

AMENDED IN ASSEMBLY APRIL 27, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2516**

---

---

**Introduced by Assembly Member Hill**

February 19, 2010

---

---

~~An act to amend Section 12955.1 of the Government Code, relating to community development.~~ *An act to add Section 17926.5 to the Health and Safety Code, relating to housing.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2516, as amended, Hill. ~~Community development: housing discrimination.~~ *Housing accessibility: Accessible Housing Task Force.*

*The State Housing Law requires the Department of Housing and Community Development to submit to the Building Standards Commission proposed building standards for hotels, motels, lodging houses, apartment houses, and dwellings. Existing law authorizes the department to adopt regulations it determines are necessary for the use and enforcement of certain provisions relating to a list of universal accessibility features for persons with disabilities.*

*This bill would require the department to establish the Accessible Housing Task Force. The bill would require the director of the department to appoint the members of the task force, which would include, but not be limited to, representatives of specified organizations and state agencies. The bill would also require the task force to prepare and submit a report to the Legislature no later than June 30, 2012, making specified recommendations relating to increasing housing accessibility. The bill would further require the department to carry out the bill's provisions relating to the Accessible Housing Task Force*

*only to the extent that funding is made available from local, regional, federal, or private sources.*

~~The existing California Fair Employment and Housing Act (FEHA) makes it unlawful to discriminate against any person in any housing accommodation on the basis of race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability. It permits the Department of Fair Employment and Housing to engage in affirmative actions to prevent and provide for effective remedies against housing discrimination.~~

~~Under existing law, discrimination includes, but is not limited to, a failure to design and construct a covered multifamily dwelling in a specified manner. Existing law provides that regulations adopting building standards necessary to implement, interpret, or make specific these provisions are required to be developed by the Office of the State Architect for public housing and by the Department of Housing and Community Development for all other residential occupancies, as specified.~~

~~This bill would revise the definition of discrimination to include prescribed requirements relating to multistory dwelling units located in buildings where the closest edge or perimeter of the building is within ½ mile of a transit station.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     *SECTION 1. The Legislature finds and declares all of the*
- 2     *following:*
- 3     *(1) California’s population is projected to grow by 25 percent*
- 4     *between 2010 and 2030, from 39 million to 49 million.*
- 5     *(2) The segment of California’s population that is 65 years of*
- 6     *age or older is projected to double by 2030, from 4.4 million to*
- 7     *8.8 million. By 2030, almost one in five of the state’s residents will*
- 8     *be 65 years of age or older.*
- 9     *(3) Nationally, about 14 percent of people 65 years of age or*
- 10    *older use some type of mobility device, including a wheelchair,*
- 11    *cane, or crutches. The proportion of the population using mobility*
- 12    *devices increases sharply with age.*
- 13    *(4) According to the American Community Survey of 2008, 1.9*
- 14    *million Californians, or 6 percent, have ambulatory disabilities*

1 *and one in four Californians 65 years of age or older has*  
2 *ambulatory disabilities.*

3 *(5) The enactment of Senate Bill 375 of the 2007–08 Regular*  
4 *Session (Chapter 728 of the Statutes of 2008) seeks to encourage*  
5 *construction of housing and other public services near public*  
6 *transit in order to accommodate the growth in the state’s*  
7 *population in a manner that reduces per capita vehicle travel and*  
8 *its associated greenhouse gas and criteria air pollutant emissions.*  
9 *As a result of this statute, a significant share of new housing*  
10 *construction is expected to be built in close proximity to existing*  
11 *or future public transit service.*

12 *(6) People living close to effective public transit service have*  
13 *significantly lower transportation costs than those not served by*  
14 *transit. In the San Francisco Bay Area, households in*  
15 *transit-accessible, jobs-dense neighborhoods spend less than half*  
16 *as much on transportation as households in the lowest density,*  
17 *least transit-accessible, residential-only neighborhoods.*

18 *(7) Persons with disabilities and the elderly have lower incomes*  
19 *than the average population.*

20 *(8) According to the American Association of Retired Persons,*  
21 *more than 71 percent of older households want to live within*  
22 *walking distance of transit.*

23 *(9) For the past 15 years, the ground floors of most new*  
24 *apartment and condominium buildings have been required to meet*  
25 *the state’s Multifamily Disabled Accessibility Building Standards.*  
26 *When the above-grade floors of these apartment and condominium*  
27 *buildings are served by an elevator, all units must comply with the*  
28 *state’s Multifamily Disabled Accessibility Building Standards.*

29 *(10) Multistory dwelling units without an elevator that consist*  
30 *of at least four condominium units or at least three rental*  
31 *apartment units, commonly referred to as townhomes, are a*  
32 *popular building type near public transit stations, but they are*  
33 *exempt from many of the state and federal housing access*  
34 *requirements that apply to single-story dwelling units located in*  
35 *covered multifamily buildings.*

36 *(11) Many jurisdictions are promoting the construction of*  
37 *high-density multifamily buildings, including townhomes, as infill*  
38 *projects near public transit and bus hubs.*

39 *(12) Over the past 15 years, over 500,000 new apartments and*  
40 *condominiums have been constructed in the State of California.*

1 *Of that number, it is estimated that over 120,000 of these units*  
2 *were subject to the state and federal disabled accessibility building*  
3 *standards for covered multifamily dwellings. At the present time,*  
4 *there is no easy way for interested members of the public to discern*  
5 *between which of these multifamily units comply with these*  
6 *accessibility provisions and those units which are exempt.*

7 *(13) It is the intent of the Legislature to encourage the*  
8 *construction of new housing, as well as the rehabilitation of*  
9 *existing housing, that is accessible and habitable by persons using*  
10 *wheelchairs and is located within one-half mile of public transit*  
11 *stations and bus hubs in order to provide greater public transit*  
12 *access to people of all ages and abilities.*

13 *SEC. 2. Section 17926.5 is added to the Health and Safety*  
14 *Code, to read:*

15 *17926.5. (a) The department shall establish the Accessible*  
16 *Housing Task Force. The director shall appoint the members of*  
17 *the task force, and, as part of an appointment, may enter into an*  
18 *interagency agreement with a member of the task force to allow*  
19 *the director to oversee the member's work. The members of the*  
20 *task force shall be responsible for their expenses, serve without*  
21 *pay, and include, but not be limited to, a representative from the*  
22 *following state agencies and organizations, subject to the consent*  
23 *of each entity:*

24 *(1) A certified access specialist, as described in Section 4459.5*  
25 *of the Government Code.*

26 *(2) Housing California.*

27 *(3) The American Institute of Architects.*

28 *(4) The California Apartment Association.*

29 *(5) The California Building Industry Association.*

30 *(6) The California Building Officials.*

31 *(7) The California Building Standards Commission.*

32 *(8) The California Commission on Aging.*

33 *(9) The California Commission on Disability Access.*

34 *(10) The California Foundation for Independent Living Centers.*

35 *(11) The California State Association of Counties.*

36 *(12) The California Transit Association.*

37 *(13) The Housing Leadership Council of San Mateo County.*

38 *(14) The League of California Cities.*

39 *(b) The director may enter into an interagency agreement with*  
40 *a member or members of the task force to oversee its work.*

1 (c) The task force shall prepare and submit a report to the  
2 Legislature no later than June 30, 2012, that does all of the  
3 following:

4 (1) Recommends strategies to improve the identification and  
5 marketing of multifamily dwelling units that comply with the state’s  
6 disabled accessibility building standards for multifamily dwelling  
7 units.

8 (2) Recommends policies that cities, counties, and the state  
9 could adopt that would encourage the voluntary construction of  
10 new units or the retrofit of existing units within one-half mile of  
11 transit stations and bus hubs in a manner that provides for live-in  
12 occupancy of one or more individuals with severe mobility  
13 impairments.

14 (3) Recommends voluntary design options, possible revisions  
15 to building code regulations, local incentive options, and any  
16 suggested statutory changes that are needed to improve the  
17 accessibility of new and existing dwelling units that are located  
18 within one-half mile of transit stations or bus hubs, as defined in  
19 Section 65460.1 of the Government Code.

20 (c) This section shall be carried out only to the extent that  
21 funding is made available from local, regional, federal, or private  
22 sources for that purpose, and expenses associated with the task  
23 force shall be covered through in-kind services to the maximum  
24 extent possible.

25 ~~SECTION 1. Section 12955.1 of the Government Code is~~  
26 ~~amended to read:~~

27 ~~12955.1. (a) For purposes of Section 12955, “discrimination”~~  
28 ~~includes, but is not limited to, a failure to design and construct a~~  
29 ~~covered multifamily dwelling in a manner that allows access to,~~  
30 ~~and use by, disabled persons by providing, at a minimum, the~~  
31 ~~following features:~~

32 ~~(1) All covered multifamily dwellings shall have at least one~~  
33 ~~building entrance on an accessible route, unless it is impracticable~~  
34 ~~to do so because of the terrain or unusual characteristics of the~~  
35 ~~site. The burden of establishing impracticability because of terrain~~  
36 ~~or unusual site characteristics is on the person or persons who~~  
37 ~~designed or constructed the housing facility.~~

38 ~~(2) All covered multifamily dwellings with a building entrance~~  
39 ~~on an accessible route shall be designed and constructed in a~~  
40 ~~manner that complies with all of the following:~~

1     ~~(A) The public and common areas are readily accessible to and~~  
2 ~~usable by persons with disabilities.~~  
3     ~~(B) All the doors designed to allow passage into and within all~~  
4 ~~premises are sufficiently wide to allow passage by persons in~~  
5 ~~wheelchairs.~~  
6     ~~(C) All premises within covered multifamily dwelling units~~  
7 ~~contain the following features of adaptable design:~~  
8     ~~(i) An accessible route into and through the covered dwelling~~  
9 ~~unit.~~  
10     ~~(ii) Light switches, electrical outlets, thermostats, and other~~  
11 ~~environmental controls in accessible locations.~~  
12     ~~(iii) Reinforcements in bathroom walls to allow later installation~~  
13 ~~of grab bars around the toilet, tub, shower stall, and shower seat,~~  
14 ~~where those facilities are provided.~~  
15     ~~(iv) Useable kitchens and bathrooms so that an individual in a~~  
16 ~~wheelchair can maneuver about the space.~~  
17     ~~(b) (1) For purposes of Section 12955, “discrimination”~~  
18 ~~includes, but is not limited to, a failure to design and construct 10~~  
19 ~~percent of the multistory dwelling units in buildings without an~~  
20 ~~elevator that consist of at least four condominium dwelling units~~  
21 ~~or at least three rental apartment dwelling units in a manner that~~  
22 ~~incorporates an accessible route to the primary entry level entrance~~  
23 ~~and that meets the requirements of paragraph (2) of subdivision~~  
24 ~~(a) with respect to the ground floor, a unit with at least one full~~  
25 ~~bathroom, including a bath and shower combination, on the primary~~  
26 ~~entry level and the public and common areas. Any fraction thereof~~  
27 ~~shall be rounded up to the next whole number. For purposes of~~  
28 ~~this subdivision, “elevator” does not include an elevator that serves~~  
29 ~~only the first ground floor or any nonresidential area. In multistory~~  
30 ~~dwelling units in these buildings without elevators, the “primary~~  
31 ~~entry level entrance” means the principal entrance through which~~  
32 ~~most people enter the dwelling unit, as designated by the California~~  
33 ~~Building Standards Code or, if not designated by California~~  
34 ~~Building Standards Code, by the building official. To determine~~  
35 ~~the total number of multistory dwelling units subject to this~~  
36 ~~subdivision, all multistory dwelling units in the buildings subject~~  
37 ~~to this subdivision on a site shall be considered collectively. This~~  
38 ~~subdivision shall not be construed to require an elevator within an~~  
39 ~~individual multistory dwelling unit or within a building subject to~~  
40 ~~this subdivision.~~

1     ~~(2) For multistory dwelling units located in buildings where the~~  
2 ~~closest edge or perimeter of the building is within one-half mile~~  
3 ~~of a transit station, as defined in Section 65460.1, a failure to design~~  
4 ~~and construct buildings according to the following requirements~~  
5 ~~shall be considered “discrimination” under Section 12955:~~

6     ~~At least 10 percent of the units in buildings without an elevator~~  
7 ~~that consist of at least four condominium dwelling units or at least~~  
8 ~~three rental apartment dwelling units shall be designed and~~  
9 ~~constructed in a manner that incorporates an accessible route to~~  
10 ~~the primary entry level entrance and meets the requirements of~~  
11 ~~paragraph (2) of subdivision (a) with respect to the ground floor,~~  
12 ~~the requirements of paragraph (1), and includes a bedroom and a~~  
13 ~~kitchen on the ground floor, both of which shall be readily~~  
14 ~~accessible to and usable by persons with disabilities.~~

15     ~~(3) Changes to this subdivision made during the 2009-10~~  
16 ~~Regular Session shall apply only to multistory dwelling units in a~~  
17 ~~building subject to this subdivision for which an application for a~~  
18 ~~construction permit is submitted on or after January 1, 2011.~~

19     ~~(4) Notwithstanding subdivision (c), the Division of the State~~  
20 ~~Architect and the Department of Housing and Community~~  
21 ~~Development may adopt regulations to clarify, interpret, or~~  
22 ~~implement this subdivision, if either of them deem it necessary~~  
23 ~~and appropriate.~~

24     ~~(e) Notwithstanding Section 12935, regulations adopting~~  
25 ~~building standards necessary to implement, interpret, or make~~  
26 ~~specific the provisions of this section shall be developed by the~~  
27 ~~Division of the State Architect for public housing and by the~~  
28 ~~Department of Housing and Community Development for all other~~  
29 ~~residential occupancies, and shall be adopted pursuant to Chapter~~  
30 ~~4 (commencing with Section 18935) of Part 2.5 of the Health and~~  
31 ~~Safety Code. Prior to the effective date of regulations adopted~~  
32 ~~pursuant to this subdivision, existing federal accessibility standards~~  
33 ~~that provide, to persons with disabilities, greater protections than~~  
34 ~~existing state accessibility regulations shall apply. After regulations~~  
35 ~~pursuant to this subdivision become effective, particular state~~  
36 ~~regulations shall apply if they provide, to persons with disabilities,~~  
37 ~~the same protections as, or greater protections than, the federal~~  
38 ~~standards. If particular federal regulations provide greater~~  
39 ~~protections than state regulations, then those federal standards~~  
40 ~~shall apply. If the United States Department of Housing and Urban~~

1 Development determines that any portion of the state regulations  
2 are not equivalent to the federal standards, the federal standards  
3 shall, as to those portions, apply to the design and construction of  
4 covered multifamily dwellings until the state regulations are  
5 brought into compliance with the federal standards. The appropriate  
6 state agency shall provide notice pursuant to the Administrative  
7 Procedure Act (Chapter 5 (commencing with Section 11500) of  
8 Part 5 of Division 3 of Title 2) of that determination.

9 (d) In investigating discrimination complaints, the department  
10 shall apply the building standards contained in the California  
11 Building Standards Code to determine whether a covered  
12 multifamily dwelling is designed and constructed for access to and  
13 use by disabled persons in accordance with this section.

14 (e) The building standard requirements for persons with  
15 disabilities imposed by this section shall meet or exceed the  
16 requirements under the federal Fair Housing Amendments Act of  
17 1988 (P.L. 100-430) and its implementing regulations (24 C.F.R.  
18 100.1 et seq.) and the existing state law building standards  
19 contained in the California Building Standards Code.