

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 appropriation;
21 providing an effective date.

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

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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

101 conformity and remediation plans.

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

104 Section 2. For the 2017-2018 fiscal year, the sums of
105 \$5,000 in recurring funds and \$155,000 in nonrecurring funds
106 from the Professional Regulation Trust Fund are appropriated to
107 the Department of Business and Professional Regulation for the
108 purpose of implementing this act.

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