) An owner of a place of public accommodation who
53 requests that the owner's facility be inspected by a qualified
54 expert may submit a certification of conformity with the
55 department which indicates that such place of public
56 accommodation conforms to Title III of the Americans with
57 Disabilities Act; such certification of conformity shall be
58 valid for 3 years after the date of issuance. Any certification
59 of conformity filed with the department must include:

60 1. The date that the place of public accommodation was
61 inspected.

62 2. The name of the qualified expert or any other person who
63 inspected the place of public accommodation.

64 3. Proof of qualification as an expert in accordance with
65 paragraph (1) (d), including a license number or a sworn
66 statement indicating the person has at least one order by a
67 federal court accepting a remediation plan of the qualified



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68 expert in a settlement agreement or at least one order by a
69 federal court accepting the qualified expert's testimony related
70 to Title III of the Americans with Disabilities Act, 42 U.S.C.
71 s. 12182.

72 4. A statement in writing by the qualified expert attesting
73 that the information contained in the certification of
74 conformity is complete and accurate.

75 (b) An owner of a place of public accommodation who
76 requests that the owner's facility be inspected by a qualified
77 expert may submit a remediation plan with the department that
78 indicates that such place of public accommodation plans to
79 conform to Title III of the Americans with Disabilities Act
80 within a specified time period. Any remediation plan submitted
81 to the department which indicates that a place of public
82 accommodation does not conform to Title III of the Americans
83 with Disabilities Act must include a remediation plan to remedy
84 the deficiencies, which includes a reasonable amount of time,
85 not to exceed 10 years, in which the plan must be completed. The
86 plan must include:

87 1. The date that the place of public of accommodation was
88 inspected.

89 2. The name of the qualified expert or any other person who
90 inspected the place of public accommodation.

91 3. Identification of specific remedial measures that the
92 place of public accommodation will undertake.

93 4. The anticipated date of initiation and completion for
94 each remedial measure that the place of public accommodation has
95 agreed to undertake.

96 5. Proof of qualification as an expert in accordance with



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97 paragraph (1) (d), including a license number or a sworn
98 statement indicating the qualified expert has at least one order
99 by a federal court accepting a remediation plan prepared by the
100 qualified expert in a settlement agreement or at least one order
101 by a federal court accepting the qualified expert's testimony
102 related to Title III of the Americans with Disabilities Act, 42
103 U.S.C. s. 12182.

104 6. A statement in writing by the qualified expert attesting
105 that the information contained in the remediation plan is
106 complete and accurate.

107 (3) An owner of a place of public accommodation may file a
108 certification of conformity or a remediation plan with the
109 department. Such filing serves as notice to the public that the
110 place of public accommodation is in compliance with Title III of
111 the Americans with Disabilities Act or that such place of public
112 accommodation is making reasonable efforts to come into
113 compliance with the act.

114 (4) The department shall develop and maintain a website,
115 accessible to the public, which provides an electronic registry
116 of certifications of conformity and remediation plans.

117 (5) In any action brought in this state alleging a
118 violation of Title III of the Americans with Disabilities Act,
119 42 U.S.C. s. 12182, the court shall consider any remediation
120 plan or certification of conformity filed in accordance with
121 this section by a place of public accommodation with the
122 department before the filing of the plaintiff's complaint when
123 the court considers and determines whether the plaintiff's
124 complaint was filed in good faith and whether the plaintiff is
125 entitled to attorney fees and costs.



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126 Section 2. For the 2017-2018 fiscal year, the sums of
127 \$5,000 in recurring funds and \$155,000 in nonrecurring funds
128 from the Professional Regulation Trust Fund are appropriated to
129 the Department of Business and Professional Regulation for the
130 purpose of implementing this act.

131 Section 3. This act shall take effect July 1, 2017.

132
133 ===== T I T L E A M E N D M E N T =====

134 And the title is amended as follows:

135 Delete everything before the enacting clause
136 and insert:

137 A bill to be entitled
138 An act relating to the accessibility of places of
139 public accommodation; creating s. 553.5141, F.S.;
140 providing definitions; authorizing qualified experts
141 to advise and provide certain inspections for places
142 of public accommodation relating to the Americans with
143 Disabilities Act; authorizing an owner of a place of
144 public accommodation to request that his or her
145 facility be inspected for specified purposes;
146 authorizing an owner of a place of public
147 accommodation to file a certification of conformity or
148 remediation plan with the Department of Business and
149 Professional Regulation; requiring a court to consider
150 certain information in specified actions; requiring
151 the department to develop and maintain a website for
152 specified purposes; providing an appropriation;
153 providing an effective date.