

116TH CONGRESS
1ST SESSION

S. 2291

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 SENATE OF THE UNITED STATES

JULY 25, 2019

Ms. DUCKWORTH introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

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 “Eleanor Smith Inclu-
5 sive Home Design Act of 2019”.

6 **SEC. 2. DEFINITIONS.**

7 As used in this Act:

1 (1) COVERED DWELLING UNIT.—The term
2 “covered dwelling unit” means a dwelling unit
3 that—

4 (A) is—

5 (i) a detached single-family house;

6 (ii) a townhouse or multi-level dwell-
7 ing unit (whether detached or attached to
8 other units or structures); or

9 (iii) a ground-floor unit in a building
10 of not more than 3 dwelling units;

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

13 (C) was designed, constructed, or commis-
14 sioned, contracted, or otherwise arranged for
15 construction, by any person or entity that, at
16 any time before the design or construction, re-
17 ceived or was guaranteed Federal financial as-
18 sistance for any program or activity relating to
19 the design, construction, or commissioning, con-
20 tracting, or other arrangement for construction,
21 of the dwelling unit; and

22 (D) is made available for first occupancy
23 on or after the date that is 1 year after the
24 date of enactment of this Act.

1 (2) FEDERAL FINANCIAL ASSISTANCE.—The
2 term “Federal financial assistance” means—

3 (A) any assistance that is provided or oth-
4 erwise made available by the Secretary of Hous-
5 ing and Urban Development or the Secretary of
6 Veterans Affairs, or under any program or ac-
7 tivity of the Department of Housing and Urban
8 Development or the Department of Veterans
9 Affairs, through any grant, loan, contract, or
10 any other arrangement, on or after the date
11 that is 1 year after the date of enactment of
12 this Act, including—

13 (i) a grant, a subsidy, or any other
14 funds;

15 (ii) service provided by a Federal em-
16 ployee;

17 (iii) real or personal property or any
18 interest in or use of such property, includ-
19 ing—

20 (I) a transfer or lease of the
21 property for less than the fair market
22 value or for reduced consideration;
23 and

24 (II) proceeds from a subsequent
25 transfer or lease of the property if the

1 Federal share of the fair market value
2 is not returned to the Federal Govern-
3 ment;

4 (iv) any—

5 (I) tax credit; or

6 (II) mortgage or loan guarantee
7 or insurance; and

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

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

17 (3) PERSON OR ENTITY.—The term “person or
18 entity” includes an individual, corporation (including
19 a not-for-profit corporation), partnership, associa-
20 tion, labor organization, legal representative, mutual
21 corporation, joint-stock company, trust, unincor-
22 porated association, trustee, trustee in a case under
23 title 11, United States Code, receiver, or fiduciary.

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

2 It shall be unlawful for any person or entity, with
3 respect to a covered dwelling unit designed, constructed,
4 or commissioned, contracted, or otherwise arranged for
5 construction, by the person or entity, to fail to ensure that
6 the dwelling unit contains not less than 1 level that com-
7 plies with the Standards for Type C (Visitable) Units of
8 the American National Standards Institute (commonly
9 known as “ANSI”) Standards for Accessible and Usable
10 Buildings and Facilities (section 1005 of ICC ANSI
11 A117.1–2009) or any successor standard.

12 **SEC. 4. ENFORCEMENT.**

13 (a) REQUIREMENT FOR FEDERAL FINANCIAL AS-
14 SISTANCE.—An applicant for Federal financial assistance
15 shall submit an assurance to the Federal agency respon-
16 sible for the assistance that each program or activity of
17 the applicant will be conducted in compliance with this
18 Act.

19 (b) APPROVAL OF ARCHITECTURAL, INTERIOR DE-
20 SIGN, AND CONSTRUCTION PLANS.—

21 (1) SUBMISSION.—

22 (A) IN GENERAL.—An applicant for or re-
23 cipient of Federal financial assistance for the
24 design, construction, or commissioning, con-
25 tracting, or other arrangement for construction,
26 of a covered dwelling unit shall submit for ap-

1 proval the architectural, interior design, and
2 construction plans for the unit to the State or
3 local department or agency that is responsible,
4 under applicable State or local law, for the re-
5 view and approval of construction and design
6 plans for compliance with generally applicable
7 building codes or requirements (in this sub-
8 section referred to as the “appropriate State or
9 local agency”).

10 (B) NOTICE INCLUDED.—In submitting
11 plans under subparagraph (A), a person or enti-
12 ty shall include notice that the person or entity
13 has applied for or received Federal financial as-
14 sistance, as defined in this Act, with respect to
15 the covered dwelling unit.

16 (2) DETERMINATION OF COMPLIANCE.—

17 (A) CONDITION OF FEDERAL HOUSING AS-
18 SISTANCE.—The Secretary of Housing and
19 Urban Development, the Secretary of Agri-
20 culture, and the Secretary of Veterans Affairs
21 may not provide any Federal financial assist-
22 ance under any program administered by the
23 Secretary involved to a State or unit of general
24 local government (or any agency thereof) unless
25 the appropriate State or local agency thereof is,

1 in the determination of the Secretary involved,
2 taking the enforcement actions under subpara-
3 graph (B).

4 (B) ENFORCEMENT ACTIONS.—The en-
5 forcement actions under this subparagraph
6 are—

7 (i) reviewing any plans for a covered
8 dwelling unit submitted under paragraph
9 (1) and approving or disapproving the
10 plans based on compliance of the dwelling
11 unit with the requirements of this Act; and

12 (ii) consistent with applicable State or
13 local laws and procedures, withholding
14 final approval of construction or occupancy
15 of a covered dwelling unit unless and until
16 the appropriate State or local agency de-
17 termines compliance as described in clause
18 (i).

19 (c) CIVIL ACTION FOR PRIVATE PERSONS.—

20 (1) ACTION.—Not later than 2 years after the
21 occurrence or termination, whichever is later, of an
22 act or omission with respect to a covered dwelling
23 unit in violation of this Act, a person aggrieved by
24 the act or omission may bring a civil action in an
25 appropriate district court of the United States or

1 State court against any person or entity responsible
2 for any part of the design or construction of the cov-
3 ered dwelling unit, subject to paragraph (2).

4 (2) LIABILITY OF STATE OR LOCAL AGENCY.—

5 In a civil action brought under paragraph (1) for a
6 violation involving architectural or construction
7 plans for a covered dwelling unit that were approved
8 by the appropriate State or local agency—

9 (A) if the approved plans violate this Act
10 and any construction on the dwelling unit that
11 violates this Act was performed in accordance
12 with the approved plans, the State or local
13 agency shall be liable for that construction; and

14 (B) if the approved plans comply with this
15 Act and any construction on the dwelling unit
16 violates this Act, the person or entity respon-
17 sible for the construction shall be liable for that
18 construction.

19 (d) ENFORCEMENT BY ATTORNEY GENERAL.—

20 (1) CIVIL ACTION.—If the Attorney General has
21 reasonable cause to believe that a person or group
22 of persons has violated this Act, the Attorney Gen-
23 eral may bring a civil action in an appropriate dis-
24 trict court of the United States.

1 (2) INTERVENTION IN PRIVATE ACTION.—The
2 Attorney General may, upon timely application, in-
3 tervene in any civil action brought under subsection
4 (c) by a private person if the Attorney General cer-
5 tifies that the case is of general public importance.

6 (e) RELIEF.—In any civil action brought under this
7 section, if the court finds that a violation of this Act has
8 occurred or is about to occur, the court—

9 (1) may award to the plaintiff actual and puni-
10 tive damages; and

11 (2) subject to subsection (g), may grant as re-
12 lief, as the court finds appropriate, any permanent
13 or temporary injunction, temporary restraining
14 order, or other order (including an order enjoining
15 the defendant from violating the Act or ordering
16 such affirmative action as may be appropriate).

17 (f) VIOLATIONS.—For purposes of this section, a vio-
18 lation involving a covered dwelling unit that is not de-
19 signed or constructed in accordance with this Act shall not
20 be considered to terminate until the violation is corrected.

21 (g) 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 (h) 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 the relief and involving
5 a bona fide purchaser, encumbrancer, or tenant, without
6 actual notice of a civil action under this section.

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 of the United
21 States or any other Act of Congress.

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

23 If any provision of this Act or the application thereof
24 to any person or circumstance is held invalid, the remain-
25 ing provisions of this Act and the application of those pro-

- 1 visions to other persons or circumstances shall not be af-
- 2 fected thereby.

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