

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; requiring the Department of  
5 Business and Professional Regulation to establish a  
6 program to provide for the certification of certain  
7 experts; authorizing such experts to advise and  
8 provide certain inspections for places of public  
9 accommodation relating to the Americans with  
10 Disabilities Act; requiring the department to  
11 establish certification requirements; authorizing an  
12 owner of a place of public accommodation to request a  
13 facility to be inspected for specified purposes;  
14 requiring a certified expert to provide the owner with  
15 a certification of conformity or remediation plan  
16 under certain conditions; requiring a court to  
17 consider certain information in specified actions;  
18 requiring the department to develop and maintain a  
19 website for specified purposes; requiring the  
20 department to adopt rules; providing an effective  
21 date.

22  
23 Be It Enacted by the Legislature of the State of Florida:

24  
25 Section 1. Section 553.5141, Florida Statutes, is created

26 | to read:

27 | 553.5141 Americans with Disabilities Act; certification of  
 28 | experts.-

29 | (1) For purposes of this section:

30 | (a) "Commerce" means travel, trade, traffic, commerce,  
 31 | transportation, or communication:

32 | 1. Among the several states;

33 | 2. Between any foreign country or any territory or  
 34 | possession and any state; or

35 | 3. Between points in the same state but through another  
 36 | state or foreign country.

37 | (b) "Department" means the Department of Business and  
 38 | Professional Regulation.

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

44 | (d) "Certified expert" means a person certified by the  
 45 | department under subsection (2).

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

49 | (f) "Private entity" means any nongovernmental entity,  
 50 | such as a corporation, partnership, company or nonprofit

51 organization, any other legal entity, or any natural person.

52 (g) "Registry" means the registry of certified experts and  
53 of remediation plans filed by places of public accommodation and  
54 maintained by the department.

55 (2) (a) The department shall establish a program to provide  
56 certification for experts who have sufficient training,  
57 knowledge, or experience to advise places of public  
58 accommodation regarding the compliance guidelines applicable to  
59 places of public accommodation under Title III of the Americans  
60 with Disabilities Act, 42 U.S.C. s. 12182. The certified experts  
61 must provide inspections of places of public accommodation to  
62 determine if barriers to access are present in the facility  
63 within the meaning of 42 U.S.C. s. 12182 and the applicable  
64 regulations interpreting that chapter.

65 (b) The department shall establish requirements to qualify  
66 for certification under this section.

67 (3) (a) An owner of a place of public accommodation may  
68 request that a facility be inspected by a certified expert.  
69 However, use of an expert certified under this section is not  
70 required.

71 (b) If a place of public accommodation conforms to  
72 subchapter III of the Americans with Disabilities Act, the  
73 certified expert must provide the owner with a certification of  
74 conformity which is valid for 3 years after the date of  
75 issuance.

76 (c) If a place of public accommodation does not conform to  
77 subchapter III of the Americans with Disabilities Act, the  
78 certified expert must provide the owner with a remediation plan  
79 to remedy the deficiencies. The certified expert shall provide a  
80 reasonable amount of time, not to exceed 10 years, in which the  
81 plan must be completed. The plan must include:

82 1. The date the place of public of accommodation was  
83 inspected.

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

86 3. Identification of specific remedial measures that the  
87 place of public accommodation will undertake.

88 4. The anticipated date of initiation and completion for  
89 each remedial measure that the place of public accommodation has  
90 agreed to undertake.

91 (d) In any action brought in this state alleging a  
92 violation of Title III of the Americans with Disabilities Act,  
93 42 U.S.C. s. 12182, the courts shall consider any remediation  
94 plan filed by the place of public accommodation before the  
95 filing of the plaintiff's complaint in determining if the  
96 plaintiff's complaint was filed in good faith and if the  
97 plaintiff is entitled to attorney fees and costs.

98 (4) The department shall develop and maintain a website,  
99 accessible to the public, which provides a list of all certified  
100 experts and an electronic registry of certifications of

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101 | conformity and remediation plans.

102 |       (5) The department shall adopt rules to administer this  
103 | section.

104 |       Section 2. This act shall take effect July 1, 2017.