

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	—	(Y/N)
ADOPTED AS AMENDED	—	(Y/N)
ADOPTED W/O OBJECTION	—	(Y/N)
FAILED TO ADOPT	—	(Y/N)
WITHDRAWN	—	(Y/N)
OTHER	—	

1 Committee/Subcommittee hearing bill: Commerce Committee
2 Representative Leek offered the following:

3
4 **Amendment (with title amendment)**

5 Remove everything after the enacting clause and insert:
6 Section 1. Section 553.5141, Florida Statutes, is created
7 to read:

8 553.5141 Certifications of Conformity and Remediation
9 Plans.—

10 (1) For purposes of this section:

11 (a) "Commerce" means travel, trade, traffic, commerce,
12 transportation, or communication:

13 1. Among the several states;

14 2. Between any foreign country or any territory or
15 possession and any state ; or

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16 3. Between points in the same state but through another
17 state or foreign country.

18 (b) "Department" means the Department of Business and
19 Professional Regulation.

20 (c) "Facility" means all or any portion of buildings,
21 structures, sites, complexes, equipment, rolling stock or other
22 conveyances, roads, walks, passageways, parking lots, or other
23 real or personal property, including the site where the
24 building, property, structure, or equipment is located.

25 (d) "Qualified expert" means:

26 1. An engineer licensed pursuant to ch. 471.

27 2. A certified general contractor licensed pursuant to
28 ch. 489.

29 3. A certified building contractor licensed pursuant to
30 ch. 489.

31 4. A building code administrator licensed pursuant to ch.
32 468.

33 5. A building inspector licensed pursuant to ch. 468.

34 6. A plans examiner licensed pursuant to ch. 468.

35 7. An interior designer licensed pursuant to ch. 481.

36 8. An architect licensed pursuant to ch. 481.

37 9. Any person who has had a remediation plan related to a
38 claim under Title III of the Americans with Disabilities Act, 42
39 U.S.C. 12182, accepted by a federal court in a settlement
40 agreement or court proceeding, or has been qualified as an

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41 expert in Title III of the Americans with Disabilities Act, 42
42 U.S.C. 12182, by a federal court.

43 (e) "Place of public accommodation" means a facility
44 operated by a private entity whose operations affect commerce
45 and is a private entity as described in 42 U.S.C. s. 12181(7).

46 (f) "Private entity" means any nongovernmental entity,
47 such as a corporation, partnership, company or nonprofit
48 organization, any other legal entity, or any natural person.

49 (g) "Registry" means the registry of certificates of
50 competency and remediation plans filed by places of public
51 accommodation and maintained by the department.

52 (2) (a) An owner of a place of public accommodation that
53 requests that the owner's facility be inspected by a qualified
54 expert may submit a certification of conformity with the
55 department that indicates that such place of public
56 accommodation conforms to Title III of the Americans with
57 Disabilities Act, such certification of conformity shall be
58 valid for 3 years after the date of issuance. Any certification
59 of conformity filed with the department must include:

60 1. The date the place of public of accommodation was
61 inspected.

62 2. The name of the qualified expert or any other person
63 who inspected the place of public accommodation.

64 3. Proof of qualification as an expert in accordance with
65 s.553.5141(1) (d), including a license number or a sworn

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66 statement indicating the person has at least one order by a
67 federal court accepting a remediation plan of the qualified
68 expert in a settlement agreement or at least one order by a
69 federal court accepting the qualified expert's testimony related
70 to Title III of the Americans with Disabilities Act, 42 U.S.C.
71 12182.

72 4. A statement in writing by the qualified expert
73 attesting that the information contained in the certification of
74 conformity is complete and accurate.

75 (b) An owner of a place of public accommodation that
76 requests that the owner's facility be inspected by a qualified
77 expert may submit a remediation plan with the department that
78 indicates that such place of public accommodation plans to
79 conform to Title III of the Americans with Disabilities Act
80 within a specified time period. Any remediation plan submitted
81 to the department that indicates that a place of public
82 accommodation does not conform to Title III of the Americans
83 with Disabilities Act, must include a remediation plan to remedy
84 the deficiencies, which includes a reasonable amount of time,
85 not to exceed 10 years, in which the plan must be completed. The
86 plan must include:

87 1. The date the place of public of accommodation was
88 inspected.

89 2. The name of the qualified expert or any other person
90 who inspected the place of public accommodation.

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91 3. Identification of specific remedial measures that the
92 place of public accommodation will undertake.

93 4. The anticipated date of initiation and completion for
94 each remedial measure that the place of public accommodation has
95 agreed to undertake.

96 5. Proof of qualification as an expert in accordance with
97 s.553.5141(1)(d), including a license number or a sworn
98 statement indicating the qualified expert has at least one order
99 by a federal court accepting a remediation plan of the qualified
100 expert in a settlement agreement or at least one order by a
101 federal court accepting the qualified expert's testimony related
102 to Title III of the Americans with Disabilities Act, 42 U.S.C.
103 12182.

104 6. A statement in writing by the qualified expert
105 attesting that the information contained in the remediation plan
106 is complete and accurate.

107 (3) An owner of a place of public accommodation may file a
108 certificate of conformity or a remediation plan with the
109 department. Such filing shall serve as notice to the public that
110 the place of public accommodation is in compliance with Title
111 III of the Americans with Disabilities Act or that such place of
112 public accommodation is making reasonable efforts to come into
113 compliance with such Act.

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114 (4) The department shall develop and maintain a website,
115 accessible to the public, which provides an electronic registry
116 of certifications of conformity and remediation plans.

117 (5) In any action brought in this state alleging a
118 violation of Title III of the Americans with Disabilities Act,
119 42 U.S.C. s. 12182, a court must consider any remediation plan
120 or certification of conformity, filed in accordance with this
121 section by a place of public accommodation with the department
122 before the filing of the plaintiff's complaint, when the court
123 considers and determines whether the plaintiff's complaint was
124 filed in good faith and whether the plaintiff is entitled to
125 attorney fees and costs.

126 Section 2. For the 2017-2018 fiscal year, the sums of
127 \$5,000 in recurring funds and \$155,000 in nonrecurring funds
128 from the Professional Regulation Trust Fund are appropriated to
129 the Department of Business and Professional Regulation for the
130 purpose of implementing this act.

131 Section 3. This act shall take effect July 1, 2017.

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133 **T I T L E A M E N D M E N T**

134 Remove everything before the enacting clause and insert:
135 An act relating to the accessibility of places of public
136 accommodation; creating s. 553.5141, F.S.; providing
137 definitions; authorizing qualified experts to advise and
138 provide certain inspections for places of public

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139 accommodation relating to the Americans with Disabilities
140 Act; authorizing an owner of a place of public
141 accommodation to request a facility to be inspected for
142 specified purposes; authorizing an owner of a place of
143 public accommodation to file a certificate of conformity or
144 remediation plan with the Department of Business and
145 Professional Regulation; requiring a court to consider
146 certain information in specified actions; requiring the
147 department to develop and maintain a website for specified
148 purposes; providing an appropriation; providing an
149 effective date.