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H. R. 5781

To require all newly constructed, federally assisted, single-family houses and town houses to meet minimum standards of visitability for persons with disabilities.

IN THE HOUSE OF REPRESENTATIVES

MAY 16, 2012

Ms. SCHAKOWSKY (for herself, Mr. ELLISON, Mr. FARR, Mr. GRIJALVA, Mr. GUTIERREZ, Mr. JACKSON of Illinois, Mr. LANGEVIN, Ms. NORTON, and Ms. RICHARDSON) introduced the following bill; which was referred to the Committee on Financial Services

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A BILL

To require all newly constructed, federally assisted, single-family houses and town houses to meet minimum standards of visitability for persons with disabilities.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Inclusive Home Design Act of 2012''.

SEC. 2. DEFINITIONS.

As used in this Act:

(1) ACCESSIBLE ROUTE.—The term ''accessible route'' means a continuous unobstructed path that—

(A) can be negotiated by a person with a disability using a wheelchair; and

(B) is safe for and usable by people with other disabilities and people without disabilities.

(2) COVERED DWELLING UNIT.—The term ''covered dwelling unit'' means a dwelling unit that—

(A) is a detached single family house, a townhouse or multi-level dwelling unit (whether detached or attached to other units or structures), or a ground-floor unit in a building of three or fewer dwelling units;

(B) is designed as, or intended for occupancy as, a residence;

(C) was designed, constructed, or commissioned, contracted or otherwise arranged for design or construction, by any person or entity who, at any time during the design or construction, received Federal financial assistance for any program or activity; and

(D) is made available for first occupancy after the expiration of the one-year period be-

ginning on the date of the enactment of this Act.

(3) ENVIRONMENTAL CONTROLS.—The term ''environmental controls'' means, for a dwelling unit, any switches or devices that control or regulate lights, temperature, fans, doors, security system features, or any other feature included in the new construction of the unit.

(4) FEDERAL FINANCIAL ASSISTANCE.—The term ''Federal financial assistance'' means—

(A) any assistance that is provided or otherwise made available by the Secretary of Housing and Urban Development or the Secretary of Veterans Affairs, or any program or activity or such agencies, through any grant, loan, contract, or any other arrangement, after the expiration of the one-year period beginning on the date of the enactment of this Act, including—

(i) grants, subsidies, or any other funds;

(ii) services of Federal personnel;

(iii) real or personal property or any interest in or use of such property, including—

(I) transfers or leases of the property for less than the fair market value or for reduced consideration; and

(II) proceeds from a subsequent transfer or lease of the property if the Federal share of its fair market value is not returned to the Federal Government;

(iv) any tax credit, mortgage or loan guarantee or insurance; and

(v) community development funds in the form of obligations guaranteed under section 108 of the Housing and Community Development Act of 1974 (42 U.S.C. 5308); or

(B) any assistance that is provided or otherwise made available by the Secretary of Agriculture under title V of the Housing Act of 1949 (42 U.S.C. 1471 et seq.).

(5) PERSON OR ENTITY.—The term ''person or entity'' includes one or more individuals, corporations (including not-for-profit corporations), partnerships, associations, labor organizations, legal representatives, mutual corporations, joint-stock compa-

nies, trusts, unincorporated associations, trustees, trustees in cases under title 11 of the United States Code, receivers, and fiduciaries.

SEC. 3. VISITABILITY REQUIREMENT.

It shall be unlawful for any person referred to in section 2(2)(C) with respect to a covered dwelling unit to fail to ensure that such dwelling unit contains at least one level that complies with the following requirements:

(1) ACCESSIBLE ENTRANCE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the level shall contain at least one entrance to the dwelling unit that—

(i) is accessible to, and usable by, people with disabilities such that all rooms on the level are connected by an accessible route;

(ii) does not contain any steps or any door threshold that exceeds one-half inch in height; and

(iii) is located on a continuous unobstructed path from the public street or driveway that serves the unit, which path—

(I) at no point has a slope exceeding one inch in rise for every 12 inches in length;

(II) has a width of not less than 36 inches;

(III) has a cross slope not greater than two percent of the width;

(IV) is an accessible route; and

(V) may include curb ramps, parking access aisles, walks, and ramps.

(B) EXCEPTIONS.—The provisions of clauses (ii) and (iii) of subparagraph (A) shall not apply to a covered dwelling unit if—

(i) the finished grade of the site is too steep to provide a path having a slope meeting the requirements of subclause (I) of subparagraph (A)(iii) at the front, side, or back of the unit;

(ii) there is no driveway serving the unit; and

(iii) there is no alley or other roadway capable of providing vehicular access to the rear of the unit.

(2) ACCESSIBLE INTERIOR DOORS.—All doors that are designed to allow passage within the level shall have an unobstructed opening of at least 32 inches when the door is open at a 90-degree angle.

(3) ACCESSIBLE ENVIRONMENTAL CONTROLS.—All environmental controls located on the level shall be located on the wall—

(A) at least 15 inches, but not more than 48 inches, above the floor; or

(B) in the case of environmental controls located directly above a counter, sink, or appliance, not more than three inches above such counter, sink, or appliance.

(4) ACCESSIBLE HABITABLE SPACE AND BATHROOM.—The level shall contain the following:

(A) HABITABLE SPACE.—At least one indoor room that has an area of not less than 70 square feet and contains no side or dimension narrower than seven feet.

(B) BATHROOM.—At least one bathroom that contains, at a minimum, the following:

(i) CLEAR FLOOR SPACE.—Clear floor space of 30 by 48 inches centered on and contiguous to the sink, which is not en-

croached by the swing path of the bathroom door.

(ii) ACCESSIBLE SINK AND TOILET.—A sink and a toilet that each allow for a parallel or head-on approach by a person in a wheelchair.

(iii) REINFORCED WALLS.—Walls that are reinforced to be capable of supporting grab bars that resist shear and bending forces of a minimum of 250 pounds, as follows:

(I) All walls adjacent to the toilet shall have horizontal backing reinforcements, each at least 33 inches, but not more than 36 inches, above the floor, and sufficient to allow for a 24-inch grab bar on the wall behind the toilet and another 42-inch grab bar.

(II) If a bathtub is present in the bathroom, such reinforcements shall include (aa) two backing reinforcements on the back wall of the bathtub, each at least 24 inches long and not more than 24 inches from the

head end wall and not more than 12 inches from the foot end wall, one in a horizontal position at least 33 inches, but not more than 36 inches, above the floor, and one 9 inches above the rim of the bathtub, (bb) one backing reinforcement on the foot end wall of the bathtub, at least 24 inches long and located at the front edge of the bathtub, and (cc) one backing reinforcement on the head end wall of the bathtub, at least 12 inches long and located at the front edge of the bathtub.

(III) If a shower is present in the bathroom, such reinforcements shall include backing reinforcements on at least two walls on which the control valve is not located, each at least 33 inches, but not more than 36 inches, above the floor.

SEC. 4. ENFORCEMENT.

(a) REQUIREMENT FOR FEDERAL FINANCIAL ASSISTANCE.—Each applicant for Federal financial assistance shall submit an assurance to the Federal agency re-

sponsible for such assistance that all of its programs and activities will be conducted in compliance with this Act.

(b) APPROVAL OF ARCHITECTURAL AND CONSTRUCTION PLANS.—

(1) SUBMISSION.—Any applicant for or recipient of Federal financial assistance who designs, constructs, or commissions, contracts, or otherwise arranges for design or construction of a covered dwelling unit shall submit architectural and construction plans for such unit to the State or local department or agency that is responsible, under applicable State or local law, for the review and approval of construction plans for compliance with generally applicable building codes or requirements (in this subsection referred to as the ''appropriate State or local agency'').

(2) DETERMINATION OF COMPLIANCE.—

(A) CONDITION OF FEDERAL HOUSING ASSISTANCE.—The Secretary of Housing and Urban Development may not provide any Federal financial assistance under any program administered by such Secretary to a State or unit of general local government (or any agency thereof) unless the appropriate State or local agency thereof is, in the determination of the

Secretary, taking the enforcement actions under subparagraph (B).

(B) ENFORCEMENT ACTIONS.—The enforcement actions under this subparagraph are—

(i) reviewing any plans for a covered dwelling unit submitted pursuant to paragraph (1) and approving or disapproving such plans based upon compliance of the dwelling unit with the requirements of this Act; and

(ii) consistent with applicable State or local laws and procedures, withholding final approval of construction or occupancy of a covered dwelling unit unless and until such compliance is determined.

(c) CIVIL ACTION FOR PRIVATE PERSONS.—Any person aggrieved by an act or omission that is unlawful under this Act may commence a civil action in an appropriate United States district court or State court against any person or entity responsible for any part of the design or construction of a covered dwelling unit no later than two years after the occurrence or termination of the alleged unlawful conduct under this Act. For purposes of this section, a violation involving a covered dwelling unit that is

not designed or constructed in conformity with the requirements of this Act shall not be considered to terminate until the violation is corrected.

(d) ENFORCEMENT BY ATTORNEY GENERAL.—Whenever the Attorney General has reasonable cause to believe that any person or group of persons has violated this Act, the Attorney General may commence a civil action in any appropriate United States district court. The Attorney General may also, upon timely application, intervene in any civil action brought under subsection (c) by a private person if the Attorney General certifies that the case is of general public importance.

(e) RELIEF.—In any civil action brought under this section, if the court finds that a violation of this title has occurred or is about to occur, it may award to the plaintiff actual and punitive damages, and subject to subsection (g), may grant as relief, as the court finds appropriate, any permanent or temporary injunction, temporary restraining order, or other order (including an order enjoining the defendant from violating the Act or ordering such affirmative action as may be appropriate).

(f) ATTORNEY'S FEES.—In any civil action brought under this section, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee and costs.

(g) EFFECT ON CERTAIN SALES, ENCUMBRANCES, AND RENTALS.—Relief granted under this section shall not affect any contract, sale, encumbrance, or lease consummated before the granting of such relief and involving a bona fide purchaser, encumbrancer, or tenant, without actual notice of a civil action under this title.

SEC. 5. EFFECT ON STATE LAWS.

Nothing in this Act shall be constructed to invalidate or limit any law of a State or political subdivision of a State, or of any other jurisdiction in which this Act shall be effective, that grants, guarantees, or provides the same rights, protections, and requirements as are provided by this Act, but any law of a State, a political subdivision thereof, or other such jurisdiction that purports to require or permit any action that would violate this Act shall to that extent be invalid.

SEC. 6. DISCLAIMER OF PREEMPTIVE EFFECT ON OTHER ACTS.

Nothing in this Act shall limit any right, procedure, or remedy available under the Constitution or any other Act of the Congress.

SEC. 7. SEVERABILITY OF PROVISIONS.

If any provision of this Act of the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of the provision to other

1 persons not similarly situated shall not be affected there-
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