

House Passes Changes to Americans with Disabilities Act

In a 225-192 vote last month, most House Republicans and a dozen Democrats passed a bill that makes it harder for disabled persons to sue for discrimination, in an effort to prevent opportunistic attorneys from taking advantage of business owners.

But many disability and civil rights groups fear the bill will weaken incentives for businesses to comply with the Americans With Disabilities Act of 1990 (ADA), which mandates equal access to public accommodations.

Proponents argue that the bill, the ADA Education and Reform Act, or H.R. 620, is necessary to stem the flow of "drive-by lawsuits" brought by lawyers who only wish to line their pockets. The bill would require those filing suit in federal court against businesses for not complying with the ADA to first give that business 60 days to devise a plan to fix the problem. They then have another 120 days to implement the changes.



"There is now a whole industry made up of people who prey on small business owners and file unnecessary and abusive lawsuits," Representative Ted Poe of Texas, who co-sponsored the bill, said after introducing the measure in 2017. "This bill will change that by requiring that the business owners have time to fix what is allegedly broken."

The bill would effectively gut the ADA, detractors argue. Without a fear of being sued, businesses might be inclined to ignore ADA compliance rules. Critics of the bill also believe people with disabilities should not bear the responsibility of making sure businesses are compliant with the law.

"Instead of expecting businesses to own the responsibility of complying with civil rights laws, it shifts the burden to the individual who is being denied access," the American Civil Liberties Union (ACLU) wrote in a letter to congressional representatives on Thursday.

The ACLU called the bill unacceptable. "This scheme removes the business's incentive to proactively ensure that it is accessible to people with disabilities," it said. "Instead, businesses will simply wait until someone's right to access is violated and notification is received before making the change they were already obligated to make."

More than 200 disability rights supporters signed a letter in opposition to the bill, including the National Bar Association, the Paralyzed Veterans of America and the NAACP.

The motivation for the bill stems from reports of trial lawyers and firms across the country submitting dozens of lawsuits against businesses for not complying with the ADA. A *60 Minutes* segment from earlier this year showed lawyers in California filing ADA complaints simply after noticing violations by driving by a business or going online via Google Earth.

House Passes Changes to Americans with Disabilities Act (CONT'D)

But critics say that these issues can be addressed at the state level and through district courts.

"[Frivolous] ADA lawsuits...are not an ADA issue; they are a state and court problem," disability rights lawyer Robyn Powell wrote in an op-ed for Rewire in May 2017. "Indeed, ethics rules bar attorneys from bringing frivolous lawsuits. Rather than go after people with disabilities, attention should be focused on stopping these few bad attorneys."

The bill now goes to the Senate.

Rent Control: Say Aloha to Basic Economics



**Rent is
Out of
Control!**

A growing number of state and local governments are considering rent control legislation, and unfortunately, Hawaii is putting a new spin on an old—and failed—policy from the past: rent regulation.

Lawmakers in Hawaii want to create a statewide system of rent controls. HB2575 is one of two proposals that attempts to achieve the aim of controlling prices on rental housing. This proposal would establish a new state law for rent stabilization, outlines how property owners comply, lists unlawful actions under the new measure and how rents will be

calculated. The other bill in the Aloha state is SB2980. While slightly different than the bill in the House, it still seeks to create a statewide rent control law.

NAA is seeing movement on the mainland as well. Legislators in Illinois are once again attempting to roll back the state law that prohibits local governments from adopting rent control. This year lawmakers are considering SB2310. State Senator Daniel Biss (D-9), who introduced it purports the bill will allow “**working families to stay in their homes and to push back against this dangerous wave of gentrification.**” Unfortunately, what Senator Biss fails to realize is that rent control will adversely affect the populations he claims he wants to protect—low income residents, the elderly, families with children and disabled individuals—while providing the greatest benefit to higher income populations.

In Massachusetts, HB3541 is again being considered. This proposal, which was introduced last year, would authorize Boston to pass a rent control measure that would effectively carve out one of the largest metro areas in the Commonwealth from the state law prohibiting rent regulation.

At the local level, tenants’ rights advocates in California continue their quest to build on the successful rent control campaigns in 2016 in Mountain View and Richmond. This time, they are focusing on the cities of Santa Cruz and Long Beach. In both jurisdictions, tenants’ rights groups have submitted proposed ballot measures, and the cities have 15 days to review the title and text of the initiative. If approved, organizers in Santa Cruz will need to collect 8,000 valid registered voters’ signatures, and groups in Long Beach need to gather 27,000 valid registered voters’ signatures within 180 days to be placed on the November 2018 ballot.

Rent Control: Say Aloha to Basic Economics (CONT'D)

Policymakers champion rent control because they believe these policies will help renters, however these proposals only exacerbate housing affordability because rent regulation runs counter to basic economic principles. These policies drive up rents, discourage new construction and investment in housing, reduce the amount of available units, require the creation of large bureaucracies to administer the law and cost governments property tax revenue.

Aloha to basic economics!

Fire Safety Proposals to Watch in 2018

Because apartment fires have gained national, and sometimes international, media attention, concerned citizens and advocates alike are calling for fire safety mandates and pushing this issue to the forefront of policymakers' agendas. Recent proposals are problematic as they would have unintended consequences on the availability and affordability of housing. Below is an overview of fire safety proposals to watch in 2018.



Sprinkler Mandates

One high profile condo fire spurred the Honolulu City Council to consider a proposal from Mayor Kirk Caldwell that would require sprinkler retrofits for all existing residential buildings. The fire, which resulted in 3 deaths, gained media attention because the multistory building lacked sprinklers and had no emergency exit plan to guide residents, many of whom were disabled and r assistance. The mayor's proposal addressed a growing need given that in Honolulu, many retirees live in older condo and apartment communities built without sprinklers.

While well-intentioned, the proposal has its detractors, including the likely beneficiaries of the proposal. During council meetings, local seniors testified in opposition to the bill as retrofitting these buildings would cost about \$40,000 per unit. Those who testified said they are already on a fixed income and, if passed, this legislation would result in an increase in rent or require each condo owner to take out a loan to cover the cost.

In light of these concerns, the council approved an amended version of the bill in a 9-7 vote on January 31. The newest version requires existing high-rise residential buildings not protected throughout by an automatic fire sprinkler system to be subject to building fire and life safety evaluation code assessments, which consist of a review of building safety features and fire protection systems in accordance with the fire code and the building code. Also, the bill, as amended, allows for covered buildings to opt out of the automatic fire sprinkler system requirement for individual dwelling units; provided that, a majority of unit owners vote to opt out of the requirement within three years of the completion of the building fire and life safety evaluation. The bill remains in process.

Fire Safety Proposals to Watch in 2018 (CONT'D)

Online Reporting of Fire Code Violations

Given that in the Information Age, calls for transparency abound, activity in neighboring Canada may gain attention in the United States. In Toronto, residents of high-rise buildings can now access an online portal, launched by the city and Toronto Fire Services, to review the results of fire inspections of the buildings in which they reside. Tenant advocates pushed for the city to adopt this measure.

Advocates may find this approach appealing, but the availability of limited public information would paint an inaccurate picture of affected apartment owners.

Apartment Construction Fire Safety

In Massachusetts, local governments look to restrict the use of wood framing in new construction in light of several construction site fires last summer. To curtail these efforts in Boston, the National Fire Prevention Association (NFPA), worked with the city, to create a training program for construction workers on the importance of safety protocols at construction sites. The NFPA/City of Boston program points out common causes of construction fires and how to prevent them, like regularly removing garbage from the site and ongoing communication during potentially dangerous construction activities.

The training program was developed after an apartment construction fire resulted in the death of three firefighters. Developers blamed the construction site blaze— which occurred just before sprinklers were scheduled to be connected— on human error. The educational program is a good alternative in jurisdictions that are considering prohibitions on certain building materials, which would have a significant effect on the cost of construction that would be offset by increases in rent.



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