

115TH CONGRESS  
2D SESSION

# H. R. 6509

To require all newly constructed, federally assisted, single-family houses and town houses to meet minimum standards of visitability for persons with disabilities.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 25, 2018

Ms. SCHAKOWSKY (for herself, Mr. LYNCH, Ms. MCCOLLUM, Mr. GRIJALVA, and Mr. LANGEVIN) introduced the following bill; which was referred to the Committee on Financial Services

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## 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 2018”.

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 a detached single-family house, a  
5       townhouse or multi-level dwelling unit (whether  
6       detached or attached to other units or struc-  
7       tures), or a ground-floor unit in a building of  
8       three or fewer dwelling units;

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

11          (C) was designed, constructed, or commis-  
12      sioned, contracted or otherwise arranged for  
13      construction, by any person or entity who, at  
14      any time before the design or construction, re-  
15      ceived or was guaranteed Federal financial as-  
16      sistance for any program or activity; and

17          (D) is made available for first occupancy  
18      after the expiration of the one-year period be-  
19      ginning on the date of the enactment of this  
20      Act.

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

23          (A) any assistance that is provided or oth-  
24      erwise made available by the Secretary of Hous-  
25      ing and Urban Development or the Secretary of

Veterans Affairs, or any program or activity or such agencies, through any grant, loan, contract, or any other arrangement, after the expiration of the one-year period beginning on the date of the enactment of this Act, including—

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

(ii) services of Federal personnel;

(iii) real or personal property or any interest in or use of such property, including—

(I) transfers or leases of the property for less than the fair market value or for reduced consideration; and

(II) proceeds from a subsequent transfer or lease of the property if the Federal share of its fair market value is not returned to the Federal Government;

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

(v) community development funds in the form of obligations guaranteed under section 108 of the Housing and Commu-

1                   nity Development Act of 1974 (42 U.S.C.  
2                   5308); or

3                   (B) any assistance that is provided or oth-  
4                   erwise made available by the Secretary of Agri-  
5                   culture under title V of the Housing Act of  
6                   1949 (42 U.S.C. 1471 et seq.).

7                   (3) PERSON OR ENTITY.—The term “person or  
8                   entity” includes one or more individuals, corpora-  
9                   tions (including not-for-profit corporations), partner-  
10                  ships, associations, labor organizations, legal rep-  
11                  resentatives, mutual corporations, joint-stock compa-  
12                  nies, trusts, unincorporated associations, trustees,  
13                  trustees in cases under title 11 of the United States  
14                  Code, receivers, and fiduciaries.

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

16                It shall be unlawful for any person referred to in sec-  
17                tion 2(1)(C) with respect to a covered dwelling unit to fail  
18                to ensure that such dwelling unit contains at least one  
19                level that complies with the Standards for Type C (Visit-  
20                able) Units of the American National Standards Institute  
21                (ANSI) Standards for Accessible and Usable Buildings  
22                and Facilities (1005–ICC ANSI A117.1–2009) and any  
23                future revisions thereto.

1 **SEC. 4. ENFORCEMENT.**

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

7 (b) APPROVAL OF ARCHITECTURAL AND CONSTRUC-  
8 TION PLANS.—

9 (1) SUBMISSION.—Any applicant for or recipi-  
10 ent of Federal financial assistance for a covered  
11 dwelling unit shall submit for approval the architec-  
12 tural and construction plans for such unit to the  
13 State or local department or agency that is respon-  
14 sible, under applicable State or local law, for the re-  
15 view and approval of construction plans for compli-  
16 ance with generally applicable building codes or re-  
17 quirements (in this subsection referred to as the  
18 “appropriate State or local agency”). Such submis-  
19 sion shall include notice that Federal financial as-  
20 sistance within the meaning given such term for pur-  
21 poses of this Act has been applied for or received for  
22 the covered dwelling unit.

23 (2) DETERMINATION OF COMPLIANCE.—

24 (A) ENFORCEMENT ACTIONS.—The en-  
25 forcement actions under this subparagraph  
26 are—

1 (i) reviewing any plans for a covered  
2 dwelling unit submitted pursuant to para-  
3 graph (1) and approving or disapproving  
4 such plans based upon compliance of the  
5 dwelling unit with the requirements of this  
6 Act; and

7 (ii) consistent with applicable State or  
8 local laws and procedures, withholding  
9 final approval of construction or occupancy  
10 of a covered dwelling unit unless and until  
11 such compliance is determined.

12 (B) CONDITION OF FEDERAL HOUSING AS-  
13 SISTANCE.—The Secretary of Housing and  
14 Urban Development, the Secretary of Agri-  
15 culture, and the Secretary of Veterans Affairs  
16 may not provide any Federal financial assist-  
17 ance under any program administered by such  
18 Secretary to a State or unit of general local  
19 government (or any agency thereof) unless the  
20 appropriate State or local agency thereof is, in  
21 the determination of the Secretary involved,  
22 taking the enforcement actions under subpara-  
23 graph (A).

24 (c) CIVIL ACTION FOR PRIVATE PERSONS.—

1           (1) ACTION.—Any person aggrieved by an act  
2           or omission that is unlawful under this Act may  
3           commence a civil action in an appropriate United  
4           States district court or State court against any per-  
5           son or entity responsible for any part of the design  
6           or construction of a covered dwelling unit no later  
7           than two years after the occurrence or termination  
8           of the alleged unlawful conduct under this Act.

9           (2) LIABILITY.—In any action under this sub-  
10          section for a violation involving architectural or con-  
11          struction plans for a covered dwelling unit that were  
12          approved by the appropriate State or local depart-  
13          ment or agency—

14                (A) if such approved plans violate this Act  
15                and any construction on such dwelling that vio-  
16                lates this Act was performed in accordance with  
17                such approved plans, such State or local depart-  
18                ment or agency shall be liable for such con-  
19                struction in violation; and

20                (B) if such approved plans comply with  
21                this Act and any construction on such dwelling  
22                violates this Act, the person or entity respon-  
23                sible for the construction shall be liable for such  
24                construction in violation.

1 (d) ENFORCEMENT BY ATTORNEY GENERAL.—

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

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

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

24 (g) ATTORNEY'S FEES.—In any civil action brought  
25 under this section, the court, in its discretion, may allow



1 the prevailing party, other than the United States, a rea-  
2 sonable attorney's fee and costs.

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

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

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

19 **SEC. 6. DISCLAIMER OF PREEMPTIVE EFFECT ON OTHER**  
20 **ACTS.**

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

1 **SEC. 7. SEVERABILITY OF PROVISIONS.**

2       If any provision of this Act or the application thereof  
3 to any person or circumstances is held invalid, the remain-  
4 der of the Act and the application of the provision to other  
5 persons not similarly situated shall not be affected there-  
6 by.

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