
A BILL FOR AN ACT

RELATING TO BUILDING DESIGN FOR PERSONS WITH DISABILITIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that the disability and
2 communication access board was established to review all state
3 and county plans for buildings and facilities funded with public
4 funds. The legislature further finds that affordable housing
5 developed by private developers are not buildings and facilities
6 funded with public funds and, therefore, are not subject to the
7 disability and communication access board review process.
8 Finally, the legislature notes that nothing in this Act is
9 intended to exempt affordable housing developed by private
10 developers from the requirements of the Federal Americans with
11 Disabilities Act.

12 The purpose of this Act is to clarify that affordable
13 housing developed by private developers are exempt from the
14 disability and communication access board's process under
15 section 103-50, Hawaii Revised Statutes.

16 SECTION 2. Section 103-50, Hawaii Revised Statutes, is
17 amended to read as follows:



H.B. NO. 2577

1 "§103-50 Building design to consider needs of persons with
2 disabilities; review fees. (a) Notwithstanding any other law
3 to the contrary, all plans and specifications for the
4 construction of public buildings, facilities, and sites shall be
5 prepared so that the buildings, facilities, and sites are
6 accessible to and usable by persons with disabilities. The
7 buildings, facilities, and sites shall conform to the Americans
8 with Disabilities Act Accessibility Guidelines, [~~Title~~] title 36
9 Code of Federal Regulations [~~Part~~] part 1191, and the
10 requirements of the Federal Fair Housing Amendments Act of 1988,
11 as established in [~~Title~~] title 24 Code of Federal Regulations
12 [~~Part~~] part 100, [~~Subpart~~] subpart D, as adopted and amended by
13 the disability and communication access board under chapter
14 348F.

15 (b) All state and county agencies subject to this section
16 shall seek advice and recommendations from the disability and
17 communication access board on any construction plans prior to
18 commencing with construction.

19 This subsection shall not apply to any housing project
20 developed by an eligible developer and subject to exemption from
21 statutes, ordinances, charter provisions, and rules pursuant to



1 section 201H-38, including housing projects for which the
2 eligible developer has received state or county grants,
3 subsidies, grants-in-aid, tax credits, or any other state or
4 county funds for the construction of the project.

5 (c) The disability and communication access board shall
6 adopt rules pursuant to chapter 91 for the design of buildings,
7 facilities, and sites, by or on behalf of the State and counties
8 to effectuate the purposes of this section, except that the
9 board, without regard to chapter 91, instead, may adopt federal
10 amendments to the Americans with Disabilities Act Accessibility
11 Guidelines, [Title] title 36 Code of Federal Regulations [Part]
12 part 1191.

13 (d) The disability and communication access board may
14 approve a site-specific alternate design when an alternate
15 design provides equal or greater access.

16 (e) The disability and communication access board shall
17 charge a review fee for services rendered pursuant to section
18 348F-3. The review fees shall be four-tenths of one per cent
19 for the first \$500,000 of the estimated construction cost plus
20 two-tenths of one per cent of the estimated construction costs
21 greater than \$500,000 up to and including \$2,000,000 plus two



1 one-hundredths of one per cent of the estimated construction
2 costs over \$2,000,000 except as follows:

3 (1) The minimum review fee for plans and specifications
4 subject to accessibility guidelines under this section
5 shall be \$200;

6 (2) The disability and communication access board may
7 limit the maximum review fee for plans and
8 specifications of infrastructure projects or projects
9 managed by private nonprofit entities to \$3,000; and

10 (3) There shall be a \$50 review fee for projects with
11 plans and specifications that do not reflect any
12 elements subject to accessibility guidelines under
13 this section.

14 This subsection shall not apply to any housing project
15 developed by an eligible developer and subject to exemption from
16 statutes, ordinances, charter provisions, and rules pursuant to
17 section 201H-38, including housing projects for which the
18 eligible developer has received state or county grants,
19 subsidies, grants-in-aid, tax credits, or any other state or
20 county funds for the construction of the project.



1 (f) All moneys collected as review fees shall be deposited
2 into the disability and communication access board special fund
3 established under section 348F-7.

4 (g) The disability and communication access board shall
5 report to the legislature annually no later than twenty days
6 prior to the convening of each regular session regarding the
7 revenues collected under this section. The report shall include
8 a summary of the number and types of plans reviewed and the
9 amount of review fees collected from each state or county
10 department or agency.

11 (h) For the purposes of this section:

12 "Infrastructure" or "infrastructure project" includes
13 water, drainage, sewer, waste disposal and waste treatment
14 systems, roads, and street lighting and projects relating to
15 that infrastructure. Projects with significant work to
16 accessible elements and spaces shall not be considered
17 infrastructure projects.

18 "Public buildings, facilities, and sites" means buildings,
19 facilities, sites, and the infrastructure thereof that:

20 (1) Are designed, constructed, purchased, or leased with
21 the use of any state or county funds or federal funds



administered by the State or a county[+] except
housing projects developed by an eligible developer
and subject to exemption from statutes, ordinances,
charter provisions, and rules pursuant to section
201H-38;

(2) House state or county programs, services, or
activities that are intended to be accessed by the
general public;

(3) Are places of public accommodation or commercial
facilities under the Americans with Disabilities Act,
title 28 Code of Federal Regulations part 36, and are
constructed on state or county lands; or

(4) Are constructed on lands that will be transferred to
the State or a county upon completion of
construction."

SECTION 3. Statutory material to be repealed is bracketed
and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

INTRODUCED BY:

HB HMS 2017-3920-2



JAN 24 2018

H.B. NO.2577

Report Title:

Building Design; Persons With Disabilities

Description:

Clarifies that Hawaii Housing Finance and Development Corporation housing projects are exempt from the Disability and Communication Access Board process under section 103-50, Hawaii Revised Statutes.

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