



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB2989

Introduced 1/31/2024, by Sen. Sara Feigenholtz

SYNOPSIS AS INTRODUCED:

410 ILCS 25/3
410 ILCS 25/5

from Ch. 111 1/2, par. 3713
from Ch. 111 1/2, par. 3715

Amends the Environmental Barriers Act. Defines "ICC/ANSI A117.1", as used in the Act, as meaning either of the 2 most recent editions of the International Code Council/American National Institute Standard A117.1 ("Accessible and Usable Buildings and Facilities"). Provides that no public facility may be constructed or altered and no multi-story housing may be constructed or altered (rather than only constructed) without the statement of an architect registered in the State of Illinois that the plans for the work to be performed comply with the provisions of the Act and the Code promulgated under the Act unless the cost of such construction or alteration is less than \$50,000. Provides that multi-story housing that is not a public facility but that is subject to specified requirements shall be deemed to be in compliance with the Code if all dwelling units in the multi-story housing are required to be adaptable dwelling units comply with the requirements for Type A units in ICC/ANSI A117.1, if dwelling units in the multi-story housing comply with the requirements for Type B units in ICC/ANSI A117.1, and if all common use and public uses spaces comply with the Code. Provides that an election to use this alternative compliance method must be explicitly identified in the required statement made by a professional engineer or a structural engineer.

LRB103 35482 AWJ 65552 b

1 AN ACT concerning health.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Environmental Barriers Act is amended by
5 changing Sections 3 and 5 as follows:

6 (410 ILCS 25/3) (from Ch. 111 1/2, par. 3713)

7 Sec. 3. Definitions. As used in this Act and the Illinois
8 Accessibility Code (71 Ill. Adm. Code 400):

9 "2010 Standards for Accessible Design" means the
10 regulations promulgated by the Department of Justice, 28 CFR
11 Parts 35 and 36, pursuant to the Americans with Disabilities
12 Act of 1990 (ADA).

13 "Accessibility Code" or "Code" means those standards,
14 known as the Illinois Accessibility Code, 71 Ill. Adm. Code
15 400, adopted by the Capital Development Board pursuant to
16 Section 4 of this Act.

17 "Accessible" means that a site, building, facility, or
18 portion thereof is compliant with the Code.

19 "Accessible means of egress" means a continuous and
20 unobstructed way of egress travel from any point in a building
21 or facility that provides an accessible route to an area of
22 refuge, a horizontal exit, or a public way.

23 "Accessible route" means a continuous unobstructed path

1 connecting all accessible elements and spaces of a building or
2 facility. Interior accessible routes may include corridors,
3 floors, ramps, elevators, lifts, skywalks, tunnels, and clear
4 floor space at fixtures. Exterior accessible routes may
5 include parking access aisles, curb ramps, crosswalks at
6 vehicular ways, walks, ramps, and lifts.

7 "Adaptability" or "adaptable" means the ability of certain
8 building spaces and elements, such as kitchen counters, sinks
9 and grab bars, to be added or altered so as to accommodate the
10 needs of individuals with different types or degrees of
11 disability.

12 "Adaptable dwelling unit" means a dwelling unit
13 constructed and equipped so it can be converted with minimal
14 structural change for use by persons with different types and
15 degrees of disability.

16 "Alteration" means any modification or renovation that
17 affects or could affect the usability of the building or
18 facility or part of the building or facility. "Alteration"
19 includes, but is not limited to, remodeling, renovation,
20 rehabilitation, reconstruction, historic preservation,
21 historic reconstruction, historic rehabilitation, historic
22 restoration, changes to or rearrangement of the structural
23 parts or elements, changes to or replacement of plumbing
24 fixtures or controls, changes to or rearrangement in the plan
25 configuration of walls and full-height partitions, resurfacing
26 of circulation paths or vehicular ways, and changes or

1 improvements to parking lots. The following work is not
2 considered to be an alteration unless it affects the usability
3 of the building or facility: normal maintenance, reroofing,
4 painting or wallpapering, or changes to mechanical and
5 electrical systems.

6 "Built environment" means those parts of the physical
7 environment which are designed, constructed or altered by
8 people, including all public facilities and multi-story
9 housing units.

10 "Circulation path" means an exterior or interior way of
11 passage provided for pedestrian travel, including, but not
12 limited to, walks, hallways, courtyards, elevators, platform
13 lifts, ramps, stairways, and landings.

14 "Common use areas" or "common areas" means areas,
15 including interior and exterior rooms, spaces, or elements,
16 which are held out for use by all tenants and owners in public
17 facilities and multi-story housing, including, but not limited
18 to, residents of an apartment building or condominium complex,
19 occupants of an office building, or the guests of such
20 residents or occupants. "Common use areas" or "common areas"
21 includes, but is not limited to, lobbies, elevators, hallways,
22 laundry rooms, swimming pools, storage rooms, recreation
23 areas, parking garages, building offices, conference rooms,
24 patios, restrooms, telephones, drinking fountains,
25 restaurants, cafeterias, delicatessens and stores.

26 "Disability" means a physical or mental impairment that

1 substantially limits one or more major life activities; a
2 record or history of such an impairment; or regarded as having
3 such an impairment.

4 "Dwelling unit" means a single unit of residence which
5 provides a kitchen or food preparation area, in addition to
6 rooms and spaces for living, bathing, sleeping, and the like.
7 Dwelling units are found in housing types such as townhouses
8 and apartment buildings.

9 "Element" means an architectural, mechanical (including
10 plumbing), or electrical component of a building, facility,
11 space, site, or public right-of-way.

12 "Entrance" means any access point to a building or portion
13 of a building or facility or multi-story housing used for the
14 purpose of entering. An entrance includes the approach walk,
15 the vertical access leading to the entrance platform, the
16 entrance platform itself, vestibules if provided, and the
17 entry door or doors or gate or gates.

18 "Environmental barrier" means an element or space of the
19 built environment which limits accessibility to or use of the
20 built environment by individuals with disabilities.

21 "Facility" means all or any portion of buildings,
22 structures, site improvements, elements, and pedestrian routes
23 or vehicular ways located on a site.

24 "Governmental unit" means State agencies as defined in the
25 State Auditing Act, circuit courts, units of local government
26 and their officers, boards of election commissioners, public

1 colleges and universities, and school districts.

2 "ICC/ANSI A117.1" means either of the 2 most recent
3 editions of the International Code Council/American National
4 Institute Standard A117.1 ("Accessible and Usable Buildings
5 and Facilities").

6 "Multi-story housing" means any building of 4 or more
7 stories containing 10 or more dwelling units constructed to be
8 held out for sale or lease by any person to the public.

9 "Multi-story housing" includes, but is not limited to, the
10 following building types: apartment buildings, condominium
11 buildings, convents, housing for the elderly, and monasteries.

12 "Owner" means the owner of the real property or existing
13 facility or the tenant of the real property or existing
14 facility.

15 "Primary function area" means an area of a building or
16 facility containing a major activity for which the building or
17 facility is intended. There can be multiple areas containing a
18 primary function in a single building. Primary function areas
19 are not limited to public use areas. Mixed use facilities may
20 include numerous primary function areas for each use. Areas
21 containing a primary function do not include: mechanical
22 rooms, boiler rooms, supply storage rooms, employee lounges or
23 employee locker rooms, janitorial closets, entrances,
24 corridors, or restrooms. Restrooms are not areas containing a
25 primary function unless the provision of restrooms is a
26 primary purpose of the area, such as in highway rest stops.

1 "Public" means any group of people who are users of the
2 building or employees of the building. The term "public" is
3 not intended to include those people who are employed by the
4 owner of a building for the sole purpose of construction or
5 alteration of a building during the time in which the building
6 is being constructed or altered.

7 "Public facility" means:

8 (1) any building, structure, or site improvement which
9 is:

10 (i) owned by or on behalf of a governmental unit,

11 (ii) leased, rented or used, in whole or in part,

12 by a governmental unit, or

13 (iii) financed, in whole or in part, by a grant or
14 a loan made or guaranteed by a governmental unit;

15 (2) any building, structure, or site improvement used
16 or held out for use or intended for use by the public or by
17 employees for one or more of, but not limited to, the
18 following:

19 (i) the purpose of gathering, recreation,
20 transient lodging, education, employment,
21 institutional care, or the purchase, rental, sale or
22 acquisition of any goods, personal property or
23 services;

24 (ii) places of public display or collection;

25 (iii) social service establishments; and

26 (iv) stations used for specified public

1 transportation; or

2 (3) a public right-of-way.

3 "Public right-of-way" means public land or property,
4 usually in interconnected corridors, that is acquired for or
5 dedicated to transportation purposes.

6 "Public way" means any street, alley, or other parcel of
7 land open to the outside air leading to a public street, which
8 has been deeded, dedicated, or otherwise permanently
9 appropriated to the public for public use, and which has a
10 clear width and height of not less than 10 feet (3048 mm).

11 "State" means the State of Illinois and any
12 instrumentality or agency thereof.

13 "Technically infeasible" means, with respect to an
14 alteration of a building or a facility, that a requirement of
15 this Act or the Code has little likelihood of being
16 accomplished because existing structural conditions would
17 require removing or altering a load-bearing member that is an
18 essential part of the structural frame; or because other
19 existing physical or site constraints prohibit modification or
20 addition of elements, spaces, or features that are in full and
21 strict compliance with the minimum requirements.

22 (Source: P.A. 99-582, eff. 1-1-17.)

23 (410 ILCS 25/5) (from Ch. 111 1/2, par. 3715)

24 Sec. 5. Scope.

25 (a) New construction. Any new public facility or

1 multi-story housing, or portion thereof, the construction of
2 which began after May 1, 1988, is subject to the current
3 provisions of this Act. The Code adopted by the Capital
4 Development Board shall apply as follows:

5 (1) Public facilities; new construction. Any new
6 public facility or portion thereof, the construction of
7 which is begun after May 1, 1988 is subject to the
8 provisions of the Code applicable to new construction as
9 the Code existed at the time the construction commenced.

10 (2) Multi-story housing; new construction. Any new
11 multi-story housing, or portion thereof, the construction
12 of which is begun after May 1, 1988, is subject to the
13 provisions of the Code applicable to new construction as
14 the Code existed at the time the construction commenced.
15 Twenty percent of the dwelling units in the multi-story
16 housing shall be adaptable and the adaptable units shall
17 be distributed throughout the multi-story housing to
18 provide a variety of sizes and locations. In addition, all
19 common and public use spaces shall be in compliance with
20 the Code.

21 (3) Any new public facility or multi-story housing (i)
22 for which a specific contract for the planning has been
23 awarded prior to the effective date of a new version of the
24 Code and (ii) construction of which is begun within 12
25 months of the effective date of the new version of the Code
26 shall be exempt from compliance with the new version of

1 the Code and may instead comply with the version of the
2 Code as it existed at the time the contract was awarded.

3 (4) Accessibility of structures; new construction. New
4 housing subject to this Act shall comply with all
5 applicable laws and regulations. In the case where the new
6 housing is not defined as multi-story for the purposes of
7 this Act, but instead is a building in which 4 or more
8 dwelling units or sleeping units intended to be occupied
9 as a residence are contained within a single structure,
10 the housing shall comply with the technical guidance of
11 the Department of Housing and Urban Development's Fair
12 Housing Accessibility Guidelines published March 6, 1991
13 and all subsequent versions, amendments, or supplements.

14 This subsection (4) does not apply within any unit of
15 local government that by ordinance, rule, or regulation
16 prescribes requirements to increase and facilitate access
17 to the built environment by individuals with disabilities
18 that are more stringent than those contained in this Act
19 prior to the effective date of this amendatory Act of the
20 94th General Assembly.

21 (5) This Act, together with the Illinois Accessibility
22 Code, 71 Ill. Adm. Code 400, has the force of a building
23 code and as such is law in the State of Illinois. Any
24 violation of the Code is deemed a violation of this Act and
25 subject to enforcement pursuant to this Act.

26 (b) Alterations. Any alteration to a public facility shall

1 provide accessibility as follows:

2 (1) Alterations generally. No alteration shall be
3 undertaken that decreases or has the effect of decreasing
4 accessibility or usability of a building or facility below
5 the requirements for new construction at the time of
6 alteration.

7 (2) Applicability. Any alteration of a public facility
8 or multi-story housing shall comply with the Code
9 provisions regarding alterations as such provisions exist
10 at the time such alteration commences.

11 (3) Path of travel to primary function area. An
12 alteration that affects or could affect the usability of
13 or access to an area containing a primary function shall
14 be made so as to ensure that, to the maximum extent
15 feasible, the path of travel to the altered area,
16 including the entrance route to the altered area and the
17 rest rooms, telephones, and drinking fountains serving the
18 altered area, are readily accessible to and usable by
19 individuals with disabilities, unless the cost of the
20 alterations to provide an accessible path of travel to the
21 primary function area exceeds 20% of the cost of the
22 overall alteration, or such alterations are otherwise
23 disproportionate to the overall alterations in terms of
24 cost and scope as set forth in the Code.

25 (c) No governmental unit may enter into a new or renewal
26 agreement to lease, rent or use, in whole or in part, any

1 building, structure or improved area which does not comply
2 with the Code. Any governmental unit which is leasing, renting
3 or using, in whole or in part, any building, structure or
4 improved area which does not comply with the Code shall make
5 all reasonable efforts to terminate such lease, rental or use.

6 (d) No public facility may be constructed or altered and
7 no multi-story housing may be constructed or altered without
8 the statement of an architect registered in the State of
9 Illinois that the plans for the work to be performed comply
10 with the provisions of this Act and the Code promulgated
11 hereunder unless the cost of such construction or alteration
12 is less than \$50,000. In the case of construction or
13 alteration of an engineering nature, where the plans are
14 prepared by an engineer, the statement may be made by a
15 professional engineer registered in the State of Illinois or a
16 structural engineer registered in the State of Illinois that
17 the engineering plans comply with the provisions of this Act
18 and the Code promulgated hereunder. The architect's and/or
19 engineer's statement shall be filed by the architect or
20 engineer and maintained in the office of the governmental unit
21 responsible for the issuance of the building permit. In those
22 governmental units which do not issue building permits, the
23 statement shall be filed and maintained in the office of the
24 county clerk.

25 (e) The requirements found in the Code cannot be waived by
26 any party.

1 (f) Notwithstanding any other provision of this Act,
2 multi-story housing that is not a public facility but that is
3 subject to the requirements of subsection (a) or (b) shall be
4 deemed to comply with this Act and with the Code if all
5 dwelling units in the multi-story housing that are required to
6 be adaptable dwelling units comply with the requirements for
7 Type A units in ICC/ANSI A117.1, if all other single-story
8 dwelling units in the multi-story housing comply with the
9 requirements for Type B units in ICC/ANSI A117.1, and if all
10 common use and public use spaces in the multi-story housing
11 comply with the Code. An election to use the alternative
12 compliance method described in this subsection must be
13 explicitly identified in the statement required by subsection
14 (d).

15 (Source: P.A. 99-582, eff. 1-1-17.)