H. R. 4695

To require all newly constructed, federally assisted, single-family houses and townhouses to meet minimum standards of visitability for persons with disabilities.

IN THE HOUSE OF REPRESENTATIVES

JULY 26, 2021

Ms. SCHAKOWSKY (for herself, Mr. LANGEVIN, Mr. COHEN, Mr. GRIJALVA, Ms. MCCOLLM, and Mr. SAN NICOLAS) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To require all newly constructed, federally assisted, single-family houses and townhouses to meet minimum standards of visitability for persons with disabilities.

1 Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,
3
4 SECTION 1. SHORT TITLE.
5 This Act may be cited as the “Eleanor Smith Inclusive-
6 Home Design Act of 2021”.
7
8 SEC. 2. DEFINITIONS.
9 As used in this Act:
(1) COVERED DWELLING UNIT.—The term “covered dwelling unit” means a dwelling unit that—

(A) is—

(i) a detached single-family house;

(ii) a townhouse or multi-level dwelling unit (whether detached or attached to other units or structures); or

(iii) a ground-floor unit in a building of not more than 3 dwelling units;

(B) is designed as, or intended for occupancy as, a residence;

(C) was designed, constructed, or commissioned, contracted, or otherwise arranged for construction, by any person or entity that, at any time before the design or construction, received or was guaranteed Federal financial assistance for any program or activity relating to the design, construction, or commissioning, contracting, or other arrangement for construction, of the dwelling unit; and

(D) is made available for first occupancy on or after the date that is 1 year after the date of enactment of this Act.
(2) **Federal financial assistance.**—The term “Federal financial assistance” means—

(A) any assistance that is provided or otherwise made available by the Secretary of Housing and Urban Development or the Secretary of Veterans Affairs, or under any program or activity of the Department of Housing and Urban Development or the Department of Veterans Affairs, through any grant, loan, contract, or any other arrangement, on or after the date that is 1 year after the date of enactment of this Act, including—

(i) a grant, a subsidy, or any other funds;

(ii) service provided by a Federal employee;

(iii) real or personal property or any interest in or use of such property, including—

(I) a transfer or lease of the property for less than the fair market value or for reduced consideration; and

(II) proceeds from a subsequent transfer or lease of the property if the
Federal share of the fair market value
is not returned to the Federal Govern-
ment;

(iv) any—

(I) tax credit; or

(II) mortgage or loan guarantee
or insurance; and

(v) community development funds in
the form of an obligation guaranteed under
section 108 of the Housing and Commu-
nity Development Act of 1974 (42 U.S.C.
5308); and

(B) any assistance that is provided or oth-
wise made available by the Secretary of Agri-
culture under title V of the Housing Act of
1949 (42 U.S.C. 1471 et seq.).

(3) PERSON OR ENTITY.—The term “person or
entity” includes an individual, corporation (including
a not-for-profit corporation), partnership, associa-
tion, labor organization, legal representative, mutual
corporation, joint-stock company, trust, unincor-
porated association, trustee, trustee in a case under
title 11, United States Code, receiver, or fiduciary.
SEC. 3. VISITABILITY REQUIREMENT.

It shall be unlawful for any person or entity, with respect to a covered dwelling unit designed, constructed, or commissioned, contracted, or otherwise arranged for construction, by the person or entity, to fail to ensure that the dwelling unit contains not less than 1 level that complies with the Standards for Type C (Visitable) Units of the American National Standards Institute (commonly known as “ANSI”) Standards for Accessible and Usable Buildings and Facilities (section 1005 of ICC ANSI A117.1–2009) or any successor standard.

SEC. 4. ENFORCEMENT.

(a) Requirement for Federal Financial Assistance.—An applicant for Federal financial assistance shall submit an assurance to the Federal agency responsible for the assistance that each program or activity of the applicant will be conducted in compliance with this Act.

(b) Approval of Architectural, Interior Design, and Construction Plans.—

(1) Submission.—

(A) In general.—An applicant for or recipient of Federal financial assistance for the design, construction, or commissioning, contracting, or other arrangement for construction, of a covered dwelling unit shall submit for ap-
proval the architectural, interior design, and construction plans for the unit to the State or local department or agency that is responsible, under applicable State or local law, for the review and approval of construction and design plans for compliance with generally applicable building codes or requirements (in this subsection referred to as the “appropriate State or local agency”).

(B) Notice included.—In submitting plans under subparagraph (A), a person or entity shall include notice that the person or entity has applied for or received Federal financial assistance, as defined in this Act, with respect to the covered dwelling unit.

(2) Determination of compliance.—

(A) Condition of Federal housing assistance.—The Secretary of Housing and Urban Development, the Secretary of Agriculture, and the Secretary of Veterans Affairs may not provide any Federal financial assistance under any program administered by the Secretary involved to a State or unit of general local government (or any agency thereof) unless the appropriate State or local agency thereof is,
in the determination of the Secretary involved, taking the enforcement actions under subpara-
graph (B).

(B) Enforcement Actions.—The enforcement actions under this subparagraph are—

(i) reviewing any plans for a covered dwelling unit submitted under paragraph (1) and approving or disapproving the plans based on compliance of the dwelling unit with the requirements of this Act; and

(ii) consistent with applicable State or local laws and procedures, withholding final approval of construction or occupancy of a covered dwelling unit unless and until the appropriate State or local agency determines compliance as described in clause (i).

(c) Civil Action for Private Persons.—

(1) Action.—Not later than 2 years after the occurrence or termination, whichever is later, of an act or omission with respect to a covered dwelling unit in violation of this Act, a person aggrieved by the act or omission may bring a civil action in an appropriate district court of the United States or
State court against any person or entity responsible for any part of the design or construction of the covered dwelling unit, subject to paragraph (2).

(2) LIABILITY OF STATE OR LOCAL AGENCY.—In a civil action brought under paragraph (1) for a violation involving architectural or construction plans for a covered dwelling unit that were approved by the appropriate State or local agency—

(A) if the approved plans violate this Act and any construction on the dwelling unit that violates this Act was performed in accordance with the approved plans, the State or local agency shall be liable for that construction; and

(B) if the approved plans comply with this Act and any construction on the dwelling unit violates this Act, the person or entity responsible for the construction shall be liable for that construction.

(d) ENFORCEMENT BY ATTORNEY GENERAL.—

(1) CIVIL ACTION.—If the Attorney General has reasonable cause to believe that a person or group of persons has violated this Act, the Attorney General may bring a civil action in an appropriate district court of the United States.
(2) **INTERVENTION IN PRIVATE ACTION.**—The Attorney General may, upon timely application, intervene in any civil action brought under subsection (c) by a private person if the Attorney General certifies that the case is of general public importance.

(e) **RELIEF.**—In any civil action brought under this section, if the court finds that a violation of this Act has occurred or is about to occur, the court—

(1) may award to the plaintiff actual and punitive damages; and

(2) subject to subsection (g), may grant as relief, as the court finds appropriate, any permanent or temporary injunction, temporary restraining order, or other order (including an order enjoining the defendant from violating the Act or ordering such affirmative action as may be appropriate).

(f) **VIOLATIONS.**—For purposes of this section, a violation involving a covered dwelling unit that is not designed or constructed in accordance with this Act shall not be considered to terminate until the violation is corrected.

(g) **ATTORNEY’S FEES.**—In any civil action brought under this section, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney’s fee and costs.
(h) Effect on Certain Sales, Encumbrances, and Rentals.—Relief granted under this section shall not affect any contract, sale, encumbrance, or lease consummated before the granting of the relief and involving a bona fide purchaser, encumbrancer, or tenant, without actual notice of a civil action under this section.

SEC. 5. EFFECT ON STATE LAWS.

Nothing in this Act shall be constructed to invalidate or limit any law of a State or political subdivision of a State, or of any other jurisdiction in which this Act shall be effective, that grants, guarantees, or provides the same rights, protections, and requirements as are provided by this Act, but any law of a State, a political subdivision thereof, or other such jurisdiction that purports to require or permit any action that would violate this Act shall to that extent be invalid.

SEC. 6. DISCLAIMER OF PREEMPTIVE EFFECT ON OTHER ACTS.

Nothing in this Act shall limit any right, procedure, or remedy available under the Constitution of the United States or any other Act of Congress.

SEC. 7. SEVERABILITY OF PROVISIONS.

If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remaining provisions of this Act and the application of those pro-
visions to other persons or circumstances shall not be affected thereby.