

West's Florida Statutes Annotated Currentness

Title XXXIII. Regulation of Trade, Commerce, Investments, and Solicitations (Chapters 494-560)

Chapter 553. Building Construction Standards (Refs & Annos)

→Part II. Accessibility by Handicapped Persons

**553.45. Repealed by Laws 1993, c. 93-183, § 4, eff. Oct. 1, 1993**

**553.46. Repealed by Laws 1993, c. 93-183, § 4, eff. Oct. 1, 1993**

**553.47. Repealed by Laws 1993, c. 93-183, § 4, eff. Oct. 1, 1993**

**553.48. Repealed by Laws 1993, c. 93-183, § 4, eff. Oct. 1, 1993**

**553.481. Renumbered as 553.510 by Laws 1993, c. 93-183, § 2, eff. Oct. 1, 1993**

See, now, F.S.A. § 553.510

**553.482. Renumbered as 553.511 by Laws 1993, c. 93-183, § 2, eff. Oct. 1, 1993**

See, now, F.S.A. § 553.511

**553.485. Repealed by Laws 1993, c. 93-183, § 4, eff. Oct. 1, 1993**

**553.49. Renumbered as 553.512 by Laws 1993, c. 93-183, § 2, eff. Oct. 1, 1993**

See, now, F.S.A. § 553.512

**553.495. Renumbered as 553.513 by Laws 1993, c. 93-183, § 2, eff. Oct. 1, 1993**

See, now, F.S.A. § 553.513

**553.501. Short title**

Sections 553.501-553.513 may be cited as the "Florida Americans With Disabilities Accessibility Implementation Act."

**553.502. Intent**

The purpose and intent of this part is to incorporate into the law of this state the accessibility requirements of the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. ss. 12101 et seq., and to obtain and maintain United States Department of Justice certification of the Florida Accessibility Code for Building Construction as equivalent to federal standards for accessibility of buildings, structures, and facilities. All state laws, rules, standards, and codes governing facilities covered by the Americans with Disabilities Act Standards for Accessible Design shall be maintained to assure certification of the state's construction standards and codes. This part is not intended to expand or diminish the defenses available to a place of public accommodation or a commercial facility under the Americans with Disabilities Act and the standards, including, but not limited to, the readily achievable standard, and the standards applicable to alterations to private buildings or facilities as defined by the standards.

**553.503. Adoption of federal standards**

Subject to modifications under this part, the federal Americans with Disabilities Act Standards for Accessible Design, and related regulations provided in 28 C.F.R. parts 35 and 36 and 49 C.F.R. part 37, [FN1] are hereby adopted and incorporated by reference as the law of this state and shall be incorporated into the Florida Accessibility Code for Building Construction and adopted by the Florida Building Commission in accordance with chapter 120.

[FN1] 28 C.F.R. § 35.101 et, seq.; 28 C.F.R. § 36.101 et seq.; 28 C.F.R. § 37.1 et seq.

**553.504. Exceptions to applicability of the federal standards**

Notwithstanding the adoption of the Americans with Disabilities Act Standards for Accessible Design pursuant to s. 553.503, all buildings, structures, and facilities in this state must meet the following additional requirements if such requirements provide increased accessibility:

(1) All new or altered public buildings and facilities, private buildings and facilities, places of public accommodation, and commercial facilities, as those terms are defined by the standards, subject to this part, must comply with this part.

(2) All new single-family houses, duplexes, triplexes, condominiums, and townhouses shall provide at least one bathroom, located with maximum possible privacy, where bathrooms are provided on habitable grade levels, with a door that has a 29-inch clear opening. However, if only a toilet room is provided at grade level, such toilet room must have a clear opening of at least 29 inches.

(3) Notwithstanding the requirements in s. 404.2.9 of the standards, exterior hinged doors must be designed so that such doors can be pushed or pulled open with a force not exceeding 8.5 foot pounds.

(4) In motels and hotels a number of rooms equaling at least 5 percent of the guest rooms minus the number of accessible rooms required by the standards must provide the following special accessibility features:

(a) Grab rails in bathrooms and toilet rooms that comply with s. 604.5 of the standards.

(b) All beds in designed accessible guest rooms must be an open-frame type that allows the passage of lift devices.

(c) Water closets that comply with section 604.4 of the standards.

All buildings, structures, or facilities licensed as a hotel, motel, or condominium pursuant to chapter 509 are subject to this subsection. This subsection does not relieve the owner of the responsibility of providing accessible rooms in conformance with ss. 224 and 806 of the standards.

(5) Notwithstanding ss. 213 and 604 of the standards, required bathing rooms and toilet rooms in new construction shall be designed and constructed in accordance with the following:

(a) The wheelchair accessible toilet compartment must contain an accessible lavatory within it, which must be at least 19 inches wide by 17 inches deep, nominal size, and wall-mounted. The lavatory shall be mounted so as not to overlap the clear floor space areas required by s. 604 of the standards for the wheelchair accessible toilet compartment and comply with s. 606 of the standards. Such lavatories shall be counted as part of the required fixture count for the building.

(b) The accessible water closet within the wheelchair accessible toilet compartment must be located in the corner, diagonal to the door.

(6) Barriers at common or emergency entrances and exits of business establishments conducting business with the general public that are existing, under construction, or under contract for construction which would prevent a person from using such entrances or exits must be removed.

#### **553.5041. Parking spaces for persons who have disabilities**

(1) This section is not intended to expand or diminish the defenses available to a place of public accommodation under the Americans with Disabilities Act and the federal Americans with Disabilities Act Standards for Accessible Design, including, but not limited to, the readily achievable standard, and the standards applicable to alterations to places of public accommodation and commercial facilities. Subject to the exceptions

described in subsections (2), (4), (5), and (6), if the parking and loading zone requirements of the federal standards and related regulations provide increased accessibility, those requirements are adopted and incorporated by reference as the law of this state.

(2) State agencies and political subdivisions having jurisdiction over street parking or publicly owned or operated parking facilities are not required to provide a greater right-of-way width than would otherwise be planned under regulations, guidelines, or practices normally applied to new development.

(3) Designated accessible spaces shall be designed and marked for the exclusive use of individuals who have a severe physical disability and have permanent or temporary mobility problems that substantially impair their ability to ambulate and who have been issued a disabled parking permit under s. 316.1958 or s. 320.0848 or a license plate under s. 320.084, s. 320.0842, s. 320.0843, or s. 320.0845.

(4) The number of accessible parking spaces must comply with the parking requirements in s. 208 of the standards and the following:

(a) There must be one accessible parking space in the immediate vicinity of a publicly owned or leased building that houses a governmental entity or a political subdivision, including, but not limited to, state office buildings and courthouses, if parking for the public is not provided on the premises of the building.

(b) There must be one accessible parking space for each 150 metered on-street parking spaces provided by state agencies and political subdivisions.

(c) The number of parking spaces for persons who have disabilities must be increased on the basis of demonstrated and documented need.

(5) Accessible perpendicular and diagonal accessible parking spaces and loading zones must be designed and located to conform to ss. 502 and 503 of the standards.

(a) All spaces must be located on an accessible route that is at least 44 inches wide so that users are not compelled to walk or wheel behind parked vehicles except behind his or her own vehicle.

(b) If there are multiple entrances or multiple retail stores, the parking spaces must be dispersed to provide parking at the nearest accessible entrance. If a theme park or an entertainment complex as defined in s. 509.013(9) provides parking in several lots or areas from which access to the theme park or entertainment complex is provided, a single lot or area may be designated for parking by persons who have disabilities, if the lot or area is located on the shortest accessible route to an accessible entrance to the theme park or entertainment complex or to transportation to such an accessible entrance.

(c) 1. Each parking space must be at least 12 feet wide. Parking access aisles must be at least 5 feet wide and must be part of an accessible route to the building or facility entrance. The access aisle must be striped diagonally to designate it as a no-parking zone.

2. The parking access aisles are reserved for the temporary exclusive use of persons who have disabled parking permits and who require extra space to deploy a mobility device, lift, or ramp in order to exit from or enter a vehicle. Parking is not allowed in an access aisle. Violators are subject to the same penalties imposed for illegally parking in parking spaces that are designated for persons who have disabilities. A vehicle may not be parked in an access aisle even if the vehicle owner or passenger is disabled or owns a disabled parking permit.

3. Notwithstanding any other provision of this subsection, a theme park or an entertainment complex as defined in s. 509.013 in which continuous attendant services are provided for directing individuals to marked accessible parking spaces or designated lots for parking by persons who have disabilities, may, in lieu of the required parking space design, provide parking spaces that comply with ss. 208 and 502 of the standards.

(d) On-street parallel parking spaces must be designed to conform to ss. 208 and 502 of the standards, except that access aisles are not required. Curbs adjacent to such spaces must be of a height that does not interfere with the opening and closing of motor vehicle doors. This subsection does not relieve the owner of the responsibility to comply with the parking requirements of ss. 208 and 502 of the standards.

(e) 1. The removal of architectural barriers from a parking facility in accordance with 28 C.F.R. s. 36.304 or with s. 553.508 must comply with this section unless compliance would cause the barrier removal not to be readily achievable. If compliance would cause the barrier removal not to be readily achievable, a facility may provide parking spaces at alternative locations for persons who have disabilities and provide appropriate signage directing such persons to the alternative parking if readily achievable. The facility may not reduce the required number or dimensions of those spaces or unreasonably increase the length of the accessible route from a parking space to the facility. The removal of an architectural barrier must not create a significant risk to the health or safety of a person who has a disability or to others.

2. A facility that is making alterations under s. 553.507(2)(b) [FN1] must comply with this section to the maximum extent feasible. If compliance with parking location requirements is not feasible, the facility may provide parking spaces at alternative locations for persons who have disabilities and provide appropriate signage directing such persons to alternative parking. The facility may not reduce the required number or dimensions of those spaces, or unnecessarily increase the length of the accessible route from a parking space to the facility. The alteration must not create a significant risk to the health or safety of a person who has a disability or to others.

(6) Each such parking space must be striped in a manner that is consistent with the standards of the controlling jurisdiction for other spaces and prominently outlined with blue paint, and must be repainted when necessary, to be clearly distinguishable as a parking space designated for persons who have disabilities. The space must be posted with a permanent above-grade sign of a color and design approved by the Department of Transportation, which is placed on or at least 60 inches above the finished floor or ground surface measured to the bottom of the sign and which bears the international symbol of accessibility meeting the requirements of s. 703.7.2.1 of the standards and the caption "PARKING BY DISABLED PERMIT ONLY." Such a sign erected after October 1, 1996, must indicate the penalty for illegal use of the space. Notwithstanding any other provision of this section, in a theme park or an entertainment complex as

defined in s. 509.013 in which accessible parking is located in designated lots or areas, the signage indicating the lot as reserved for accessible parking may be located at the entrances to the lot in lieu of a sign at each parking place. This subsection does not relieve the owner of the responsibility of complying with the signage requirements of s. 502.6 of the standards.

[FN1] Repealed by Laws 2011, c. 2011-222, § 27.

#### **553.505. Exceptions to applicability of the Americans with Disabilities Act**

Notwithstanding the Americans with Disabilities Act of 1990, private clubs are governed by this part.

#### **553.506. Powers of the commission**

In addition to any other authority vested in the Florida Building Commission by law, the commission, in implementing this part, may, by rule, adopt revised and updated versions of the Americans with Disabilities Act Standards for Accessible Design in accordance with chapter 120.

#### **553.507. Applicability**

This part applies to:

- (1) All areas of newly designed and newly constructed buildings and facilities as determined by the federal standards established and adopted pursuant to s. 553.503.
- (2) Portions of altered buildings and facilities as determined by the federal standards established and adopted pursuant to s. 553.503.

(3) A building or facility that is being converted from residential to nonresidential or mixed use as defined by the Florida Building Code. Such building or facility must, at a minimum, comply with s. 553.508 and the requirements for alterations as determined by the federal standards established and adopted pursuant to s. 553.503.

(4) Buildings and facilities where the original construction or any former alteration or renovation was carried out in violation of applicable permitting law.

#### **553.508. Architectural barrier removal**

Removal of architectural barriers, pursuant to 28 C.F.R. s. 36.304, from buildings, structures, or facilities to which this act applies shall comply with ss. 553.501-553.513 unless compliance would render the removal not readily achievable. In no instance shall the removal of an architectural barrier create a significant risk to the health or safety of an individual with a disability or others.

#### **553.509. Vertical accessibility**

(1) This part and the Americans with Disabilities Act Standards for Accessible Design do not relieve the owner of any building, structure, or facility governed by this part from the duty to provide vertical accessibility to all levels above and below the occupiable grade level, regardless of whether the standards require an elevator to be installed in such building, structure, or facility, except for:

(a) Elevator pits, elevator penthouses, mechanical rooms, piping or equipment catwalks, and automobile lubrication and maintenance pits and platforms.

(b) Unoccupiable spaces, such as rooms, enclosed spaces, and storage spaces that are not designed for human occupancy, for public accommodations, or for work areas.

(c) Occupiable spaces and rooms that are not open to the public and that house no more than five persons, including, but not limited to, equipment control rooms and projection booths.

(d) Theaters, concert halls, and stadiums, or other large assembly areas that have stadium-style seating or tiered seating if ss. 221 and 802 of the standards are met.

(e) All play and recreation areas if the requirements of chapter 10 of the standards are met.

(f) All employee areas as exempted in s. 203.9 of the standards.

(g) Facilities, sites, and spaces exempted by s. 203 of the standards.

(2) However, buildings, structures, and facilities must, as a minimum, comply with the Americans with Disabilities Act Standards for Accessible Design.

**553.510. Repealed by Laws 1997, c. 97-76, § 11, eff. Oct. 1, 1997**

**553.511. Parking facilities; minimum height clearance requirement**

Every nonresidential structure built on or after January 1, 1991, which is designed to use covered or underground parking as the primary available parking space shall design the covered or underground parking facility to maintain a minimum height for the portion of the street-accessible level of the parking facility directly over van-accessible parking spaces and for providing ingress and egress to such parking spaces of at least 8 feet 2 inches. Signs shall be posted to warn operators of handicapped-equipped vans that they cannot pass beyond a certain point due to height limitations. If compliance with this minimum height clearance requirement will cause the structure to exceed local height limitations imposed by local zoning, planning, or fire ordinances, or will result in the imposition of any additional requirements of such ordinances, the structure may exceed the height limitation specified in those particular codes as necessary to comply

with the requirements of this section and is exempt from such additional requirements. Structures for which the plans were sealed by an architect prior to January 1, 1991, are exempt from this section.

### **553.512. Modifications and waivers; advisory council**

(1) The Florida Building Commission shall provide by regulation criteria for granting individual modifications of, or exceptions from, the literal requirements of this part upon a determination of unnecessary, unreasonable, or extreme hardship, provided such waivers shall not violate federal accessibility laws and regulations and shall be reviewed by the Accessibility Advisory Council. The commission shall establish by rule a fee to be paid upon submitting a request for a waiver as provided in this section. Notwithstanding any other provision of this subsection, if an applicant for a waiver demonstrates economic hardship in accordance with 28 C.F.R. s. 36.403(f)(1), a waiver shall be granted. The commission may not consider waiving any of the requirements of s. 553.5041 unless the applicant first demonstrates that she or he has applied for and been denied waiver or variance from all local government zoning, subdivision regulations, or other ordinances that prevent compliance therewith. Further, the commission may not waive the requirement of s. 553.5041(5)(a) and (c)1. governing the minimum width of accessible routes and minimum width of accessible parking spaces.

(2) The Accessibility Advisory Council shall consist of the following seven members, who shall be knowledgeable in the area of accessibility for persons with disabilities. The Secretary of Business and Professional Regulation shall appoint the following: a representative from the Advocacy Center for Persons with Disabilities, Inc.; a representative from the Division of Blind Services; a representative from the Division of Vocational Rehabilitation; a representative from a statewide organization representing the physically handicapped; a representative from the hearing impaired; a representative from the President, Florida Council of Handicapped Organizations; and a representative of the Paralyzed Veterans of America. The terms for the first three council members appointed subsequent to October 1, 1991, shall be for 4 years, the terms for the next two council members appointed shall be for 3 years, and the terms for the next two members shall be for 2 years. Thereafter, all council member appointments shall be for terms of 4 years. No council member shall serve more than two 4-year terms subsequent to October 1, 1991. Any member of the council may be replaced by the secretary upon three unexcused absences. Upon application made in the form provided, an individual waiver or modification may be granted by the commission so

long as such modification or waiver is not in conflict with more stringent standards provided in another chapter.

(3) Members of the council shall serve without compensation, but shall be entitled to reimbursement for per diem and travel expenses as provided by s. 112.061.

(4) Meetings of the advisory council shall be held in conjunction with the regular meetings of the commission.

### **553.513. Enforcement**

It shall be the responsibility of each local government and each code enforcement agency established pursuant to s. 553.80 to enforce the provisions of this part. This act expressly preempts the establishment of handicapped accessibility standards to the state and supersedes any county or municipal ordinance on the subject. However, nothing in this section shall prohibit municipalities and counties from enforcing the provisions of this act.

### **553.514. Americans with Disabilities Act Standards for Accessible Design**

Consistent with the federal implementation of the 2010 Americans with Disabilities Act Standards for Accessible Design, buildings and facilities in this state may be designed in conformity with the 2010 standards if the design also complies with Florida-specific requirements provided in this part until the Florida Accessibility Code for Building Construction is updated to implement the changes to this part as provided by this act.

Current with chapters in effect from the 2012 Second Regular Session of the Twenty-Second Legislature through February 16, 2012

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