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SENATE BILL 26-109

BY SENATOR(S) Exum and Cutter, Amabile, Gonzales J., Jodeh, Kipp, Wallace, Weissman, Coleman;
also REPRESENTATIVE(S) Joseph and Ricks, Titone.

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

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

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

9-5-101. Definitions.

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

(2.5) "ACCESSIBLE STORY" MEANS A STORY ON AN ACCESSIBLE ROUTE THAT CONTAINS LIVING, SLEEPING, COOKING, BATHING, AND TOILET FACILITIES AND, IF AVAILABLE IN THE DWELLING UNIT, LAUNDRY FACILITIES. FOR THE PURPOSES OF THIS ARTICLE 5, A BASEMENT IS NOT AN "ACCESSIBLE STORY" IF THE BASEMENT FLOOR IS LOCATED MORE THAN FOUR FEET BELOW

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

THE EXTERIOR FINISHED GRADE, WHICH IS DETERMINED BY ASSESSING THE VERTICAL DIFFERENCE AT ANY POINT ALONG THE EXPOSED PERIPHERY OF THE DWELLING UNIT.

(4.5) "DWELLING UNIT" MEANS ANY PORTION OF A BUILDING THAT CONTAINS LIVING FACILITIES, INCLUDING A ROOM OR ROOMS IN A LIVING FACILITY THAT HAVE SHARED COOKING, BATHING, TOILET, OR LAUNDRY FACILITIES SUCH AS DORMITORIES, SHELTERS, ASSISTED LIVING FACILITIES, AND BOARDING HOMES. "DWELLING UNIT" ALSO MEANS LIVING FACILITIES THAT INCLUDE PROVISIONS FOR SLEEPING, COOKING, BATHING, AND TOILET FACILITIES FOR ONE OR MORE PERSONS AND ARE USED FOR EXTENDED STAYS, SUCH AS TIME-SHARES AND EXTENDED-STAY MOTELS. "DWELLING UNIT" DOES NOT MEAN A GUEST ROOM IN A MOTEL OR HOTEL.

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

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

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

(10) "Type A dwelling unit" means a dwelling unit designed in accordance with ~~ICC/ANSI A117.1, section 1002~~ ICC A117.1 SECTION

1103, or any successor section within ~~ICC/ANSI A117.1~~ ICC A117.1.

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

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

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

(14) "~~Type B visitable ground floor~~ TYPE C VISITABLE DWELLING UNIT" means a multiple-story dwelling unit with an accessible entrance and ACCESSIBLE toilet facility designed in accordance with ~~ICC/ANSI A117.1, section 1003~~ ICC A117.1 SECTION 1105, or any successor section within ~~ICC/ANSI A117.1~~ ICC A117.1.

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

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

(1) The standards and specifications set forth in this ~~article shall~~ ARTICLE 5 apply to all buildings and facilities used for housing that are constructed in whole or in part by the use of state, county, or municipal ~~funds MONEY~~ or the ~~funds MONEY~~ of any political subdivision of the state or that are constructed with private ~~funds MONEY~~. All such buildings and facilities ~~to be constructed from plans on which architectural drawings are~~

~~started after July 1, 1975, from any one of these funds or any combination thereof shall~~ MUST conform to each of the standards and specifications prescribed in this ~~article~~ ARTICLE 5. The governmental unit responsible for the enforcement of this ~~article~~ ARTICLE 5 shall grant exceptions to or modify any particular standard or specification when ~~it is determined~~ THE GOVERNMENTAL UNIT RESPONSIBLE FOR ENFORCEMENT DETERMINES that it is impractical and would create an undue hardship. Any ~~such~~ exception or modification of the provisions of this ~~article shall~~ ARTICLE 5 MUST be made in writing as a matter of public record. ~~These standards and specifications shall be adhered to in those buildings and facilities that are constructed or proposed on or after April 29, 2003.~~ This ~~article shall apply~~ ARTICLE 5 APPLIES to permanent buildings.

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

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

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

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

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

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

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

Accessible dwelling unit type:	Accessibility point value per dwelling unit:
Type A dwelling unit	6
Type A multistory dwelling unit	5
Type B dwelling unit	4
Type B multistory dwelling unit	3
Type B visitable ground floor	
TYPE C VISITABLE DWELLING UNIT	1

(2) Residential projects.

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

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

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

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

9-5-106. Implementation plan.

The DEVELOPER OR builder of any project regulated by this ~~article~~ ARTICLE 5 shall create an implementation plan that guarantees the timely and evenly phased delivery of the required number of accessible DWELLING units. ~~Such~~ THE plan ~~shall~~ MUST clearly specify the number and type of ACCESSIBLE DWELLING units required and the order in which they are to be completed. ~~Such~~ THE implementation plan ~~shall~~ MUST be subject to approval by the entity with enforcement authority in ~~such~~ THE project's jurisdiction. ~~The implementation plan shall not be approved~~ ENTITY WITH ENFORCEMENT AUTHORITY SHALL NOT APPROVE THE IMPLEMENTATION PLAN if more than thirty percent of the project is intended to be completed without providing a portion of accessible DWELLING units required by section 9-5-105; except that, if an ~~undue hardship can be demonstrated, or other guarantees provided are deemed~~ THE DEVELOPER OR BUILDER CAN DEMONSTRATE AN UNDUE HARDSHIP OR PROVIDE OTHER GUARANTEES THAT THE JURISDICTION WITH ENFORCEMENT AUTHORITY DEEMS sufficient, the jurisdiction having responsibility for enforcement may grant exceptions to this requirement. The implementation plan ~~shall~~ MUST be approved by the governmental unit responsible for enforcement before a building permit is issued.

SECTION 5. Safety clause. The general assembly finds, determines, and declares that this act is necessary for the immediate

preservation of the public peace, health, or safety or for appropriations for the support and maintenance of the departments of the state and state institutions.

James Rashad Coleman, Sr.
PRESIDENT OF
THE SENATE

Julie McCluskie
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Esther van Mourik
SECRETARY OF
THE SENATE

Vanessa Reilly
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO