

CHAPTER 2017-139

Committee Substitute for Committee Substitute for Committee Substitute for House Bill No. 727

An act relating to the accessibility of places of public accommodation; creating s. 553.5141, F.S.; providing definitions; authorizing qualified experts to advise and provide certain inspections for places of public accommodation relating to the Americans with Disabilities Act; authorizing certain owners of a place of public accommodation to file a certificate of conformity or remediation plan with the Department of Business and Professional Regulation; providing requirements for such submission; requiring a court to consider certain information in specified actions; requiring the department to develop and maintain a website for specified purposes; providing an appropriation; providing an effective date.

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

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

553.5141 Certifications of conformity and remediation plans.—

(1) For purposes of this section:

(a) “Commerce” means travel, trade, traffic, commerce, transportation, or communication:

1. Among the several states;

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

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

(b) “Department” means the Department of Business and Professional Regulation.

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

(d) “Qualified expert” means:

1. An engineer licensed pursuant to ch. 471.

2. A certified general contractor licensed pursuant to ch. 489.

3. A certified building contractor licensed pursuant to ch. 489.

4. A building code administrator licensed pursuant to ch. 468.
5. A building inspector licensed pursuant to ch. 468.
6. A plans examiner licensed pursuant to ch. 468.
7. An interior designer licensed pursuant to ch. 481.
8. An architect licensed pursuant to ch. 481.
9. A landscape architect licensed pursuant to ch. 481.
10. Any person who has prepared a remediation plan related to a claim under Title III of the Americans with Disabilities Act, 42 U.S.C. s. 12182, that has been accepted by a federal court in a settlement agreement or court proceeding, or who has been qualified as an expert in Title III of the Americans with Disabilities Act, 42 U.S.C. s. 12182, by a federal court.

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

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

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

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

1. The date the place of public of accommodation was inspected.
2. The name of the qualified expert or any other person who inspected the place of public accommodation.
3. Proof of qualification as an expert in accordance with paragraph (1)(d), including a license number or a sworn statement indicating the person has at least one order by a federal court accepting a remediation plan of the qualified expert in a settlement agreement or at least one order by a federal court accepting the qualified expert's testimony related to Title III of the Americans with Disabilities Act, 42 U.S.C. s. 12182.
4. A statement in writing by the qualified expert attesting that the information contained in the certification of conformity is complete and accurate.

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

1. The date the place of public of accommodation was inspected.
2. The name of the qualified expert or any other person who inspected the place of public accommodation.
3. Identification of specific remedial measures that the place of public accommodation will undertake.
4. The anticipated date of initiation and completion for each remedial measure that the place of public accommodation has agreed to undertake.
5. Proof of qualification as an expert in accordance with paragraph (1)(d), including a license number or a sworn statement indicating the qualified expert has at least one order by a federal court accepting a remediation plan of the qualified expert in a settlement agreement or at least one order by a federal court accepting the qualified expert's testimony related to Title III of the Americans with Disabilities Act, 42 U.S.C. s. 12182.
6. A statement in writing by the qualified expert attesting that the information contained in the remediation plan is complete and accurate.

(3) An owner of a place of public accommodation may file a certificate of conformity or remediation plan with the department. Such filing serves as notice to the public that the place of public accommodation is in compliance with Title III of the Americans with Disabilities Act or that such place of public accommodation is making reasonable efforts to comply with such act.

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

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

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

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

Approved by the Governor June 23, 2017.

Filed in Office Secretary of State June 23, 2017.