

111TH CONGRESS
1ST SESSION

H. R. 1408

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

MARCH 10, 2009

Ms. SCHAKOWSKY (for herself, Mr. FARR, Mr. MCGOVERN, Ms. BORDALLO, Mr. GUTIERREZ, and Mr. KIRK) introduced the following bill; which was referred to the Committee on Financial Services

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.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Inclusive Home Design
5 Act of 2009”.

6 **SEC. 2. DEFINITIONS.**

7 As used in this Act:

8 (1) **ACCESSIBLE ROUTE.**—The term “accessible
9 route” means a continuous unobstructed path that—

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

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

5 (2) COVERED DWELLING UNIT.—The term
6 “covered dwelling unit” means a dwelling unit
7 that—

8 (A) is a detached single family house, a
9 townhouse or multi-level dwelling unit (whether
10 detached or attached to other units or struc-
11 tures), or a ground-floor unit in a building of
12 three or fewer dwelling units;

13 (B) is designed as, or intended for occu-
14 pancy as, a residence;

15 (C) was designed, constructed, or commis-
16 sioned, contracted or otherwise arranged for de-
17 sign or construction, by any person or entity
18 who, at any time during the design or construc-
19 tion, received Federal financial assistance for
20 any program or activity; and

21 (D) is made available for first occupancy
22 after the expiration of the one-year period be-
23 ginning on the date of the enactment of this
24 Act.

1 (3) ENVIRONMENTAL CONTROLS.—The term
2 “environmental controls” means, for a dwelling unit,
3 any switches or devices that control or regulate
4 lights, temperature, fans, doors, security system fea-
5 tures, or any other feature included in the new con-
6 struction of the unit.

7 (4) FEDERAL FINANCIAL ASSISTANCE.—The
8 term “Federal financial assistance” means—

9 (A) any assistance that is provided or oth-
10 erwise made available by the Secretary of Hous-
11 ing and Urban Development or the Secretary of
12 Veterans Affairs, or any program or activity or
13 such agencies, through any grant, loan, con-
14 tract, or any other arrangement, after the expi-
15 ration of the one-year period beginning on the
16 date of the enactment of this Act, including—

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

19 (ii) services of Federal personnel;

20 (iii) real or personal property or any
21 interest in or use of such property, includ-
22 ing—

23 (I) transfers or leases of the
24 property for less than the fair market

1 value or for reduced consideration;
2 and

3 (II) proceeds from a subsequent
4 transfer or lease of the property if the
5 Federal share of its fair market value
6 is not returned to the Federal Govern-
7 ment;

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

10 (v) community development funds in
11 the form of obligations guaranteed under
12 section 108 of the Housing and Commu-
13 nity Development Act of 1974 (42 U.S.C.
14 5308); or

15 (B) any assistance that is provided or oth-
16 erwise made available by the Secretary of Agri-
17 culture under title V of the Housing Act of
18 1949 (42 U.S.C. 1471 et seq.).

19 (5) PERSON OR ENTITY.—The term “person or
20 entity” includes one or more individuals, corpora-
21 tions (including not-for-profit corporations), partner-
22 ships, associations, labor organizations, legal rep-
23 resentatives, mutual corporations, joint-stock compa-
24 nies, trusts, unincorporated associations, trustees,

1 trustees in cases under title 11 of the United States
2 Code, receivers, and fiduciaries.

3 **SEC. 3. VISITABILITY REQUIREMENT.**

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

8 (1) ACCESSIBLE ENTRANCE.—

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

12 (i) is accessible to, and usable by, peo-
13 ple with disabilities such that all rooms on
14 the level are connected by an accessible
15 route;

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

19 (iii) is located on a continuous unob-
20 structed path from the public street or
21 driveway that serves the unit, which
22 path—

23 (I) at no point has a slope ex-
24 ceeding one inch in rise for every 12
25 inches in length;

1 (II) has a width of not less than
2 36 inches;

3 (III) has a cross slope not great-
4 er than two percent of the width;

5 (IV) is an accessible route; and

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

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

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

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

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

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

1 (3) ACCESSIBLE ENVIRONMENTAL CONTROLS.—

2 All environmental controls located on the level shall
3 be located on the wall—

4 (A) at least 15 inches, but not more than
5 48 inches, above the floor; or

6 (B) in the case of environmental controls
7 located directly above a counter, sink, or appli-
8 ance, not more than three inches above such
9 counter, sink, or appliance.

10 (4) ACCESSIBLE HABITABLE SPACE AND BATH-
11 ROOM.—The level shall contain the following:

12 (A) HABITABLE SPACE.—At least one in-
13 door room that has an area of not less than 70
14 square feet and contains no side or dimension
15 narrower than seven feet.

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

18 (i) CLEAR FLOOR SPACE.—Clear floor
19 space of 30 by 48 inches centered on and
20 contiguous to the sink, which is not en-
21 croached by the swing path of the bath-
22 room door.

23 (ii) ACCESSIBLE SINK AND TOILET.—
24 A sink and a toilet that each allow for a

1 parallel or head-on approach by a person
2 in a wheelchair.

3 (iii) REINFORCED WALLS.—Walls that
4 are reinforced to be capable of supporting
5 grab bars that resist shear and bending
6 forces of a minimum of 250 pounds, as fol-
7 lows:

8 (I) All walls adjacent to the toilet
9 shall have horizontal backing rein-
10 forcements, each at least 33 inches,
11 but not more than 36 inches, above
12 the floor, and sufficient to allow for a
13 24-inch grab bar on the wall behind
14 the toilet and another 42-inch grab
15 bar.

16 (II) If a bathtub is present in the
17 bathroom, such reinforcements shall
18 include (aa) two backing reinforce-
19 ments on the back wall of the bath-
20 tub, each at least 24 inches long and
21 not more than 24 inches from the
22 head end wall and not more than 12
23 inches from the foot end wall, one in
24 a horizontal position at least 33
25 inches, but not more than 36 inches,

1 above the floor, and one 9 inches
2 above the rim of the bathtub, (bb) one
3 backing reinforcement on the foot end
4 wall of the bathtub, at least 24 inches
5 long and located at the front edge of
6 the bathtub, and (cc) one backing re-
7 inforcement on the head end wall of
8 the bathtub, at least 12 inches long
9 and located at the front edge of the
10 bathtub.

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

18 **SEC. 4. ENFORCEMENT.**

19 (a) REQUIREMENT FOR FEDERAL FINANCIAL AS-
20 SISTANCE.—Each applicant for Federal financial assist-
21 ance shall submit an assurance to the Federal agency re-
22 sponsible for such assistance that all of its programs and
23 activities will be conducted in compliance with this Act.

24 (b) APPROVAL OF ARCHITECTURAL AND CONSTRUC-
25 TION PLANS.—

1 (1) SUBMISSION.—Any applicant for or recipi-
2 ent of Federal financial assistance who designs, con-
3 structs, or commissions, contracts, or otherwise ar-
4 ranges for design or construction of a covered dwell-
5 ing unit shall submit architectural and construction
6 plans for such unit to the State or local department
7 or agency that is responsible, under applicable State
8 or local law, for the review and approval of construc-
9 tion plans for compliance with generally applicable
10 building codes or requirements (in this subsection
11 referred to as the “appropriate State or local agen-
12 cy”).

13 (2) DETERMINATION OF COMPLIANCE.—

14 (A) CONDITION OF FEDERAL HOUSING AS-
15 SISTANCE.—The Secretary of Housing and
16 Urban Development may not provide any Fed-
17 eral financial assistance under any program ad-
18 ministered by such Secretary to a State or unit
19 of general local government (or any agency
20 thereof) unless the appropriate State or local
21 agency thereof is, in the determination of the
22 Secretary, taking the enforcement actions under
23 subparagraph (B).

1 (B) ENFORCEMENT ACTIONS.—The en-
2 forcement actions under this subparagraph
3 are—

- 4 (i) reviewing any plans for a covered
5 dwelling unit submitted pursuant to para-
6 graph (1) and approving or disapproving
7 such plans based upon compliance of the
8 dwelling unit with the requirements of this
9 Act; and
10 (ii) consistent with applicable State or
11 local laws and procedures, withholding
12 final approval of construction or occupancy
13 of a covered dwelling unit unless and until
14 such compliance is determined.

15 (c) CIVIL ACTION FOR PRIVATE PERSONS.—Any per-
16 son aggrieved by an act or omission that is unlawful under
17 this Act may commence a civil action in an appropriate
18 United States district court or State court against any
19 person or entity responsible for any part of the design or
20 construction of a covered dwelling unit no later than two
21 years after the occurrence or termination of the alleged
22 unlawful conduct under this Act. For purposes of this sec-
23 tion, a violation involving a covered dwelling unit that is
24 not designed or constructed in conformity with the re-

1 quirements of this Act shall not be considered to terminate
2 until the violation is corrected.

3 (d) ENFORCEMENT BY ATTORNEY GENERAL.—

4 Whenever the Attorney General has reasonable cause to
5 believe that any person or group of persons has violated
6 this Act, the Attorney General may commence a civil ac-
7 tion in any appropriate United States district court. The
8 Attorney General may also, upon timely application, inter-
9 vene in any civil action brought under subsection (c) by
10 a private person if the Attorney General certifies that the
11 case is of general public importance.

12 (e) RELIEF.—In any civil action brought under this
13 section, if the court finds that a violation of this title has
14 occurred or is about to occur, it may award to the plaintiff
15 actual and punitive damages, and subject to subsection
16 (g), may grant as relief, as the court finds appropriate,
17 any permanent or temporary injunction, temporary re-
18 straining order, or other order (including an order enjoin-
19 ing the defendant from violating the Act or ordering such
20 affirmative action as may be appropriate).

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

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

7 **SEC. 5. EFFECT ON STATE LAWS.**

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

17 **SEC. 6. DISCLAIMER OF PREEMPTIVE EFFECT ON OTHER**
18 **ACTS.**

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

22 **SEC. 7. SEVERABILITY OF PROVISIONS.**

23 If any provision of this Act or the application thereof
24 to any person or circumstances is held invalid, the remain-
25 der of the Act and the application of the provision to other

1 persons not similarly situated shall not be affected there-
2 by.

