

HOUSE No. 4758

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, May 12, 2022.

The committee on Public Safety and Homeland Security to whom was referred the petition (accompanied by bill, House, No. 2419) of Christine P. Barber, Michael J. Moran and others relative to the Architectural Access Board and the removal of certain barriers that discriminate against persons with disabilities, mobility impairments and seniors, and the petition (accompanied by bill, House, No. 2420) of Christine P. Barber, Michael J. Moran and others relative to the availability of adaptable housing for consumers with disabilities, mobility impairments and seniors, reports recommending that the accompanying bill (House, No. 4758) ought to pass.

For the committee,

CARLOS GONZÁLEZ.

HOUSE No. 4758

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act relative to expanding the availability of adaptable housing for consumers with disabilities, mobility impairments, and seniors.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. The first paragraph of section 13A of chapter 22 of the General Laws, as
2 appearing in the 2018 Official Edition, is hereby amended by striking out the second and third
3 sentences and inserting in place thereof the following 3 sentences:-

4 "Two of the appointive members shall be architects licensed to practice in the
5 Commonwealth. One of the appointive members shall be a licensed building inspector. Three of
6 the appointive members shall be selected after consultation with advocacy groups on behalf of
7 persons with disabilities."

8 SECTION 2. The first paragraph of section 13A of chapter 22 of the General Laws, as
9 appearing in the 2018 Official Edition, is hereby amended by striking out the fourth paragraph,
10 consisting of lines 38 through 63, and inserting in place thereof the following four paragraphs:

11 The board shall make and from time to time alter, amend, and repeal, in accordance with
12 the provisions of chapter thirty A, rules and regulations designed to make multiple dwellings and

13 public buildings accessible to, functional for and safe for use by persons with disabilities. The
14 board shall also make rules and regulations requiring that any person who has lawful control of
15 improved or enclosed private property used as off-street parking areas where the public has a
16 right of access as invitees or licensees, shall reserve parking spaces in said off-street parking
17 areas for vehicles authorized to display handicapped plates or placards under section 2 of chapter
18 90; provided, that the parking requirements shall be consistent with the Americans with
19 Disabilities Act Standards for Accessible Design. The parking spaces reserved for vehicles of
20 such handicapped persons shall be clearly marked as such.

21 The rules and regulations of the board shall also establish standards and procedures
22 designed to make adaptable for persons with physical disabilities for any building, regardless of
23 the date of construction, (1) all dwelling units in multiple dwellings equipped with an elevator;
24 (2) all ground floor dwelling units in multiple dwellings not equipped with an elevator; and (3)
25 all public use and common use portions of such multiple dwellings, providing however, that in
26 any building constructed before March thirteenth, nineteen hundred and ninety one, such
27 standards and procedures for dwelling units shall apply only to such units within (1) any non-
28 residential building undergoing a gut rehabilitation as part of a change in use into a multiple
29 dwelling facility, or (2) any residential building which is vacant undergoing a gut rehabilitation.

30 The rules and regulations of the board shall establish standards and procedures designed
31 to make accessible to, functional for and safe for use by persons with physical disabilities
32 residential buildings whenever constructed and without the restrictions in the above paragraph.
33 Unless otherwise specified, five percent of the units in lodging or residential facilities for hire,
34 rent or lease, containing twenty or more units, shall meet this requirement; provided, however,
35 that accessible units shall allow five feet of turning radius for a wheelchair in the kitchens and

36 bathrooms. In the event that the board determines that the need, in certain areas of the
37 commonwealth, for such units either exceeds or does not require said five percent, the board may
38 require that, in said areas a percentage of units less than five percent or not greater than ten
39 percent be accessible and safe for persons with disabilities; provided, however, that said
40 accessible units shall allow five feet of turning radius for a wheelchair in the kitchens and
41 bathrooms. The board may make such determination only if there is sufficient factual basis,
42 using data from the central registry of the Massachusetts Rehabilitation Commission and other
43 sources, to establish with a reasonable degree of certainty the present and future needs for said
44 accessible units in certain areas of the commonwealth. A percentage of less than five percent
45 shall not be established unless such accessible units, which are not needed by persons with
46 disabilities cannot be readily hired, rented, or leased to other persons.

47 The rules and regulations of the board shall include, but not be limited to, detailed
48 architectural standards further defining adaptable and accessible dwelling units, and such other
49 provisions necessary to provide rights and remedies substantially equivalent to or greater than
50 the rights and remedies provided by the federal Fair Housing Act, the Department of Justice's
51 Americans with Disabilities Act Standards for Accessible Design and regulations thereunder as
52 they pertain to such multiple dwellings.

53 SECTION 3. Said section 13A of said chapter 22, as so appearing, is hereby further
54 amended by inserting after the word "building", in line 93, the following words:-

55 "or facility including Areas not generally in Public Use"

56 ".

57 SECTION 4. Said section 13A of said chapter 22, as so appearing, is hereby further
58 amended by striking out, in lines 11 and 12, the words “in behalf of the physically handicapped”
59 and inserting in place thereof the following words:-

60 "on behalf of persons with disabilities".

61 SECTION 5. Said section 13A of said chapter 22, as so appearing, is hereby further
62 amended by inserting after the word “buildings”, in line 67, the following words:-

63 "and facilities".

64 SECTION 6. Said section 13A of said chapter 22, as so appearing, is hereby further
65 amended by inserting after the word “buildings”, in line 75, the following words:-

66 "and facilities".

67 SECTION 7. Said section 13A of said chapter 22, as so appearing, is hereby further
68 amended by striking out, in lines 80 and 81, the words “handicapped persons,” and inserting in
69 place thereof the following words:-

70 "persons with a disability.

71 SECTION 8. Said section 13A of said chapter 22, as so appearing, is hereby further
72 amended by striking out, in lines 88 and 89 the word “newspaper” and inserting in place thereof
73 the following words:-

74 "forms of".

75 SECTION 9. Said section 13A of said chapter 22, as so appearing, is hereby further
76 amended by inserting after the word “building”, in line 93, the following words:-

77 "or facility".

78 SECTION 10. Said section 13A of said chapter 22, as so appearing, is hereby further
79 amended by inserting after the word "building", in line 94, the following words:-

80 "or facility".

81 SECTION 11. Said section 13A of said chapter 22, as so appearing, is hereby further
82 amended by inserting after the word "changed to a", in line 94, the following words:-

83 "residential use or a".

84 SECTION 12. Said section 13A of said chapter 22, as so appearing, is hereby further
85 amended by inserting, in line 94, after the words "which the building" the following words:-

86 "or facility."

87 SECTION 13. Said section 13A of said chapter 22, as so appearing, is hereby further
88 amended by inserting after the word "building", in line 96, the following words:-

89 "or facility".

90 SECTION 14. Said section 13A of said chapter 22, as so appearing, is hereby further
91 amended by striking out, in lines 102 and 103, the words "physically handicapped persons" and
92 inserting in place thereof the following words:-

93 "persons with a disability".

94 SECTION 15. Said section 13A of said chapter 22, as so appearing, is hereby further
95 amended by striking out the eighth paragraph, consisting of lines 107 through 127.

96 SECTION 16. Said section 13A of said chapter 22, as so appearing, is hereby further
97 amended by striking out, in lines 131 and 132, the word “person” and inserting in place thereof
98 the following words:-

99 "building, or portion thereof,".

100 SECTION 17. Said section 13A of said chapter 22, as so appearing, is hereby further
101 amended by inserting after the words “for a building”, in line 150, the following words:-

102 "or facility".

103 SECTION 18. Said section 13A of said chapter 22, as so appearing, is hereby further
104 amended by inserting after the word “building”, in line 166, the following word:-

105 ", facility".

106 SECTION 19. Said section 13A of said chapter 32, as so appearing, is hereby further
107 amended by striking out, in lines 177, 179 and 187 the words “physically handicapped persons”
108 and inserting in place thereof, in each instance, the following words:-

109 "persons with a disability".

110 SECTION 20. Said section 13A of said chapter 22, as so appearing, is hereby further
111 amended by inserting after the definition of “Alteration”, the following definition:

112 “Areas that are not generally in public use,” areas not intended for use by the public, as
113 designated in the 1991 and 2010 Americans with Disabilities Act (ADA) Standards for
114 Accessible Design, and employee work areas.

115 SECTION 21. Said section 13A of said chapter 22, as so appearing, is hereby further
116 amended by inserting after the definition of “Construction” the following definitions:-

117 “Employee work area”:-

118 "Employee work area," all or any portion of a space used only by employees and used
119 only for work. Corridors, toilet rooms, kitchenettes and break rooms are considered “employee
120 work areas” and shall be made accessible in new construction, or where renovation work being
121 performed is otherwise subject to the jurisdiction of the Board. Corridors, toilet rooms,
122 kitchenettes and break rooms are not otherwise considered “employee work areas;” provided
123 however, that where corridors, toilet rooms, kitchenettes and break rooms constitute the path of
124 travel to or are essential to the use of employees for work, they shall be, when possible,
125 adaptable.

126 SECTION 22. Said section 13A of said chapter 22, as so appearing, is hereby further
127 amended by inserting after the definition of “Construction” the following definitions:-

128 “Facility”, all or any portion of a building, structure, site improvement, complex,
129 equipment, road, walk, passageway, parking lot or other real or personal property, including the
130 site where the building, property, structure or equipment is located."

131 “Gut Rehabilitation”, the general replacement of the interior of a building that may or
132 may not include changes to structural elements such as flooring systems, columns or load
133 bearing interior or exterior walls.

134 SECTION 23. Said section 13A of said chapter 22, as so appearing, is hereby further
135 amended by striking out the definition of “Public building” and inserting in place thereof the
136 following definition:-

137 “Public building”, buildings constructed by the commonwealth or any political
138 subdivision thereof with public funds and open to public use, including, but not limited to, those
139 constructed by public housing authorities, the Massachusetts Port Authority, the Massachusetts
140 Parking Authority, the Massachusetts Department of Transportation, the Massachusetts Bay
141 Transportation Authority, or building authorities of any public educational institution, or their
142 successors; and privately financed buildings that are open to and used by the public, including
143 but not limited to places of public accommodation listed in section 92A of chapter 272 of the
144 General Laws, and 42 U.S.C. section 12181(7). SECTION 24. Said section 13A of said

145 chapter 22, as so appearing, is hereby further amended by striking out, in line 200, the words
146 “Physically handicapped person” and inserting in place thereof the following words:-

147 "Person with a disability".

148 SECTION 25. Said section 13A of said chapter 22, as so appearing, is hereby further
149 amended by striking out, in line 204, the words “Physically handicapped persons” and inserting
150 in place thereof the following words:-

151 "A person with a disability."