

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WITHDRAWN (Y/N)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: Careers & Competition
2 Subcommittee

3 Representative Leek offered the following:

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Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Section 553.5141, Florida Statutes, is created
to read:

553.5141 Americans with Disabilities Act; certification of
experts.-

(1) For purposes of this section:

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

1. Among the several states;

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

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

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

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

26 (d) "Certified expert" means a person certified by the
27 department under subsection (2).

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

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

34 (g) "Registry" means the registry of certified experts and
35 of remediation plans filed by places of public accommodation and
36 maintained by the department.

37 (2) (a) The department shall establish a program to provide
38 certification for experts who have sufficient training,
39 knowledge, or experience to advise places of public
40 accommodation regarding the compliance guidelines applicable to
41 places of public accommodation under Title III of the Americans

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42 with Disabilities Act, 42 U.S.C. s. 12182. The certified experts
43 must provide inspections of places of public accommodation to
44 determine if barriers to access are present in the facility
45 within the meaning of 42 U.S.C. s. 12182 and the applicable
46 regulations interpreting that chapter.

47 (b) The department shall establish requirements to qualify
48 for certification under this section.

49 (3) (a) An owner of a place of public accommodation may
50 request that a facility be inspected by a certified expert.
51 However, use of an expert certified under this section is not
52 required.

53 (b) If a place of public accommodation conforms to
54 subchapter III of the Americans with Disabilities Act, the
55 certified expert must provide the owner with a certification of
56 conformity which is valid for 3 years after the date of
57 issuance.

58 (c) If a place of public accommodation does not conform to
59 subchapter III of the Americans with Disabilities Act, the
60 certified expert must provide the owner with a remediation plan
61 to remedy the deficiencies. The certified expert shall provide a
62 reasonable amount of time, not to exceed 10 years, in which the
63 plan must be completed. The plan must include:

64 1. The date the place of public of accommodation was
65 inspected.

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66 2. The name of the certified expert or other person who
67 inspected the place of public accommodation.

68 3. Identification of specific remedial measures that the
69 place of public accommodation will undertake.

70 4. The anticipated date of initiation and completion for
71 each remedial measure that the place of public accommodation has
72 agreed to undertake.

73 (d) In any action brought in this state alleging a
74 violation of Title III of the Americans with Disabilities Act,
75 42 U.S.C. s. 12182, the courts shall consider any remediation
76 plan filed by the place of public accommodation before the
77 filing of the plaintiff's complaint in determining if the
78 plaintiff's complaint was filed in good faith and if the
79 plaintiff is entitled to attorney fees and costs.

80 (4) The department shall develop and maintain a website,
81 accessible to the public, which provides a list of all certified
82 experts and an electronic registry of certifications of
83 conformity and remediation plans.

84 (5) The department shall adopt rules to administer this
85 section.

86 Section 2. This act shall take effect July 1, 2017.

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

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91 Remove lines 6-16 and insert:
92 program to provide for the certification of certain experts;
93 authorizing such experts to advise and provide certain
94 inspections for places of public accommodation relating to the
95 Americans with Disabilities Act; requiring the department to
96 establish certification requirements; authorizing an owner of a
97 place of public accommodation to request a facility to be
98 inspected for specified purposes; requiring a certified expert
99 to provide the owner with a certification of conformity or
100 remediation plan under certain conditions; requiring a court to
101 consider certain