

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- RHODE ISLAND INCLUSIVE HOME DESIGN ACT

Introduced By: Representatives Stewart, Potter, Morales, Tanzi, Sanchez, Henries, and Cruz

Date Introduced: February 21, 2023

Referred To: House State Government & Elections

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 23-27.3 of the General Laws entitled "State Building Code" is hereby
2 amended by adding thereto the following article:

3 ARTICLE 4

4 RHODE ISLAND INCLUSIVE HOME DESIGN ACT

5 **23-27.3-800. Short title.**

6 This chapter and article shall be known and may be cited as the "Rhode Island Inclusive
7 Home Design Act."

8 **23-27.3-801. Definitions.**

9 As used in this chapter and article, the following terms shall have the following meanings,
10 except where the context clearly indicates otherwise:

11 (1) "Article" or "chapter" means the Rhode Island inclusive home design act.

12 (2) "Covered dwelling unit" means a dwelling unit that is:

13 (i) Any of the following:

14 (A) A detached single-family house;

15 (B) A townhouse or multi-level dwelling unit (whether detached or attached to other units
16 or structures);

17 (C) A ground-floor dwelling unit in a building containing more than one dwelling unit; or

18 (D) A dwelling unit accessible via elevator.

1 (ii) Is designed as, or intended for occupancy as, a residence;

2 (iii) Was designed, constructed, or commissioned, contracted, or otherwise arranged for
3 construction, by any person or entity that, at any time before the design or construction, received
4 or was guaranteed federal, state, or local financial assistance for any program or activity relating to
5 the design, construction, commissioning, contracting, or other arrangement for construction, of the
6 dwelling unit; and

7 (iv) Is made available for first occupancy on or after the effective date of this chapter.

8 (3) “Federal, state, or local financial assistance” means:

9 (i) Any assistance that is provided or otherwise made available by the United States
10 Secretary of Housing and Urban Development, the Secretary of Commerce, the Secretary of
11 Veterans Affairs, or under any program or activity of the Department of Housing and Urban
12 Development, the Department of Commerce, or the Department of Veterans Affairs; the Rhode
13 Island commerce corporation, the Rhode Island department of housing, the Rhode Island housing
14 and mortgage finance corporation, or any other state agency or quasi-public corporation; or any
15 municipal government or agency thereof, local redevelopment agency, or other local quasi-public
16 agency through any grant, loan, contract, or any other arrangement, including:

17 (A) A grant, a subsidy, a tax credit, or any other funds, including, but not limited to, a tax
18 stabilization agreement; a municipal tax increment financing agreement; any assistance pursuant to
19 the economic development initiatives fund or other funds, including rebuild Rhode Island, the first
20 wave closing fund established pursuant to chapter 64.23 of title 42, and the state tax increment
21 financing programs; any low-income housing tax credits allocated pursuant to the qualified
22 allocation plan of the Rhode Island housing and mortgage finance corporation, including, but not
23 limited to, all federal tax credits for low-income housing allocated pursuant to § 42-55-24.1; any
24 funds established as part of the long-term economic development vision and policy required by §
25 42-64.17-1; or any disbursement of federal funds allocated to a state or local agency;

26 (B) Real or personal property or any interest in or use of such property, including:

27 (I) A transfer or lease of the property for less than the fair market value or for reduced
28 consideration;

29 (II) Proceeds from a subsequent transfer or lease of the property if the federal share of the
30 fair market value is not returned to the federal government;

31 (III) Any tax credit, mortgage or loan guarantee or insurance, and community development
32 funds in the form of an obligation guaranteed under section 108 of the Housing and Community
33 Development Act of 1974 (42 U.S.C. 5308); and

34 (IV) Any assistance that is provided or otherwise made available by the Secretary of

1 Agriculture under title V of the Housing Act of 1949 (42 U.S.C. 1471 et seq.).

2 (4) "Person or entity" includes an individual, corporation (including a nonprofit
3 corporation), partnership, association, labor organization, legal representative, mutual corporation,
4 joint-stock company, trust, unincorporated association, trustee, trustee in a case under title 11,
5 United States Code, receiver, or fiduciary.

6 **23-27.3-802. Visitability requirement.**

7 (a) It shall be unlawful for any person or entity, with respect to a covered dwelling unit
8 designed, constructed, or commissioned, contracted, or otherwise arranged for new construction or
9 substantial rehabilitation as defined by the United States Department of Housing and Urban
10 Development, by the person or entity, to fail to ensure that the dwelling unit contains no fewer than
11 one level that complies with the Standards for Type C (Visitable) Units of the American National
12 Standards Institute (commonly known as "ANSI") Standards for Accessible and Usable Buildings
13 and Facilities (section 1005 of ICC ANSI A117.1-2009). Any updates to the ANSI Standards for
14 Type C (Visitable) Units shall be applied to this section upon adoption by the building code
15 standards committee.

16 (b) Upon application, the building code standards committee may grant a waiver in the case
17 of undue burden.

18 (c) Even if the standard of an undue burden has not been met, the building code standards
19 committee shall, upon application, grant a waiver in order to ensure that the project could
20 reasonably be completed in such a manner that the provisions of this chapter shall not increase the
21 total cost of the project by more than one percent.

22 **23-27.3-803. Enforcement.**

23 (a) Requirement for federal, state, or local financial assistance. An applicant for federal,
24 state, or local financial assistance shall submit an assurance to the federal, state, or local agency
25 responsible for the assistance that each program or activity of the applicant will be conducted in
26 compliance with this chapter.

27 (b) Approval of architectural, interior design, and construction plans.

28 (1) Submission.

29 (i) In general. An applicant for or recipient of federal, state, or local financial assistance for
30 the design, construction, commissioning, contracting, or other arrangement for construction, of a
31 covered dwelling unit shall submit for approval the architectural, interior design, and construction
32 plans for the unit to the building code standards committee for approval.

33 (ii) Notice included. In submitting plans under this section, a person or entity shall include
34 notice that the person or entity has applied for or received federal, state, or local financial assistance,

1 as defined in this chapter, with respect to the covered dwelling unit.

2 (c) Recovery of funds via civil damages.

3 (1) Civil damages. The State of Rhode Island shall be entitled to recover civil damages and
4 legal fees from the project developer up to the total amount of federal, state, or local financial
5 assistance for the project in question. Such damages shall be placed within the general fund of the
6 State of Rhode Island. An action for civil damages pursuant to this chapter may be filed in superior
7 court by any federal, state, local agency or quasi-public agency, state or local legislative body or
8 elected official, including the attorney general, or any resident of the State of Rhode Island. Any
9 such civil damages shall be separate and apart from any civil action pursuant to § 23-27.3-804(a)
10 and shall not be a valid justification for reducing any award of civil damages pursuant to § 23-27.3-
11 804(a).

12 (d) Enforcement actions. The enforcement actions under this section include the following:

13 (1) Reviewing any plans for a covered dwelling unit submitted under the provisions of this
14 chapter and approving or disapproving the plans based on compliance of the dwelling unit with the
15 requirements of this chapter;

16 (2) Consistent with applicable state or local laws and procedures, withholding final
17 approval of construction or occupancy of a covered dwelling unit unless and until the appropriate
18 state or local agency determines compliance with this chapter; and

19 (3) Recovery of civil damages.

20 **23-27.3-804. Enforcement.**

21 (a) Civil action for private persons.

22 (1) Not later than twenty (20) years after the occurrence or termination, whichever is later,
23 of an act or omission with respect to a covered dwelling unit in violation of this chapter, a person
24 aggrieved by the act or omission may bring a civil action in superior court against any person or
25 entity responsible for any part of the design or construction of the covered dwelling unit.

26 (2) Liability of state or local agency. In a civil action brought under subsection (a)(1) of
27 this section for a violation involving architectural or construction plans for a covered dwelling unit
28 that were approved by the appropriate state or local agency:

29 (i) If the approved plans violate this chapter and any construction on the dwelling unit that
30 violates this chapter was performed in accordance with the approved plans, the state or local agency
31 shall be liable;

32 (ii) If the approved plans comply with this chapter and any construction on the dwelling
33 unit violates this chapter, the person or entity responsible for the construction shall be liable; and

34 (iii) If the approved plans violate this chapter and any construction on the dwelling unit

1 that violates this chapter was not performed in accordance with the approved plans, the state or
2 local agency and the person or entity responsible for the construction shall be joint and severally
3 liable.

4 (b) Enforcement by attorney general.

5 (1) Civil action. If the state attorney general has reasonable cause to believe that a person
6 or group of persons has violated this chapter, the attorney general may bring a civil action in
7 superior court.

8 (2) Intervention in private action. The state attorney general may, upon timely application,
9 intervene in any civil action brought by a private person if the attorney general certifies that the
10 case is of general public importance.

11 (c) Relief. In any civil action brought under this section, if the court finds that a violation
12 of this chapter has occurred or is about to occur, the court may:

13 (1) Award to the plaintiff actual and punitive damages; and

14 (2) Grant as relief, as the court finds appropriate, any permanent or temporary injunction,
15 temporary restraining order, or other order, including an order enjoining the defendant from
16 violating the chapter or ordering such affirmative action as may be appropriate.

17 (d) Violations. For purposes of this section, a violation involving a covered dwelling unit
18 that is not designed or constructed in accordance with this chapter shall not be considered to
19 terminate until the violation is corrected.

20 (e) Attorneys' fees. In any civil action brought under this section, the court, in its discretion,
21 may allow the prevailing party a reasonable attorneys' fee and costs.

22 (f) Effect on certain sales, encumbrances, and rentals. Relief granted under this section
23 shall not affect any contract, sale, encumbrance, or lease consummated before the granting of the
24 relief and involving a bona fide purchaser, encumbrancer, or tenant, without actual notice of a civil
25 action under this section.

26 **23-27.3-805. Enforcement of state laws.**

27 Nothing in this chapter shall be construed to invalidate or limit any law of the state or a
28 political subdivision of the state, or of any other jurisdiction in which this chapter or article shall
29 be effective, that grants, guarantees, or provides the same rights, protections, and requirements as
30 are provided by this chapter or article, but any law of the state or a political subdivision thereof, or
31 other such jurisdiction that purports to require or permit any action that would violate this article
32 shall to that extent be invalid.

33 **23-27.3-806. Disclaimer of preemptive effect.**

34 Nothing in this chapter shall limit any right, procedure, or remedy available under the

1 Constitution of the United States or of Rhode Island, or any other chapter of the general laws.

2 **23-27.3-807. Severability.**

3 If any provision of this chapter or the application thereof to any person or circumstance is
4 held invalid, the remaining provisions of this chapter and the application of those provisions to
5 other persons or circumstances shall not be affected thereby.

6 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- RHODE ISLAND INCLUSIVE
HOME DESIGN ACT

1 This act would establish a new article in the state building code that would provide that
2 certain new housing construction contain at least one floor that meets the requirements for a Type
3 C (Visitable) Unit of the American National Standards Institute (commonly known as "ANSI")
4 Standards for Accessible and Usable Buildings and Facilities (section 1005 of ICC ANSI A117.1-
5 2009).

6 This act would take effect upon passage.

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