

By the Committee on Appropriations; and Senators Stewart,
Baxley, and Young

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1 A bill to be entitled
2 An act relating to the accessibility of places of
3 public accommodation; creating s. 553.5141, F.S.;
4 providing definitions; authorizing qualified experts
5 to advise and provide certain inspections for places
6 of public accommodation relating to the Americans with
7 Disabilities Act; authorizing an owner of a place of
8 public accommodation to request that his or her
9 facility be inspected for specified purposes;
10 authorizing an owner of a place of public
11 accommodation to file a certification of conformity or
12 remediation plan with the Department of Business and
13 Professional Regulation; requiring a court to consider
14 certain information in specified actions; requiring
15 the department to develop and maintain a website for
16 specified purposes; providing an appropriation;
17 providing an effective date.

18
19 Be It Enacted by the Legislature of the State of Florida:

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

23 553.5141 Certifications of conformity and remediation
24 plans.-

25 (1) For purposes of this section:

26 (a) "Commerce" means travel, trade, traffic,
27 transportation, or communication:

28 1. Among the several states;

29 2. Between any foreign country or any territory or

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30 possession and any state; or

31 3. Between points in the same state but through another
32 state or foreign country.

33 (b) "Department" means the Department of Business and
34 Professional Regulation.

35 (c) "Facility" means all or any portion of buildings,
36 structures, sites, complexes, equipment, rolling stock or other
37 conveyances, roads, walks, passageways, parking lots, or other
38 real or personal property, including the site where the
39 building, property, structure, or equipment is located.

40 (d) "Qualified expert" means:

41 1. An engineer licensed pursuant to chapter 471.

42 2. A certified general contractor licensed pursuant to
43 chapter 489.

44 3. A certified building contractor licensed pursuant to
45 chapter 489.

46 4. A building code administrator licensed pursuant to
47 chapter 468.

48 5. A building inspector licensed pursuant to chapter 468.

49 6. A plans examiner licensed pursuant to chapter 468.

50 7. An interior designer licensed pursuant to chapter 481.

51 8. An architect licensed pursuant to chapter 481.

52 9. A landscape architect licensed pursuant to chapter 481.

53 10. Any person who has had a remediation plan related to a
54 claim under Title III of the Americans with Disabilities Act, 42
55 U.S.C. s. 12182, accepted by a federal court in a settlement
56 agreement or court proceeding, or who has been qualified as an
57 expert in Title III of the Americans with Disabilities Act, 42
58 U.S.C. s. 12182, by a federal court.

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

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

65 (g) "Registry" means the registry of certifications of
66 competency and remediation plans filed by places of public
67 accommodation and maintained by the department.

68 (2) (a) An owner of a place of public accommodation who
69 requests that the owner's facility be inspected by a qualified
70 expert may submit a certification of conformity with the
71 department which indicates that such place of public
72 accommodation conforms to Title III of the Americans with
73 Disabilities Act; such certification of conformity shall be
74 valid for 3 years after the date of issuance. Any certification
75 of conformity filed with the department must include:

76 1. The date that the place of public accommodation was
77 inspected.

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

80 3. Proof of qualification as an expert in accordance with
81 paragraph (1) (d), including a license number or a sworn
82 statement indicating the person has at least one order by a
83 federal court accepting a remediation plan of the qualified
84 expert in a settlement agreement or at least one order by a
85 federal court accepting the qualified expert's testimony related
86 to Title III of the Americans with Disabilities Act, 42 U.S.C.
87 s. 12182.

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88 4. A statement in writing by the qualified expert attesting
89 that the information contained in the certification of
90 conformity is complete and accurate.

91 (b) An owner of a place of public accommodation who
92 requests that the owner's facility be inspected by a qualified
93 expert may submit a remediation plan with the department that
94 indicates that such place of public accommodation plans to
95 conform to Title III of the Americans with Disabilities Act
96 within a specified time period. Any remediation plan submitted
97 to the department which indicates that a place of public
98 accommodation does not conform to Title III of the Americans
99 with Disabilities Act must include a plan to remedy the
100 deficiencies, which includes a reasonable amount of time, not to
101 exceed 10 years, in which the plan must be completed. The plan
102 must include:

103 1. The date that the place of public of accommodation was
104 inspected.

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

107 3. Identification of specific remedial measures that the
108 place of public accommodation will undertake.

109 4. The anticipated date of initiation and completion for
110 each remedial measure that the place of public accommodation has
111 agreed to undertake.

112 5. Proof of qualification as an expert in accordance with
113 paragraph (1)(d), including a license number or a sworn
114 statement indicating the qualified expert has at least one order
115 by a federal court accepting a remediation plan prepared by the
116 qualified expert in a settlement agreement or at least one order

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117 by a federal court accepting the qualified expert's testimony
118 related to Title III of the Americans with Disabilities Act, 42
119 U.S.C. s. 12182.

120 6. A statement in writing by the qualified expert attesting
121 that the information contained in the remediation plan is
122 complete and accurate.

123 (3) An owner of a place of public accommodation may file a
124 certification of conformity or a remediation plan with the
125 department. Such filing serves as notice to the public that the
126 place of public accommodation is in compliance with Title III of
127 the Americans with Disabilities Act or that such place of public
128 accommodation is making reasonable efforts to come into
129 compliance with the act.

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

133 (5) In any action brought in this state alleging a
134 violation of Title III of the Americans with Disabilities Act,
135 42 U.S.C. s. 12182, the court shall consider any remediation
136 plan or certification of conformity filed in accordance with
137 this section by a place of public accommodation with the
138 department before the filing of the plaintiff's complaint when
139 the court considers and determines whether the plaintiff's
140 complaint was filed in good faith and whether the plaintiff is
141 entitled to attorney fees and costs.

142 Section 2. For the 2017-2018 fiscal year, the sums of
143 \$5,000 in recurring funds and \$155,000 in nonrecurring funds
144 from the Professional Regulation Trust Fund are appropriated to
145 the Department of Business and Professional Regulation for the

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146 purpose of implementing this act.

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