

**Second Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 26-0734.01 Sam Anderson x4218

SENATE BILL 26-109

SENATE SPONSORSHIP

Exum and Cutter,

HOUSE SPONSORSHIP

Joseph and Ricks,

Senate Committees
Local Government & Housing

House Committees

A BILL FOR AN ACT

101 **CONCERNING BUILDING CODE STANDARDS FOR ACCESSIBLE HOUSING**
102 **SUPPORTED BY PUBLIC MONEY.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill makes the following changes to statutes concerning standards for accessible housing:

- Repeals the definition of "ground story level";
- Updates and clarifies definitions that reference International Code Council standards;
- Clarifies that the intent and purpose of the standards for

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

- accessible housing law is to serve persons with nonambulatory and semiambulatory disabilities;
- Permits covered enforcing agencies to develop alternative processes to resolve appeals of orders, decisions, or determinations made by the enforcing agency regarding the application and interpretation of the standards for accessible housing law; and
- Requires covered developers to create an implementation plan to deliver accessible units as required by the standards for accessible housing law.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 9-5-101, **amend**
3 (5.5), (10), (11), (12), (13), and (14); **repeal** (5) and (8); and **add** (2.5)
4 and (4.5) as follows:

5 **9-5-101. Definitions.**

6 As used in this article 5, unless the context otherwise requires:

7 ==

8 (2.5) "ACCESSIBLE STORY" MEANS A STORY ON AN ACCESSIBLE
9 ROUTE THAT CONTAINS LIVING, SLEEPING, COOKING, BATHING, AND TOILET
10 FACILITIES AND, IF AVAILABLE IN THE DWELLING UNIT, LAUNDRY
11 FACILITIES. FOR THE PURPOSES OF THIS ARTICLE 5, A BASEMENT IS NOT AN
12 "ACCESSIBLE STORY" IF THE BASEMENT FLOOR IS LOCATED MORE THAN
13 FOUR FEET BELOW THE EXTERIOR FINISHED GRADE, WHICH IS DETERMINED
14 BY ASSESSING THE VERTICAL DIFFERENCE AT ANY POINT ALONG THE
15 EXPOSED PERIPHERY OF THE DWELLING UNIT.

16 (4.5) "DWELLING UNIT" MEANS ANY PORTION OF A BUILDING THAT
17 CONTAINS LIVING FACILITIES, INCLUDING A ROOM OR ROOMS IN A LIVING
18 FACILITY THAT HAVE SHARED COOKING, BATHING, TOILET, OR LAUNDRY
19 FACILITIES SUCH AS DORMITORIES, SHELTERS, ASSISTED LIVING FACILITIES,
20 AND BOARDING HOMES. "DWELLING UNIT" ALSO MEANS LIVING FACILITIES

1 THAT INCLUDE PROVISIONS FOR SLEEPING, COOKING, BATHING, AND TOILET
2 FACILITIES FOR ONE OR MORE PERSONS AND ARE USED FOR EXTENDED
3 STAYS, SUCH AS TIME-SHARES AND EXTENDED-STAY MOTELS. "DWELLING
4 UNIT" DOES NOT MEAN A GUEST ROOM IN A MOTEL OR HOTEL.

5 (5) ~~"Ground story level" means the lowest story in a dwelling unit~~
6 ~~containing habitable rooms or areas with an accessible entrance located~~
7 ~~on an accessible route that contains living, sleeping, cooking, bathing, and~~
8 ~~toilet facilities. For the purposes of this article, a basement shall not be~~
9 ~~considered the ground story level if the finished basement floor is located~~
10 ~~more than four feet below the exterior finished grade determined at any~~
11 ~~point along the exposed periphery of the dwelling unit.~~

12 (5.5) "ICC/ANSI A117.1" means the "Accessible and Usable
13 Buildings and Facilities" standard "STANDARD FOR ACCESSIBLE AND
14 USABLE BUILDINGS AND FACILITIES" 2017 EDITION, or any successor
15 standard, ~~promulgated and amended from time to time by the~~
16 ~~international code council~~ AS ADOPTED BY REFERENCE BY THE BUILDING
17 CODE OF THE RESPONSIBLE ENFORCEMENT AGENCY.

18 (8) ~~"Residential Dwelling unit" means any portion of a building~~
19 ~~that contains living facilities, including a room or rooms in a facility that~~
20 ~~have shared cooking, bathing, toilet, or laundry facilities such as~~
21 ~~dormitories, shelters, assisted living facilities, and boarding homes.~~
22 ~~"Residential Dwelling unit" also means facilities that include provisions~~
23 ~~for sleeping, cooking, bathing, and toilet facilities for one or more~~
24 ~~persons and are used for extended stays, such as time-shares and~~
25 ~~extended-stay motels. "Residential Dwelling unit" does not mean a guest~~
26 ~~room in a motel or hotel.~~

27 (10) "Type A dwelling unit" means a dwelling unit designed in

1 accordance with ICC/ANSI A117.1, ~~section 1002~~ SECTION 1103, or any
2 successor section within ICC/ANSI A117.1.

3 (11) "Type A multistory dwelling unit" means a multiple-story
4 dwelling unit ~~with a ground story level~~ designed in accordance with
5 ICC/ANSI A117.1, ~~section 1002~~ SECTION 1103, or any successor section
6 within ICC/ANSI A117.1 ~~and, if provided, accessible laundry facilities~~
7 ~~on the ground story level~~ WHERE THERE IS AT LEAST ONE ACCESSIBLE
8 STORY THAT CAN BE ACCESSED VIA AN ACCESSIBLE ROUTE CONNECTED TO
9 AN ACCESSIBLE ENTRANCE.

10 (12) "Type B dwelling unit" means a dwelling unit with a ground
11 floor level designed in accordance with ICC/ANSI A117.1, ~~section 1003~~
12 SECTION 1104, or any successor section within ICC/ANSI A117.1.

13 (13) "Type B multistory dwelling unit" means a multiple-story
14 dwelling unit ~~with a ground story level~~ designed in accordance with
15 ICC/ANSI A117.1, ~~section 1003~~ SECTION 1104, or any successor section
16 within ICC/ANSI A117.1 ~~and, if provided, accessible laundry facilities~~
17 ~~on the ground story level~~ WHERE THERE IS AT LEAST ONE ACCESSIBLE
18 STORY THAT CAN BE ACCESSED VIA AN ACCESSIBLE ROUTE CONNECTED TO
19 AN ACCESSIBLE ENTRANCE.

20 (14) "Type B visitable ground floor" means a multiple-story
21 dwelling unit with an accessible entrance, A MINIMUM OF SEVENTY
22 SQUARE FEET OF ACCESSIBLE SPACE, and ACCESSIBLE toilet facility
23 designed in accordance with ICC/ANSI A117.1, ~~section 1003~~ SECTION
24 1105, or any successor section within ICC/ANSI A117.1.

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26 **SECTION 2.** In Colorado Revised Statutes, 9-5-103, **amend** (1)
27 and (2); and **repeal** (3) as follows:

1 **9-5-103. Applicability of standards - enforcement.**

2 (1) The standards and specifications set forth in this ~~article shall~~
3 ARTICLE 5 apply to all buildings and facilities used for housing that are
4 constructed in whole or in part by the use of state, county, or municipal
5 ~~funds MONEY or the funds MONEY of any political subdivision of the state~~
6 or that are constructed with private ~~funds MONEY~~. All such buildings and
7 facilities ~~to be constructed from plans on which architectural drawings are~~
8 ~~started after July 1, 1975, from any one of these funds or any combination~~
9 ~~thereof shall~~ MUST conform to each of the standards and specifications
10 prescribed in this ~~article~~ ARTICLE 5. The governmental unit responsible
11 for the enforcement of this ~~article~~ ARTICLE 5 shall grant exceptions to or
12 modify any particular standard or specification when ~~it is determined~~ THE
13 GOVERNMENTAL UNIT RESPONSIBLE FOR ENFORCEMENT DETERMINES that
14 it is impractical and would create an undue hardship. Any ~~such~~ exception
15 or modification of the provisions of this ~~article shall~~ ARTICLE 5 MUST be
16 made in writing as a matter of public record. ~~These standards and~~
17 ~~specifications shall be adhered to in those buildings and facilities that are~~
18 ~~constructed or proposed on or after April 29, 2003. This article shall~~
19 ~~apply~~ ARTICLE 5 APPLIES to permanent buildings.

20 (2) The jurisdiction with responsibility for enforcement of this
21 ~~article~~ ARTICLE 5 pursuant to section 9-5-104 shall designate a board of
22 appeals OR OTHER PROCESS to hear and resolve appeals of orders,
23 decisions, or determinations made by the enforcing agency regarding the
24 application and interpretation of this ~~article~~ ARTICLE 5.

25 (3) ~~Any building or facility that would have been subject to this~~
26 ~~article 5 but was under construction prior to July 1, 1976, must comply~~
27 ~~with the following:~~

1 (a) If the walls or defining boundaries of an element or space are
2 altered, then the altered element or space shall comply with the applicable
3 provisions of section 9-5-105, unless such alteration is technically
4 infeasible. If full compliance with this article is technically infeasible,
5 compliance shall be implemented up to the point of technical infeasibility.
6 No alteration shall be undertaken that negatively impacts accessibility of
7 a building or facility pursuant to ICC/ANSI A117.1. This subsection
8 (3)(a) shall not be construed to require the moving of any existing walls
9 not otherwise planned to be moved.

10 (b) Any additions to a building or facility shall be treated as new
11 construction for the purposes of enforcement of this article.

12 **SECTION 3.** In Colorado Revised Statutes, 9-5-105, **amend** (1)
13 and (2)(b) as follows:

14 **9-5-105. Exemptions for certain privately funded projects.**

15 (1) Accessible dwelling units shall be provided as required in this
16 ~~article~~ ARTICLE 5; except that this ~~article~~ ARTICLE 5 does not apply to
17 privately funded projects for the construction of a detached residence
18 DETACHED RESIDENTIAL DWELLING UNITS or residences or to other types
19 of residential property containing less than seven residential DWELLING
20 units. For the purpose of determining the number of accessibility points
21 required pursuant to subsection (2) of this section, the accessible dwelling
22 unit types shall have the following point values:

23 Accessible dwelling	Accessibility point value
24 unit type:	per dwelling unit:
25 Type A dwelling unit	6
26 Type A multistory dwelling unit	5
27 Type B dwelling unit	4

1 Type B multistory dwelling unit 3
2 Type C visitable ~~ground floor~~ UNIT 1

3 (2) **Residential projects.**

4 (b) A project ~~shall~~ MUST include enough accessible dwelling units
5 to achieve at least the specified number of accessibility points required
6 pursuant to ~~paragraph (a) of this subsection (2)~~ SUBSECTION (2)(a) OF THIS
7 SECTION.

8 (I) A project WITH FEWER THAN FIFTY UNITS may use any
9 combination of accessible dwelling unit types to comply with this section.

10 (II) AT LEAST TWO PERCENT OF UNITS IN A PROJECT WITH FIFTY OR
11 MORE UNITS MUST BE ACCESSIBLE DWELLING UNITS AND MUST INCLUDE AT
12 LEAST ONE UNIT THAT IS EITHER TYPE A, TYPE A MULTISTORY, TYPE B, ==
13 TYPE B MULTISTORY, OR TYPE 2 VISITABLE UNIT.

14 **SECTION 4.** In Colorado Revised Statutes, **amend** 9-5-106 as
15 follows:

16 **9-5-106. Implementation plan.**

17 The DEVELOPER OR builder of any project regulated by this ~~article~~
18 ARTICLE 5 shall create an implementation plan that guarantees the timely
19 and evenly phased delivery of the required number of accessible
20 DWELLING units. ~~Such~~ THE plan ~~shall~~ MUST clearly specify the number
21 and type of ACCESSIBLE DWELLING units required and the order in which
22 they are to be completed. ~~Such~~ THE implementation plan ~~shall~~ MUST be
23 subject to approval by the entity with enforcement authority in ~~such~~ THE
24 project's jurisdiction. The ~~implementation plan shall not be approved~~
25 ENTITY WITH ENFORCEMENT AUTHORITY SHALL NOT APPROVE THE
26 IMPLEMENTATION PLAN if more than thirty percent of the project is
27 intended to be completed without providing a portion of accessible

1 DWELLING units required by section 9-5-105; except that, if ~~an undue~~
2 ~~hardship can be demonstrated, or other guarantees provided are deemed~~
3 THE DEVELOPER OR BUILDER CAN DEMONSTRATE AN UNDUE HARDSHIP OR
4 PROVIDE OTHER GUARANTEES THAT THE JURISDICTION WITH
5 ENFORCEMENT AUTHORITY DEEMS sufficient, the jurisdiction having
6 responsibility for enforcement may grant exceptions to this requirement.
7 The implementation plan ~~shall~~ MUST be approved by the governmental
8 unit responsible for enforcement before a building permit is issued.

9 **SECTION 5. Safety clause.** The general assembly finds,
10 determines, and declares that this act is necessary for the immediate
11 preservation of the public peace, health, or safety or for appropriations for
12 the support and maintenance of the departments of the state and state
13 institutions.