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576-04074-17

Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on General Government)

A bill to be entitled

An act relating to the accessibility of places of public accommodation; creating s. 553.5141, F.S.; providing definitions; requiring the Department of Business and Professional Regulation to establish a program to provide for the certification of certain experts; authorizing such experts to advise and provide certain inspections for places of public accommodation relating to the Americans with Disabilities Act; requiring the department to establish certification requirements; authorizing an owner of a place of public accommodation to request a facility to be inspected for specified purposes; requiring a certified expert to provide the owner of a place of public accommodation a certification of conformity if the facility conforms to specified provisions of the Americans with Disabilities Act; specifying that such certificate is valid for 3 years; specifying that an owner of a place of public accommodation may submit a remediation plan to the department under certain circumstances; providing that a remediation plan is only valid for a certain period of time; requiring a court to consider certain information in specified actions; requiring the department to develop and maintain a website for specified purposes; requiring the department to adopt rules; providing an appropriation; providing an



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28 effective date.

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30 Be It Enacted by the Legislature of the State of Florida:

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

34 553.5141 Americans with Disabilities Act; certification of
35 experts.—

36 (1) For purposes of this section:

37 (a) "Certified expert" means a person certified by the
38 department under subsection (2).

39 (b) "Commerce" means communication, trade, traffic,
40 transportation, or travel:

41 1. Among the several states;

42 2. Between any foreign country or any territory or
43 possession and any state; or

44 3. Between points in the same state but through another
45 state or foreign country.

46 (c) "Department" means the Department of Business and
47 Professional Regulation.

48 (d) "Facility" means all or any portion of buildings,
49 complexes, equipment, parking lots, passageways, roads, rolling
50 stock or other conveyances, sites, structures, walks, or other
51 real or personal property, including the site where the
52 building, equipment, property, or structure is located.

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

56 (f) "Private entity" means any nongovernmental entity, such



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57 as a company or nonprofit organization, corporation,
58 partnership, any other legal entity, or any natural person.

59 (g) "Registry" means the registry of certified experts and
60 of remediation plans filed by places of public accommodation and
61 maintained by the department.

62 (2) (a) The department shall establish a program to provide
63 certification for experts who have sufficient experience,
64 knowledge, or training to advise places of public accommodation
65 regarding the compliance guidelines applicable to places of
66 public accommodation under subchapter III of the Americans with
67 Disabilities Act, 42 U.S.C. s. 12182. The certified experts may
68 provide inspections of places of public accommodation to
69 determine if barriers to access are present in the facility
70 within the meaning of 42 U.S.C. s. 12182 and the applicable
71 regulations interpreting that chapter.

72 (b) The department shall establish requirements for experts
73 to qualify for certification under this section.

74 (3) (a) An owner of a place of public accommodation may
75 request that a facility be inspected by a certified expert.
76 However, use of an expert certified under this section is not
77 required.

78 (b) If a place of public accommodation conforms to
79 subchapter III of the Americans with Disabilities Act, the
80 certified expert must provide the owner with a certification of
81 conformity which is valid for 3 years after the date of
82 issuance.

83 (c) If a place of public accommodation does not conform to
84 subchapter III of the Americans with Disabilities Act, the owner
85 may submit a remediation plan to the department which includes:



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

88 2. The name of the certified expert or other person who
89 inspected the place of public accommodation.

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

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

95 (d) A remediation plan submitted under paragraph (c) is
96 only valid for 10 years after its submission to the department.

97 (e) In any action brought in this state alleging a
98 violation of subchapter III of the Americans with Disabilities
99 Act, 42 U.S.C. s. 12182, the courts shall consider any
100 remediation plan filed by the place of public accommodation
101 before the filing of the plaintiff's complaint in determining if
102 the plaintiff's complaint was filed in good faith and if the
103 plaintiff is entitled to attorney fees and costs.

104 (4) The department shall develop and maintain on its
105 website, accessible to the public, an electronic registry of
106 certifications of conformity and remediation plans.

107 (5) The department shall adopt rules to administer this
108 section.

109 Section 2. For the 2017-2018 fiscal year, the sums of
110 \$5,000 in recurring funds and \$155,000 in nonrecurring funds
111 from the Professional Regulation Trust Fund are appropriated to
112 the Department of Business and Professional Regulation for the
113 purpose of implementing this act.

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