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CS/CS/CS/HB 727, Engrossed 1

2017 Legislature

1
 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 certain owners of a
 8 place of public accommodation to file a certificate of
 9 conformity or remediation plan with the Department of
 10 Business and Professional Regulation; providing
 11 requirements for such submission; requiring a court to
 12 consider certain information in specified actions;
 13 requiring the department to develop and maintain a
 14 website for specified purposes; providing an
 15 appropriation; providing an effective date.

16
 17 Be It Enacted by the Legislature of the State of Florida:

18
 19 Section 1. Section 553.5141, Florida Statutes, is created
 20 to read:

21 553.5141 Certifications of conformity and remediation
 22 plans.-

23 (1) For purposes of this section:

24 (a) "Commerce" means travel, trade, traffic, commerce,
 25 transportation, or communication:

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- 26 1. Among the several states;
 27 2. Between any foreign country or any territory or
 28 possession and any state; or
 29 3. Between points in the same state but through another
 30 state or foreign country.
 31 (b) "Department" means the Department of Business and
 32 Professional Regulation.
 33 (c) "Facility" means all or any portion of buildings,
 34 structures, sites, complexes, equipment, rolling stock or other
 35 conveyances, roads, walks, passageways, parking lots, or other
 36 real or personal property, including the site where the
 37 building, property, structure, or equipment is located.
 38 (d) "Qualified expert" means:
 39 1. An engineer licensed pursuant to ch. 471.
 40 2. A certified general contractor licensed pursuant to ch.
 41 489.
 42 3. A certified building contractor licensed pursuant to
 43 ch. 489.
 44 4. A building code administrator licensed pursuant to ch.
 45 468.
 46 5. A building inspector licensed pursuant to ch. 468.
 47 6. A plans examiner licensed pursuant to ch. 468.
 48 7. An interior designer licensed pursuant to ch. 481.
 49 8. An architect licensed pursuant to ch. 481.
 50 9. A landscape architect licensed pursuant to ch. 481.

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

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

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

63 (g) "Registry" means the registry of certificates of
64 competency and remediation plans filed by places of public
65 accommodation and maintained by the department.

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

74 1. The date the place of public of accommodation was
75 inspected.

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

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

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

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

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- 101 1. The date the place of public of accommodation was
 102 inspected.
- 103 2. The name of the qualified expert or any other person
 104 who inspected the place of public accommodation.
- 105 3. Identification of specific remedial measures that the
 106 place of public accommodation will undertake.
- 107 4. The anticipated date of initiation and completion for
 108 each remedial measure that the place of public accommodation has
 109 agreed to undertake.
- 110 5. Proof of qualification as an expert in accordance with
 111 paragraph (1) (d), including a license number or a sworn
 112 statement indicating the qualified expert has at least one order
 113 by a federal court accepting a remediation plan of the qualified
 114 expert in a settlement agreement or at least one order by a
 115 federal court accepting the qualified expert's testimony related
 116 to Title III of the Americans with Disabilities Act, 42 U.S.C.
 117 s. 12182.
- 118 6. A statement in writing by the qualified expert
 119 attesting that the information contained in the remediation plan
 120 is complete and accurate.
- 121 (3) An owner of a place of public accommodation may file a
 122 certificate of conformity or remediation plan with the
 123 department. Such filing serves as notice to the public that the
 124 place of public accommodation is in compliance with Title III of
 125 the Americans with Disabilities Act or that such place of public

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126 | accommodation is making reasonable efforts to comply with such
127 | act.

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

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

140 | Section 2. For the 2017-2018 fiscal year, the sums of
141 | \$5,000 in recurring funds and \$155,000 in nonrecurring funds
142 | from the Professional Regulation Trust Fund are appropriated to
143 | the Department of Business and Professional Regulation for the
144 | purpose of implementing this act.

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