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P.L. 2003, CHAPTER 72, *approved May 5, 2003*
Assembly, No. 3162

1 **AN ACT** concerning handicapped accessibility of public buildings and
2 multi-family dwellings and amending various parts of the statutory
3 law.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. Section 11 of P.L.1992, c.146 (C.10:5-12.4) is amended to read
9 as follows:

10 11. A failure to design and construct any multi-family dwelling of
11 four units or more in accordance with barrier free standards
12 promulgated by the Commissioner of Community Affairs pursuant to
13 section 5 of P.L.1975, c.217 (C.52:27D-123) [and section 2 of
14 P.L.1971, c.269 (C.52:32-5)] shall be an unlawful discrimination. The
15 Commissioner of Community Affairs shall ensure that standards
16 established meet or exceed the standards established under the federal
17 "Fair Housing Amendments Act of 1988," Pub. L.100-430. Whenever
18 the Attorney General receives a complaint alleging an unlawful
19 discrimination pursuant to this section, the Attorney General shall refer
20 the complaint to the Commissioner of Community Affairs for a
21 determination and report as to whether there is a violation of such
22 standards. Following receipt of the report, a complaint alleging an
23 unlawful discrimination pursuant to this section shall be investigated
24 and prosecuted in accordance with the provisions of the "Law Against
25 Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.). Nothing in this
26 section shall be construed to limit any enforcement authority of the
27 Commissioner of Community Affairs or the Attorney General
28 otherwise provided by law. Nothing in the "State Uniform
29 Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.) and
30 P.L.1971, c.269 (C.52:32-4 et seq.) shall be deemed to limit the
31 powers of the Attorney General under this act. The Attorney General
32 and the Commissioner of Community Affairs shall adopt regulations
33 to effectuate the purposes of this section.

34 (P.L.1992, c.146, s.11)

35

36 2. Section 5 of P.L.1975, c.217 (C.52:27D-123) is amended to
37 read as follows:

38 5. a. The commissioner shall after public hearing pursuant to
39 section 4 of the "Administrative Procedure Act," P.L.1968, c.410
40 (C.52:14B-4) adopt a State Uniform Construction Code for the
41 purpose of regulating the structural design, construction, maintenance

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 and use of buildings or structures to be erected and alteration,
2 renovation, rehabilitation, repair, maintenance, removal or demolition
3 of buildings or structures already erected. Prior to the adoption of
4 said code, the commissioner shall consult with the code advisory board
5 and other departments, divisions, bureaus, boards, councils or other
6 agencies of State Government heretofore authorized to establish or
7 administer construction regulations.

8 Such prior consultations with departments, divisions, bureaus,
9 boards, councils, or other agencies of State Government shall include
10 but not be limited to consultation with the Commissioner of Health
11 and the Public Health Council prior to adoption of a plumbing subcode
12 pursuant to paragraph b. of this section. Said code shall include any
13 code, rule or regulation incorporated therein by reference.

14 b. The code shall be divided into subcodes which may be adopted
15 individually by the commissioner as he may from time to time consider
16 appropriate. These subcodes shall include but not be limited to a
17 building code, a plumbing code, an electrical code, an energy code, a
18 fire prevention code, a manufactured or mobile home code and
19 mechanical code.

20 These subcodes shall be adoptions of the model codes of the
21 Building Officials and Code Administrators International, Inc., the
22 National Electrical Code, and the National Standard Plumbing Code,
23 provided that for good reasons, the commissioner may adopt as a
24 subcode a model code or standard of some other nationally recognized
25 organization upon a finding that such model code or standard
26 promotes the purposes of this act. The initial adoption of a model
27 code or standard as a subcode shall constitute adoption of subsequent
28 edition year publications of the model code or standard organization,
29 except as provided for in paragraphs (1) through (4) of this subsection.
30 Adoption of publications shall not occur more frequently than once
31 every three years; provided, however, that a revision or amendment
32 may be adopted at any time in the event that the commissioner finds
33 that there exists an imminent peril to the public health, safety or
34 welfare.

35 (1) Except as otherwise provided in this subsection, the edition of
36 a model code or standard in effect as a subcode as of July 1, 1995 shall
37 continue in effect regardless of any publication of a subsequent edition
38 of that model code or standard. Prior to establishing the effective
39 date for any subsequent revision or amendment of any model code or
40 standard adopted as a subcode, the commissioner shall review, in
41 consultation with the code advisory board, the text of the revised or
42 amended model code or standard and determine whether the amended
43 or revised provisions of the model code are essential to carry out the
44 intent and purpose of this act as viewed in contrast to the
45 corresponding provisions of the subcode then currently in effect.

46 (2) In the event that the commissioner, pursuant to paragraph (1)

1 of this subsection, determines that any amended or revised provision
2 of a model code is essential to carry out the intent and purpose of this
3 act as viewed in contrast to any corresponding provision of the
4 subcode then currently in effect, the commissioner may then adopt that
5 provision of the amended or revised model code.

6 (3) The commissioner, in consultation with the code advisory
7 board, shall have the authority to review any model code or standard
8 currently in effect as a subcode of the State Uniform Construction
9 Code and compare it with previously adopted editions of the same
10 model code or standard in order to determine if the subcode currently
11 in effect is at least as consistent with the intent and purpose of this act
12 as were previously adopted editions of the same model code or
13 standard.

14 (4) In the event that the commissioner, after consultation with the
15 code advisory board, determines pursuant to this subsection that a
16 provision of a model code or standard currently in effect as a subcode
17 of the State Uniform Construction Code is less consistent with the
18 intent and purpose of this act than was the corresponding provision
19 of a previously adopted edition of the same model code or standard,
20 the commissioner may delete the provision in effect and substitute in
21 its place the corresponding provision of the previously adopted edition
22 of the same model code or standard determined to be more consistent
23 with the intent and purpose of this act.

24 (5) The commissioner shall be authorized to adopt a barrier free
25 subcode or to supplement or revise any model code adopted
26 hereunder, for the purpose of insuring that adequate and sufficient
27 features are available in buildings or structures so as to make them
28 accessible to and usable by the physically handicapped. Multi-family
29 residential buildings with four or more dwelling units in a single
30 structure shall be constructed in accordance with the barrier free
31 subcode; for the purposes of this subsection the term "multi-family
32 residential buildings with four or more dwelling units in a single
33 structure" shall not include buildings constructed as townhouses,
34 which are single dwelling units with two or more stories of living
35 space, exclusive of basement or attic, with most or all of the sleeping
36 areas on one story and with most of the remaining habitable space,
37 such as kitchen, living and dining areas, on another story, and with an
38 independent entrance at or near grade level.

39 c. Any municipality through its construction official, and any State
40 agency or political subdivision of the State may submit an application
41 recommending to the commissioner that a State sponsored code
42 change proposal be adopted. Such application shall contain such
43 technical justification and shall be submitted in accordance with such
44 rules of procedure as the commissioner may deem appropriate, except
45 that whenever the State Board of Education shall determine that
46 enhancements to the code are essential to the maintenance of a

1 thorough and efficient system of education, the enhancements shall be
2 made part of the code; provided that the amendments do not result in
3 standards that fall below the adopted subcodes. The Commissioner of
4 the Department of Education shall consult with the Commissioner of
5 the Department of Community Affairs prior to publishing the intent of
6 the State Board to adopt any amendments to the Uniform Construction
7 Code. Upon adoption of any amendments by the State Board of
8 Education they shall be transmitted forthwith to the Commissioner of
9 the Department of Community Affairs who shall publish and
10 incorporate the amendments as part of the Uniform Construction Code
11 and the amendments shall be enforceable as if they had been adopted
12 by the commissioner.

13 At least 45 days prior to the final date for the submission of
14 amendments or code change proposals to the National Model Code
15 Adoption Agency, the code of which has been adopted as a subcode
16 under this act, the commissioner shall hold a public hearing in
17 accordance with the "Administrative Procedure Act," P.L.1968, c.410
18 (C.52:14B-1 et seq.), at which testimony on any application
19 recommending a State sponsored code change proposal will be heard.

20 The commissioner shall maintain a file of such applications, which
21 shall be made available to the public upon request and upon payment
22 of a fee to cover the cost of copying and mailing.

23 After public hearing, the code advisory board shall review any such
24 applications and testimony and shall within 20 days of such hearing
25 present its own recommendations to the commissioner.

26 The commissioner may adopt, reject or return such
27 recommendations to the code advisory board for further deliberation.
28 If adopted, any such proposal shall be presented to the subsequent
29 meeting of the National Model Code Agency by the commissioner or
30 by persons designated by the commissioner as a State sponsored code
31 change proposal. Nothing herein, however, shall limit the right of any
32 municipality, the department, or any other person from presenting
33 amendments to the National Model Code Agency on its own initiative.

34 The commissioner may adopt further rules and regulations pursuant
35 to this subsection and may modify the procedures herein described
36 when a model code change hearing has been scheduled so as not to
37 permit adequate time to meet such procedures.

38 d. (Deleted by amendment, P.L.1983, c.496.)

39 (cf: P.L.1996, c.53, s.2)

40

41 3. Section 2 of P.L.1971, c.269 (C.52:32-5) is amended to read as
42 follows:

43 2. The Department of Community Affairs shall promulgate
44 regulations which shall prescribe the kinds, types and quality of [such]
45 facilities in public buildings as defined in section 3 of P.L.1975, c.220
46 (C.52:32-6) required to provide access for the physically handicapped.

1 The regulations shall differentiate between small public buildings,
2 defined as those with a total gross enclosed floor area of less than
3 10,000 square feet, and large public buildings defined as those with a
4 total gross enclosed floor area of 10,000 square feet or more. Small
5 public buildings shall be required to have accessible entrances
6 servicing the first or ground floor areas and facilities for the physically
7 handicapped on all accessible floors, however, the provisions for small
8 public buildings shall not apply to the conversion of a small public
9 building to another use or to renovations or modifications of a small
10 public building if there is insufficient space between the building and
11 its lot lines or between the building and the public way to allow for the
12 installation of an entrance ramp which meets the criteria of the "State
13 Uniform Construction Code" adopted pursuant to the "State Uniform
14 Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.).
15 Large public buildings shall be required to have accessible entrances,
16 facilities for the physically handicapped on all accessible floors, and
17 elevators or other means of access for the physically handicapped
18 between floors, except floors which contain only mechanical
19 equipment or floors which contain less than 3,000 square feet of total
20 floor area.

21 (cf: P.L.1987, c.246, s.1)

22

23 4. Section 3 of P.L. 975, c.220 (C.52:32-6) is amended to read as
24 follows:

25 3. As used in this act:

26 a. "Public building" means any building, structure, facility or
27 complex used by the general public, including, but not limited to,
28 theaters, concert halls, auditoriums, museums, schools, libraries,
29 recreation facilities, public transportation terminals and stations,
30 factories, office buildings, business establishments, passenger vehicle
31 service stations, shopping centers, hotels or motels, and public eating
32 places, constructed by any State, county or municipal government
33 agency or instrumentality or any private individual, partnership,
34 association or corporation, with the following exceptions: [one- to
35 four-family private residences;] warehouse storage areas[;] and all
36 buildings classified as hazardous occupancies. As used herein,
37 "hazardous occupancy" means the occupancy or use of a building or
38 structure or any portion thereof that involves highly combustible,
39 highly flammable, or explosive material, or which has inherent
40 characteristics that constitute a special fire hazard. As used in this act,
41 the term shall not include residential buildings, but shall include hotels
42 and motels. Any handicapped facility requirements for residential
43 buildings shall be governed by the barrier free subcode promulgated
44 pursuant to section 5 of P.L.1975, c.217 (C.52:27D-123).

45 b. "Physical handicap" means a physical impairment which confines
46 a person to a wheelchair; causes a person to walk with difficulty or

1 insecurity; affects the sight or hearing to the extent that a person
2 functioning in public areas is insecure or exposed to danger; causes
3 faulty coordination; or reduces mobility, flexibility, coordination and
4 perceptiveness to the extent that facilities are needed to provide for
5 the safety of that person.

6 c. "Remodel" means, with respect to an existing public building as
7 defined in this act, to construct an addition, alter the design or layout
8 of said public building so that a change or modification of the entrance
9 facilities, toilet facilities, or vertical access facilities is achieved, or
10 make substantial repairs or alterations.

11 d. "Office building" means a building or structure which is used for
12 the transaction of business; for the rendering of professional service;
13 for other services that involve stocks of goods, wares, or merchandise
14 in limited quantities for use incidental to office uses or sample
15 purposes; or for display and sale purposes involving stocks of goods,
16 wares, or merchandise incidental to these purposes. This definition is
17 intended to include those buildings or structures classified in Use
18 Groups "B" and "M" of the State Uniform Construction Code within
19 the scope of section 5:23-3.14 of the New Jersey Administrative Code
20 pertaining to building subcodes.

21 e. (Deleted by amendment, P.L.1981, c.35.)

22 f. "Enforcing agency" means the municipal construction official and
23 subcode officials provided for in the "State Uniform Construction
24 Code Act" (P.L.1975, c.217; C.52:27D-119 et seq.).

25 (cf: P. L.1987, c.246, s.2)

26

27 5. This act shall take effect immediately and be applied
28 retroactively from April 6, 2001.

29

30

31

STATEMENT

32

33 This bill amends the law concerning the requirements for facilities
34 for handicapped access in public buildings. Commonly known as the
35 "Handicapped Access Law," (HAL) P.L.1971, c.220 (C.52:32-4 et
36 seq.), the act predates the 1975 New Jersey "State Uniform
37 Construction Code Act," (SUCC), the federal Fair Housing
38 Amendments Act of 1988, and the federal Americans with Disabilities
39 Act of 1990. Its provisions have been a fundamental part of the
40 Barrier Free Subcode of the State Uniform Construction Code. In
41 1986, the HAL was amended to establish different standards of
42 accessibility for "large buildings" and "small buildings." This
43 distinction, which was made to require some accessibility for all public
44 buildings, has worked well for nonresidential public buildings. A
45 recent court decision extended its applicability to multifamily
46 residences. The application of the elevator service requirement that

1 has been reasonable for large commercial buildings has proven to be
2 so burdensome when applied to multifamily dwellings that designs of
3 multifamily dwellings that seek to meet the standards for an exemption
4 from all accessibility requirements are becoming increasingly common.
5 This bill will redefine the term "public building" under the HAL to
6 mean only nonresidential buildings. The special handicapped access
7 requirements under HAL that are based on building size will apply
8 therefore only to nonresidential public buildings. The bill further
9 clarifies that nonresidential public buildings include transient
10 accommodations, such as hotels and motels. Finally, the bill moves
11 the handicapped access building requirements for residences which are
12 multi-family residential buildings from the HAL to the barrier-free
13 subcode promulgated by the Commissioner of Community Affairs as
14 part of the Uniform Construction Code Act. Currently, the
15 requirements under the HAL for residential housing apply to multi-
16 family residential buildings containing five or more dwelling units in a
17 single structure. The threshold for providing handicapped features
18 under the barrier free subcode is multi-family residential buildings
19 containing four or more dwelling units, and, under the bill's provisions,
20 will exclude certain residences of townhouse construction. The
21 changes made by the bill will bring New Jersey's law in line with the
22 the threshold for compliance with accessibility standards that exists in
23 the federal Fair Housing Amendments Act of 1988.

24

25

26

27

28 Provides separate standards for handicapped access in public buildings
29 versus multi-family dwellings.

ASSEMBLY, No. 3162

STATE OF NEW JERSEY 210th LEGISLATURE

INTRODUCED JANUARY 14, 2003

Sponsored by:

Assemblyman JERRY GREEN

District 22 (Middlesex, Somerset and Union)

Assemblyman RAFAEL J. FRAGUELA

District 33 (Hudson)

Co-Sponsored by:

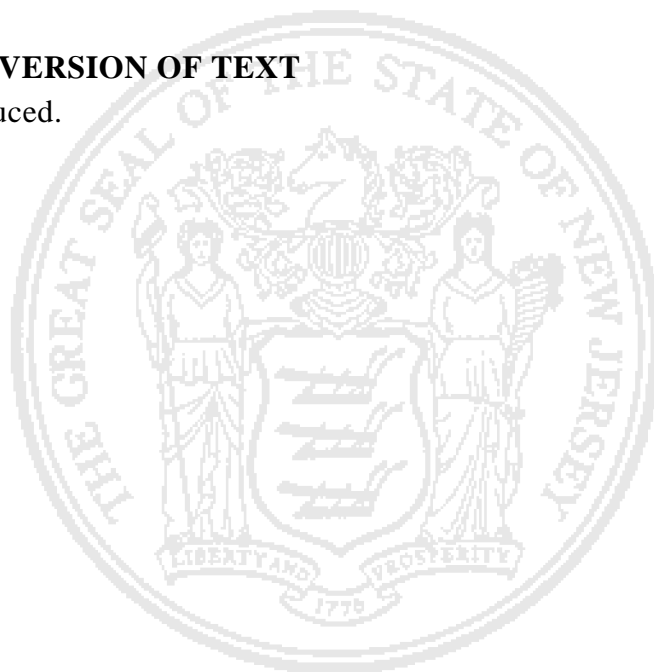
**Assemblymen Diegnan, Ahearn, Assemblywoman Myers, Senators Rice,
Connors and Lesniak**

SYNOPSIS

Provides separate standards for handicapped access in public buildings versus multi-family dwellings.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 3/21/2003)

1 AN ACT concerning handicapped accessibility of public buildings and
2 multi-family dwellings and amending various parts of the statutory
3 law.

4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7

8 1. Section 11 of P.L.1992, c.146 (C.10:5-12.4) is amended to read
9 as follows:

10 11. A failure to design and construct any multi-family dwelling of
11 four units or more in accordance with barrier free standards
12 promulgated by the Commissioner of Community Affairs pursuant to
13 section 5 of P.L.1975, c.217 (C.52:27D-123) [and section 2 of
14 P.L.1971, c.269 (C.52:32-5)] shall be an unlawful discrimination. The
15 Commissioner of Community Affairs shall ensure that standards
16 established meet or exceed the standards established under the federal
17 "Fair Housing Amendments Act of 1988," Pub. L.100-430. Whenever
18 the Attorney General receives a complaint alleging an unlawful
19 discrimination pursuant to this section, the Attorney General shall refer
20 the complaint to the Commissioner of Community Affairs for a
21 determination and report as to whether there is a violation of such
22 standards. Following receipt of the report, a complaint alleging an
23 unlawful discrimination pursuant to this section shall be investigated
24 and prosecuted in accordance with the provisions of the "Law Against
25 Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.). Nothing in this
26 section shall be construed to limit any enforcement authority of the
27 Commissioner of Community Affairs or the Attorney General
28 otherwise provided by law. Nothing in the "State Uniform
29 Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.) and
30 P.L.1971, c.269 (C.52:32-4 et seq.) shall be deemed to limit the
31 powers of the Attorney General under this act. The Attorney General
32 and the Commissioner of Community Affairs shall adopt regulations
33 to effectuate the purposes of this section.

34 (P.L.1992, c.146, s.11)

35

36 2. Section 5 of P.L.1975, c.217 (C.52:27D-123) is amended to
37 read as follows:

38 5. a. The commissioner shall after public hearing pursuant to
39 section 4 of the "Administrative Procedure Act," P.L.1968, c.410
40 (C.52:14B-4) adopt a State Uniform Construction Code for the
41 purpose of regulating the structural design, construction, maintenance
42 and use of buildings or structures to be erected and alteration,
43 renovation, rehabilitation, repair, maintenance, removal or demolition

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 of buildings or structures already erected. Prior to the adoption of
2 said code, the commissioner shall consult with the code advisory board
3 and other departments, divisions, bureaus, boards, councils or other
4 agencies of State Government heretofore authorized to establish or
5 administer construction regulations.

6 Such prior consultations with departments, divisions, bureaus,
7 boards, councils, or other agencies of State Government shall include
8 but not be limited to consultation with the Commissioner of Health
9 and the Public Health Council prior to adoption of a plumbing subcode
10 pursuant to paragraph b. of this section. Said code shall include any
11 code, rule or regulation incorporated therein by reference.

12 b. The code shall be divided into subcodes which may be adopted
13 individually by the commissioner as he may from time to time consider
14 appropriate. These subcodes shall include but not be limited to a
15 building code, a plumbing code, an electrical code, an energy code, a
16 fire prevention code, a manufactured or mobile home code and
17 mechanical code.

18 These subcodes shall be adoptions of the model codes of the
19 Building Officials and Code Administrators International, Inc., the
20 National Electrical Code, and the National Standard Plumbing Code,
21 provided that for good reasons, the commissioner may adopt as a
22 subcode a model code or standard of some other nationally recognized
23 organization upon a finding that such model code or standard
24 promotes the purposes of this act. The initial adoption of a model
25 code or standard as a subcode shall constitute adoption of subsequent
26 edition year publications of the model code or standard organization,
27 except as provided for in paragraphs (1) through (4) of this subsection.
28 Adoption of publications shall not occur more frequently than once
29 every three years; provided, however, that a revision or amendment
30 may be adopted at any time in the event that the commissioner finds
31 that there exists an imminent peril to the public health, safety or
32 welfare.

33 (1) Except as otherwise provided in this subsection, the edition of
34 a model code or standard in effect as a subcode as of July 1, 1995 shall
35 continue in effect regardless of any publication of a subsequent edition
36 of that model code or standard. Prior to establishing the effective
37 date for any subsequent revision or amendment of any model code or
38 standard adopted as a subcode, the commissioner shall review, in
39 consultation with the code advisory board, the text of the revised or
40 amended model code or standard and determine whether the amended
41 or revised provisions of the model code are essential to carry out the
42 intent and purpose of this act as viewed in contrast to the
43 corresponding provisions of the subcode then currently in effect.

44 (2) In the event that the commissioner, pursuant to paragraph (1)
45 of this subsection, determines that any amended or revised provision
46 of a model code is essential to carry out the intent and purpose of this

1 act as viewed in contrast to any corresponding provision of the
2 subcode then currently in effect, the commissioner may then adopt that
3 provision of the amended or revised model code.

4 (3) The commissioner, in consultation with the code advisory
5 board, shall have the authority to review any model code or standard
6 currently in effect as a subcode of the State Uniform Construction
7 Code and compare it with previously adopted editions of the same
8 model code or standard in order to determine if the subcode currently
9 in effect is at least as consistent with the intent and purpose of this act
10 as were previously adopted editions of the same model code or
11 standard.

12 (4) In the event that the commissioner, after consultation with the
13 code advisory board, determines pursuant to this subsection that a
14 provision of a model code or standard currently in effect as a subcode
15 of the State Uniform Construction Code is less consistent with the
16 intent and purpose of this act than was the corresponding provision
17 of a previously adopted edition of the same model code or standard,
18 the commissioner may delete the provision in effect and substitute in
19 its place the corresponding provision of the previously adopted edition
20 of the same model code or standard determined to be more consistent
21 with the intent and purpose of this act.

22 (5) The commissioner shall be authorized to adopt a barrier free
23 subcode or to supplement or revise any model code adopted
24 hereunder, for the purpose of insuring that adequate and sufficient
25 features are available in buildings or structures so as to make them
26 accessible to and usable by the physically handicapped. Multi-family
27 residential buildings with four or more dwelling units in a single
28 structure shall be constructed in accordance with the barrier free
29 subcode; for the purposes of this subsection the term "multi-family
30 residential buildings with four or more dwelling units in a single
31 structure" shall not include buildings constructed as townhouses,
32 which are single dwelling units with two or more stories of living
33 space, exclusive of basement or attic, with most or all of the sleeping
34 areas on one story and with most of the remaining habitable space,
35 such as kitchen, living and dining areas, on another story, and with an
36 independent entrance at or near grade level.

37 c. Any municipality through its construction official, and any State
38 agency or political subdivision of the State may submit an application
39 recommending to the commissioner that a State sponsored code
40 change proposal be adopted. Such application shall contain such
41 technical justification and shall be submitted in accordance with such
42 rules of procedure as the commissioner may deem appropriate, except
43 that whenever the State Board of Education shall determine that
44 enhancements to the code are essential to the maintenance of a
45 thorough and efficient system of education, the enhancements shall be
46 made part of the code; provided that the amendments do not result in

1 standards that fall below the adopted subcodes. The Commissioner of
2 the Department of Education shall consult with the Commissioner of
3 the Department of Community Affairs prior to publishing the intent of
4 the State Board to adopt any amendments to the Uniform Construction
5 Code. Upon adoption of any amendments by the State Board of
6 Education they shall be transmitted forthwith to the Commissioner of
7 the Department of Community Affairs who shall publish and
8 incorporate the amendments as part of the Uniform Construction Code
9 and the amendments shall be enforceable as if they had been adopted
10 by the commissioner.

11 At least 45 days prior to the final date for the submission of
12 amendments or code change proposals to the National Model Code
13 Adoption Agency, the code of which has been adopted as a subcode
14 under this act, the commissioner shall hold a public hearing in
15 accordance with the "Administrative Procedure Act," P.L.1968, c.410
16 (C.52:14B-1 et seq.), at which testimony on any application
17 recommending a State sponsored code change proposal will be heard.

18 The commissioner shall maintain a file of such applications, which
19 shall be made available to the public upon request and upon payment
20 of a fee to cover the cost of copying and mailing.

21 After public hearing, the code advisory board shall review any such
22 applications and testimony and shall within 20 days of such hearing
23 present its own recommendations to the commissioner.

24 The commissioner may adopt, reject or return such
25 recommendations to the code advisory board for further deliberation.
26 If adopted, any such proposal shall be presented to the subsequent
27 meeting of the National Model Code Agency by the commissioner or
28 by persons designated by the commissioner as a State sponsored code
29 change proposal. Nothing herein, however, shall limit the right of any
30 municipality, the department, or any other person from presenting
31 amendments to the National Model Code Agency on its own initiative.

32 The commissioner may adopt further rules and regulations pursuant
33 to this subsection and may modify the procedures herein described
34 when a model code change hearing has been scheduled so as not to
35 permit adequate time to meet such procedures.

36 d. (Deleted by amendment, P.L.1983, c.496.)
37 (cf: P.L.1996, c.53, s.2)

38
39 3. Section 2 of P.L.1971, c.269 (C.52:32-5) is amended to read as
40 follows:

41 2. The Department of Community Affairs shall promulgate
42 regulations which shall prescribe the kinds, types and quality of [such]
43 facilities in public buildings as defined in section 3 of P.L.1975, c.220
44 (C.52:32-6) required to provide access for the physically handicapped.
45 The regulations shall differentiate between small public buildings,
46 defined as those with a total gross enclosed floor area of less than

1 10,000 square feet, and large public buildings defined as those with a
2 total gross enclosed floor area of 10,000 square feet or more. Small
3 public buildings shall be required to have accessible entrances
4 servicing the first or ground floor areas and facilities for the physically
5 handicapped on all accessible floors, however, the provisions for small
6 public buildings shall not apply to the conversion of a small public
7 building to another use or to renovations or modifications of a small
8 public building if there is insufficient space between the building and
9 its lot lines or between the building and the public way to allow for the
10 installation of an entrance ramp which meets the criteria of the "State
11 Uniform Construction Code" adopted pursuant to the "State Uniform
12 Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.).
13 Large public buildings shall be required to have accessible entrances,
14 facilities for the physically handicapped on all accessible floors, and
15 elevators or other means of access for the physically handicapped
16 between floors, except floors which contain only mechanical
17 equipment or floors which contain less than 3,000 square feet of total
18 floor area.

19 (cf: P.L.1987, c.246, s.1)

20

21 4. Section 3 of P.L. 975, c.220 (C.52:32-6) is amended to read as
22 follows:

23 3. As used in this act:

24 a. "Public building" means any building, structure, facility or
25 complex used by the general public, including, but not limited to,
26 theaters, concert halls, auditoriums, museums, schools, libraries,
27 recreation facilities, public transportation terminals and stations,
28 factories, office buildings, business establishments, passenger vehicle
29 service stations, shopping centers, hotels or motels, and public eating
30 places, constructed by any State, county or municipal government
31 agency or instrumentality or any private individual, partnership,
32 association or corporation, with the following exceptions: [one-
33 four-family private residences;] warehouse storage areas[;] and all
34 buildings classified as hazardous occupancies. As used herein,
35 "hazardous occupancy" means the occupancy or use of a building or
36 structure or any portion thereof that involves highly combustible,
37 highly flammable, or explosive material, or which has inherent
38 characteristics that constitute a special fire hazard. As used in this act,
39 the term shall not include residential buildings, but shall include hotels
40 and motels. Any handicapped facility requirements for residential
41 buildings shall be governed by the barrier free subcode promulgated
42 pursuant to section 5 of P.L.1975, c.217 (C.52:27D-123).

43 b. "Physical handicap" means a physical impairment which confines
44 a person to a wheelchair; causes a person to walk with difficulty or
45 insecurity; affects the sight or hearing to the extent that a person
46 functioning in public areas is insecure or exposed to danger; causes

1 faulty coordination; or reduces mobility, flexibility, coordination and
2 perceptiveness to the extent that facilities are needed to provide for
3 the safety of that person.

4 c. "Remodel" means, with respect to an existing public building as
5 defined in this act, to construct an addition, alter the design or layout
6 of said public building so that a change or modification of the entrance
7 facilities, toilet facilities, or vertical access facilities is achieved, or
8 make substantial repairs or alterations.

9 d. "Office building" means a building or structure which is used for
10 the transaction of business; for the rendering of professional service;
11 for other services that involve stocks of goods, wares, or merchandise
12 in limited quantities for use incidental to office uses or sample
13 purposes; or for display and sale purposes involving stocks of goods,
14 wares, or merchandise incidental to these purposes. This definition is
15 intended to include those buildings or structures classified in Use
16 Groups "B" and "M" of the State Uniform Construction Code within
17 the scope of section 5:23-3.14 of the New Jersey Administrative Code
18 pertaining to building subcodes.

19 e. (Deleted by amendment, P.L.1981, c.35.)

20 f. "Enforcing agency" means the municipal construction official and
21 subcode officials provided for in the "State Uniform Construction
22 Code Act" (P.L.1975, c.217; C.52:27D-119 et seq.).
23 (cf: P. L.1987, c.246, s.2)

24
25 5. This act shall take effect immediately and be applied
26 retroactively from April 6, 2001.

27
28
29 STATEMENT

30
31 This bill amends the law concerning the requirements for facilities
32 for handicapped access in public buildings. Commonly known as the
33 "Handicapped Access Law," (HAL) P.L.1971, c.220 (C.52:32-4 et
34 seq.), the act predates the 1975 New Jersey "State Uniform
35 Construction Code Act," (SUCC), the federal Fair Housing
36 Amendments Act of 1988, and the federal Americans with Disabilities
37 Act of 1990. Its provisions have been a fundamental part of the
38 Barrier Free Subcode of the State Uniform Construction Code. In
39 1986, the HAL was amended to establish different standards of
40 accessibility for "large buildings" and "small buildings." This
41 distinction, which was made to require some accessibility for all public
42 buildings, has worked well for nonresidential public buildings. A
43 recent court decision extended its applicability to multifamily
44 residences. The application of the elevator service requirement that
45 has been reasonable for large commercial buildings has proven to be
46 so burdensome when applied to multifamily dwellings that designs of

1 multifamily dwellings that seek to meet the standards for an exemption
2 from all accessibility requirements are becoming increasingly common.
3 This bill will redefine the term "public building" under the HAL to
4 mean only nonresidential buildings. The special handicapped access
5 requirements under HAL that are based on building size will apply
6 therefore only to nonresidential public buildings. The bill further
7 clarifies that nonresidential public buildings include transient
8 accommodations, such as hotels and motels. Finally, the bill moves
9 the handicapped access building requirements for residences which are
10 multi-family residential buildings from the HAL to the barrier-free
11 subcode promulgated by the Commissioner of Community Affairs as
12 part of the Uniform Construction Code Act. Currently, the
13 requirements under the HAL for residential housing apply to multi-
14 family residential buildings containing five or more dwelling units in a
15 single structure. The threshold for providing handicapped features
16 under the barrier free subcode is multi-family residential buildings
17 containing four or more dwelling units, and, under the bill's provisions,
18 will exclude certain residences of townhouse construction. The
19 changes made by the bill will bring New Jersey's law in line with the
20 the threshold for compliance with accessibility standards that exists in
21 the federal Fair Housing Amendments Act of 1988.

ASSEMBLY HOUSING AND LOCAL GOVERNMENT
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3162

STATE OF NEW JERSEY

DATED: FEBRUARY 27, 2003

The Assembly Housing and Local Government Committee reports favorably Assembly Bill No. 3162.

This bill amends the law concerning the requirements for facilities for handicapped access in public buildings. Commonly known as the "Handicapped Access Law," (HAL) P.L.1971, c.220 (C.52:32-4 et seq.), the act predates the 1975 New Jersey "State Uniform Construction Code Act," (SUCC), the federal Fair Housing Amendments Act of 1988, and the federal Americans with Disabilities Act of 1990. Its provisions have been a fundamental part of the Barrier Free Subcode of the State Uniform Construction Code. In 1986, the HAL was amended to establish different standards of accessibility for "large buildings" and "small buildings." This distinction, which was made to require some accessibility for all public buildings, has worked well for nonresidential public buildings. A recent court decision extended its applicability to multifamily residences. The application of the elevator service requirement that has been reasonable for large commercial buildings has proven to be so burdensome when applied to multifamily dwellings that designs of multifamily dwellings that seek to meet the standards for an exemption from all accessibility requirements are becoming increasingly common. This bill will redefine the term "public building" under the HAL to mean only nonresidential buildings. The special handicapped access requirements under HAL that are based on building size will apply therefore only to nonresidential public buildings. The bill further clarifies that nonresidential public buildings include transient accommodations, such as hotels and motels. Finally, the bill moves the handicapped access building requirements for residences which are multi-family residential buildings from the HAL to the barrier-free subcode promulgated by the Commissioner of Community Affairs as part of the Uniform Construction Code Act. Currently, the requirements under the HAL for residential housing apply to multi-family residential buildings containing five or more dwelling units in a single structure. The threshold for providing handicapped features under the barrier free subcode is multi-family residential buildings containing four or more dwelling units, and, under the bill's provisions,

will exclude certain residences of townhouse construction. The changes made by the bill will bring New Jersey's law in line with the the threshold for compliance with accessibility standards that exists in the federal Fair Housing Amendments Act of 1988.

SENATE, No. 2239

STATE OF NEW JERSEY
210th LEGISLATURE

INTRODUCED JANUARY 16, 2003

Sponsored by:

Senator RONALD L. RICE

District 28 (Essex)

Senator LEONARD T. CONNORS, JR.

District 9 (Atlantic, Burlington and Ocean)

SYNOPSIS

Provides separate standards for handicapped access in public buildings versus multi-family dwellings.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 1/17/2003)

1 AN ACT concerning handicapped accessibility of public buildings and
2 multi-family dwellings and amending various parts of the statutory
3 law.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. Section 11 of P.L.1992, c.146 (C.10:5-12.4) is amended to read
9 as follows:

10 11. A failure to design and construct any multi-family dwelling of
11 four units or more in accordance with barrier free standards
12 promulgated by the Commissioner of Community Affairs pursuant to
13 section 5 of P.L.1975, c.217 (C.52:27D-123) [and section 2 of
14 P.L.1971, c.269 (C.52:32-5)] shall be an unlawful discrimination. The
15 Commissioner of Community Affairs shall ensure that standards
16 established meet or exceed the standards established under the federal
17 "Fair Housing Amendments Act of 1988," Pub. L.100-430. Whenever
18 the Attorney General receives a complaint alleging an unlawful
19 discrimination pursuant to this section, the Attorney General shall refer
20 the complaint to the Commissioner of Community Affairs for a
21 determination and report as to whether there is a violation of such
22 standards. Following receipt of the report, a complaint alleging an
23 unlawful discrimination pursuant to this section shall be investigated
24 and prosecuted in accordance with the provisions of the "Law Against
25 Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.). Nothing in this
26 section shall be construed to limit any enforcement authority of the
27 Commissioner of Community Affairs or the Attorney General
28 otherwise provided by law. Nothing in the "State Uniform
29 Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.) and
30 P.L.1971, c.269 (C.52:32-4 et seq.) shall be deemed to limit the
31 powers of the Attorney General under this act. The Attorney General
32 and the Commissioner of Community Affairs shall adopt regulations
33 to effectuate the purposes of this section.

34 (P.L.1992, c.146, s.11)

35

36 2. Section 5 of P.L.1975, c.217 (C.52:27D-123) is amended to
37 read as follows:

38 5. a. The commissioner shall after public hearing pursuant to
39 section 4 of the "Administrative Procedure Act," P.L.1968, c.410
40 (C.52:14B-4) adopt a State Uniform Construction Code for the
41 purpose of regulating the structural design, construction, maintenance
42 and use of buildings or structures to be erected and alteration,
43 renovation, rehabilitation, repair, maintenance, removal or demolition

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 of buildings or structures already erected. Prior to the adoption of
2 said code, the commissioner shall consult with the code advisory board
3 and other departments, divisions, bureaus, boards, councils or other
4 agencies of State Government heretofore authorized to establish or
5 administer construction regulations.

6 Such prior consultations with departments, divisions, bureaus,
7 boards, councils, or other agencies of State Government shall include
8 but not be limited to consultation with the Commissioner of Health
9 and the Public Health Council prior to adoption of a plumbing subcode
10 pursuant to paragraph b. of this section. Said code shall include any
11 code, rule or regulation incorporated therein by reference.

12 b. The code shall be divided into subcodes which may be adopted
13 individually by the commissioner as he may from time to time consider
14 appropriate. These subcodes shall include but not be limited to a
15 building code, a plumbing code, an electrical code, an energy code, a
16 fire prevention code, a manufactured or mobile home code and
17 mechanical code.

18 These subcodes shall be adoptions of the model codes of the
19 Building Officials and Code Administrators International, Inc., the
20 National Electrical Code, and the National Standard Plumbing Code,
21 provided that for good reasons, the commissioner may adopt as a
22 subcode a model code or standard of some other nationally recognized
23 organization upon a finding that such model code or standard
24 promotes the purposes of this act. The initial adoption of a model
25 code or standard as a subcode shall constitute adoption of subsequent
26 edition year publications of the model code or standard organization,
27 except as provided for in paragraphs (1) through (4) of this subsection.
28 Adoption of publications shall not occur more frequently than once
29 every three years; provided, however, that a revision or amendment
30 may be adopted at any time in the event that the commissioner finds
31 that there exists an imminent peril to the public health, safety or
32 welfare.

33 (1) Except as otherwise provided in this subsection, the edition of
34 a model code or standard in effect as a subcode as of July 1, 1995 shall
35 continue in effect regardless of any publication of a subsequent edition
36 of that model code or standard. Prior to establishing the effective
37 date for any subsequent revision or amendment of any model code or
38 standard adopted as a subcode, the commissioner shall review, in
39 consultation with the code advisory board, the text of the revised or
40 amended model code or standard and determine whether the amended
41 or revised provisions of the model code are essential to carry out the
42 intent and purpose of this act as viewed in contrast to the
43 corresponding provisions of the subcode then currently in effect.

44 (2) In the event that the commissioner, pursuant to paragraph (1)
45 of this subsection, determines that any amended or revised provision
46 of a model code is essential to carry out the intent and purpose of this

1 act as viewed in contrast to any corresponding provision of the
2 subcode then currently in effect, the commissioner may then adopt that
3 provision of the amended or revised model code.

4 (3) The commissioner, in consultation with the code advisory
5 board, shall have the authority to review any model code or standard
6 currently in effect as a subcode of the State Uniform Construction
7 Code and compare it with previously adopted editions of the same
8 model code or standard in order to determine if the subcode currently
9 in effect is at least as consistent with the intent and purpose of this act
10 as were previously adopted editions of the same model code or
11 standard.

12 (4) In the event that the commissioner, after consultation with the
13 code advisory board, determines pursuant to this subsection that a
14 provision of a model code or standard currently in effect as a subcode
15 of the State Uniform Construction Code is less consistent with the
16 intent and purpose of this act than was the corresponding provision
17 of a previously adopted edition of the same model code or standard,
18 the commissioner may delete the provision in effect and substitute in
19 its place the corresponding provision of the previously adopted edition
20 of the same model code or standard determined to be more consistent
21 with the intent and purpose of this act.

22 (5) The commissioner shall be authorized to adopt a barrier free
23 subcode or to supplement or revise any model code adopted
24 hereunder, for the purpose of insuring that adequate and sufficient
25 features are available in buildings or structures so as to make them
26 accessible to and usable by the physically handicapped. Multi-family
27 residential buildings with four or more dwelling units in a single
28 structure shall be constructed in accordance with the barrier free
29 subcode; for the purposes of this subsection the term "multi-family
30 residential buildings with four or more dwelling units in a single
31 structure" shall not include buildings constructed as townhouses,
32 which are single dwelling units with two or more stories of living
33 space, exclusive of basement or attic, with most or all of the sleeping
34 areas on one story and with most of the remaining habitable space,
35 such as kitchen, living and dining areas, on another story, and with an
36 independent entrance at or near grade level.

37 c. Any municipality through its construction official, and any State
38 agency or political subdivision of the State may submit an application
39 recommending to the commissioner that a State sponsored code
40 change proposal be adopted. Such application shall contain such
41 technical justification and shall be submitted in accordance with such
42 rules of procedure as the commissioner may deem appropriate, except
43 that whenever the State Board of Education shall determine that
44 enhancements to the code are essential to the maintenance of a
45 thorough and efficient system of education, the enhancements shall be
46 made part of the code; provided that the amendments do not result in

1 standards that fall below the adopted subcodes. The Commissioner of
2 the Department of Education shall consult with the Commissioner of
3 the Department of Community Affairs prior to publishing the intent of
4 the State Board to adopt any amendments to the Uniform Construction
5 Code. Upon adoption of any amendments by the State Board of
6 Education they shall be transmitted forthwith to the Commissioner of
7 the Department of Community Affairs who shall publish and
8 incorporate the amendments as part of the Uniform Construction Code
9 and the amendments shall be enforceable as if they had been adopted
10 by the commissioner.

11 At least 45 days prior to the final date for the submission of
12 amendments or code change proposals to the National Model Code
13 Adoption Agency, the code of which has been adopted as a subcode
14 under this act, the commissioner shall hold a public hearing in
15 accordance with the "Administrative Procedure Act," P.L.1968, c.410
16 (C.52:14B-1 et seq.), at which testimony on any application
17 recommending a State sponsored code change proposal will be heard.

18 The commissioner shall maintain a file of such applications, which
19 shall be made available to the public upon request and upon payment
20 of a fee to cover the cost of copying and mailing.

21 After public hearing, the code advisory board shall review any such
22 applications and testimony and shall within 20 days of such hearing
23 present its own recommendations to the commissioner.

24 The commissioner may adopt, reject or return such
25 recommendations to the code advisory board for further deliberation.
26 If adopted, any such proposal shall be presented to the subsequent
27 meeting of the National Model Code Agency by the commissioner or
28 by persons designated by the commissioner as a State sponsored code
29 change proposal. Nothing herein, however, shall limit the right of any
30 municipality, the department, or any other person from presenting
31 amendments to the National Model Code Agency on its own initiative.

32 The commissioner may adopt further rules and regulations pursuant
33 to this subsection and may modify the procedures herein described
34 when a model code change hearing has been scheduled so as not to
35 permit adequate time to meet such procedures.

36 d. (Deleted by amendment, P.L.1983, c.496.)
37 (cf: P.L.1996, c.53, s.2)

38
39 3. Section 2 of P.L.1971, c.269 (C.52:32-5) is amended to read as
40 follows:

41 2. The Department of Community Affairs shall promulgate
42 regulations which shall prescribe the kinds, types and quality of [such]
43 facilities in public buildings as defined in section 3 of P.L.1975, c.220
44 (C.52:32-6) required to provide access for the physically handicapped.
45 The regulations shall differentiate between small public buildings,
46 defined as those with a total gross enclosed floor area of less than

1 10,000 square feet, and large public buildings defined as those with a
2 total gross enclosed floor area of 10,000 square feet or more. Small
3 public buildings shall be required to have accessible entrances
4 servicing the first or ground floor areas and facilities for the physically
5 handicapped on all accessible floors, however, the provisions for small
6 public buildings shall not apply to the conversion of a small public
7 building to another use or to renovations or modifications of a small
8 public building if there is insufficient space between the building and
9 its lot lines or between the building and the public way to allow for the
10 installation of an entrance ramp which meets the criteria of the "State
11 Uniform Construction Code" adopted pursuant to the "State Uniform
12 Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.).
13 Large public buildings shall be required to have accessible entrances,
14 facilities for the physically handicapped on all accessible floors, and
15 elevators or other means of access for the physically handicapped
16 between floors, except floors which contain only mechanical
17 equipment or floors which contain less than 3,000 square feet of total
18 floor area.

19 (cf: P.L.1987, c.246, s.1)

20

21 4. Section 3 of P.L.1975, c.220 (C.52:32-6) is amended to read as
22 follows:

23 3. As used in this act:

24 a. "Public building" means any building, structure, facility or
25 complex used by the general public, including, but not limited to,
26 theaters, concert halls, auditoriums, museums, schools, libraries,
27 recreation facilities, public transportation terminals and stations,
28 factories, office buildings, business establishments, passenger vehicle
29 service stations, shopping centers, hotels or motels, and public eating
30 places, constructed by any State, county or municipal government
31 agency or instrumentality or any private individual, partnership,
32 association or corporation, with the following exceptions: [one-
33 four-family private residences;] warehouse storage areas[;] and all
34 buildings classified as hazardous occupancies. As used herein,
35 "hazardous occupancy" means the occupancy or use of a building or
36 structure or any portion thereof that involves highly combustible,
37 highly flammable, or explosive material, or which has inherent
38 characteristics that constitute a special fire hazard. As used in this act,
39 the term shall not include residential buildings, but shall include hotels
40 and motels. Any handicapped facility requirements for residential
41 buildings shall be governed by the barrier free subcode promulgated
42 pursuant to section 5 of P.L.1975, c.217 (C.52:27D-123).

43 b. "Physical handicap" means a physical impairment which confines
44 a person to a wheelchair; causes a person to walk with difficulty or
45 insecurity; affects the sight or hearing to the extent that a person
46 functioning in public areas is insecure or exposed to danger; causes

1 faulty coordination; or reduces mobility, flexibility, coordination and
2 perceptiveness to the extent that facilities are needed to provide for
3 the safety of that person.

4 c. "Remodel" means, with respect to an existing public building as
5 defined in this act, to construct an addition, alter the design or layout
6 of said public building so that a change or modification of the entrance
7 facilities, toilet facilities, or vertical access facilities is achieved, or
8 make substantial repairs or alterations.

9 d. "Office building" means a building or structure which is used for
10 the transaction of business; for the rendering of professional service;
11 for other services that involve stocks of goods, wares, or merchandise
12 in limited quantities for use incidental to office uses or sample
13 purposes; or for display and sale purposes involving stocks of goods,
14 wares, or merchandise incidental to these purposes. This definition is
15 intended to include those buildings or structures classified in Use
16 Groups "B" and "M" of the State Uniform Construction Code within
17 the scope of section 5:23-3.14 of the New Jersey Administrative Code
18 pertaining to building subcodes.

19 e. (Deleted by amendment, P.L.1981, c.35.)

20 f. "Enforcing agency" means the municipal construction official and
21 subcode officials provided for in the "State Uniform Construction
22 Code Act" (P.L.1975, c.217; C.52:27D-119 et seq.).
23 (cf: P.L.1987, c.246, s.2)

24
25 5. This act shall take effect immediately and be applied
26 retroactively from April 6, 2001.

27
28
29 STATEMENT

30
31 This bill amends the law concerning the requirements for facilities
32 for handicapped access in public buildings. Commonly known as the
33 "Handicapped Access Law," (HAL) P.L.1971, c.220 (C.52:32-4 et
34 seq.), the act predates the 1975 New Jersey "State Uniform
35 Construction Code Act," (SUCC), the federal Fair Housing
36 Amendments Act of 1988, and the federal Americans with Disabilities
37 Act of 1990. Its provisions have been a fundamental part of the
38 Barrier Free Subcode of the State Uniform Construction Code. In
39 1986, the HAL was amended to establish different standards of
40 accessibility for "large buildings" and "small buildings." This
41 distinction, which was made to require some accessibility for all public
42 buildings, has worked well for nonresidential public buildings. A
43 recent court decision extended its applicability to multifamily
44 residences. The application of the elevator service requirement that
45 has been reasonable for large commercial buildings has proven to be
46 so burdensome when applied to multifamily dwellings that designs of

1 multifamily dwellings that seek to meet the standards for an exemption
2 from all accessibility requirements are becoming increasingly common.
3 This bill will redefine the term "public building" under the HAL to
4 mean only nonresidential buildings. The special handicapped access
5 requirements under HAL that are based on building size will apply
6 therefore only to nonresidential public buildings. The bill further
7 clarifies that nonresidential public buildings include transient
8 accommodations, such as hotels and motels. Finally, the bill moves
9 the handicapped access building requirements for residences which are
10 multi-family residential buildings from the HAL to the barrier-free
11 subcode promulgated by the Commissioner of Community Affairs as
12 part of the Uniform Construction Code Act. Currently, the
13 requirements under the HAL for residential housing apply to multi-
14 family residential buildings containing five or more dwelling units in a
15 single structure. The threshold for providing handicapped features
16 under the barrier free subcode is multi-family residential buildings
17 containing four or more dwelling units, and, under the bill's provisions,
18 will exclude certain residences of townhouse construction. The
19 changes made by the bill will bring New Jersey's law in line with the
20 threshold for compliance with accessibility standards that exists in the
21 federal Fair Housing Amendments Act of 1988.

SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

STATEMENT TO

SENATE, No. 2239

with committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 27, 2003

The Senate Community and Urban Affairs Committee reports favorably and with committee amendments Senate Bill No. 2239.

As amended by the committee, this bill would amend the law concerning the requirements for facilities for handicapped access in public buildings. Commonly known as the "Handicapped Access Law," (HAL) P.L.1971, c.220 (C.52:32-4 et seq.), the act predates the 1975 New Jersey "State Uniform Construction Code Act," (SUCC), the federal Fair Housing Amendments Act of 1988, and the federal Americans with Disabilities Act of 1990. Its provisions have been a fundamental part of the Barrier Free Subcode of the State Uniform Construction Code. In 1986, the HAL was amended to establish different standards of accessibility for "large buildings" and "small buildings." This distinction, which was made to require some accessibility for all public buildings, has worked well for nonresidential public buildings. A recent court decision extended its applicability to multifamily residences. The application of the elevator service requirement that has been reasonable for large commercial buildings has proven to be so burdensome when applied to multifamily dwellings that designs of multifamily dwellings that seek to meet the standards for an exemption from all accessibility requirements are becoming increasingly common. This bill will redefine the term "public building" under the HAL to mean only nonresidential buildings. The special handicapped access requirements under HAL that are based on building size will apply therefore only to nonresidential public buildings. The bill further clarifies that nonresidential public buildings include transient accommodations, such as hotels and motels. Finally, the bill moves the handicapped access building requirements for residences which are multi-family residential buildings from the HAL to the barrier-free subcode promulgated by the Commissioner of Community Affairs as part of the Uniform Construction Code Act. Currently, the requirements under the HAL for residential housing apply to multi-family residential buildings containing five or more dwelling units in a single structure. The threshold for providing handicapped features under the barrier free subcode is multi-family

residential buildings containing four or more dwelling units, and, under the bill's provisions, will exclude certain residences of townhouse construction. The changes made by the bill will bring New Jersey's law in line with the threshold for compliance with accessibility standards that exists in the federal Fair Housing Amendments Act of 1988.

The committee amended the bill, at the request of the Office of the Attorney General, in order to clarify that the standards of the barrier free subcode must meet or exceed the federal Fair-Housing Amendments Act of 1988 standards.

STATEMENT TO

[First Reprint]

SENATE, No. 2239

with Senate Floor Amendments
(Proposed By Senator RICE)

ADOPTED: MARCH 20, 2003

This amendment would delete from the bill a provision that would otherwise allow the Commissioner of Community Affairs to provide that the standards of the barrier free subcode to the State Uniform Construction Code need only meet the standards established under the federal Fair Housing Amendments Act of 1988.

It has been asserted that current standards under the barrier free subcode exceed the federal standards, and therefore that this provision would have authorized the commissioner to modify the subcode so as to lower the quality of accessibility currently afforded handicapped individuals in the State of New Jersey.