



## National Council on the Handicapped

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An Independent Federal Agency

October 11, 1988

To: National Council on the Handicapped

From: Robert L. Burgdorf Jr., Attorney/Research Specialist  
(Handwritten initials appear after the name and title)

Subject: Fair Housing Amendments Act of 1988

At 11:10 a.m. on September 13, 1988, President Ronald Reagan signed into law the Fair Housing Amendments Act of 1988. The new law, Public Law No. 100-430, amends title VIII of the Civil Rights Act of 1968 (Title VIII is commonly known as the Fair Housing Act), and represents a significant advance for Americans with disabilities. Two of the major recommendations regarding housing made by the National Council on the Handicapped in its 1986 report, Toward Independence, were that discrimination on the basis of handicap should be added to the types of discrimination (race, color, religion, sex, and national origin) prohibited by the Fair Housing Act, and that new housing construction should be required to comply with standards of accessibility and adaptive design. The bill signed by the President substantially fulfills both of these recommendations.

The House of Representatives had passed its version of the bill (H.R. 1158) on June 29, 1988. On August 2, the Senate passed the bill with a few modifications by a vote of 94 to 3. On August 8, the House agreed to the Senate revisions by a voice vote. The new law greatly strengthens the enforcement processes under the Fair Housing Act, which now may include the levying of substantial fines by administrative law judges for failure to comply. In addition, P.L. 100-430 adds two new categories to the types of discrimination prohibited by the Act: discrimination against families with children and discrimination on the basis of handicap.

The provisions dealing with discrimination on the basis of handicap break important new ground in several ways:

(1) P.L. 100-430 is the first major, substantive Federal civil rights law in which discrimination on the basis of handicap has been added to the list of prohibited discrimination on the basis of race, color, sex, religion, and national origin.

(2) This statute imposes accessibility standards upon the design and future construction of housing, and makes the failure to comply with such accessibility requirements an unlawful act of discrimination under the Act.

(3) The new law establishes a requirement upon housing providers to make "reasonable accommodations" when necessary to afford a person with a disability an equal opportunity to use

and enjoy housing. This is the first Federal statute to expressly delineate a duty to make reasonable accommodations as an element of nondiscrimination on the basis of handicap. Although the term "reasonable accommodation" has appeared in regulations and court decisions, this is the first handicap nondiscrimination measure to use this phrase in the actual statutory language.

(4) P.L. 100-430 not only outlaws discrimination in housing against an individual because of his or her disability, but also prohibits discrimination against someone because he or she associates with a person who has a disability, or plans to have a person with a disability reside in the dwelling. Consequently, it will now be unlawful to refuse to rent or sell a dwelling to a person because that person has a parent, child, roommate, friend, tenant, spouse, paramour, or other associate who has a disability.

(5) The new law provides that an individual with a disability cannot be prohibited from making reasonable modifications in a dwelling at his or her own expense if necessary for full enjoyment of the premises.

Among the most significant of the provisions dealing with discrimination on the basis of handicap in P.L. 100-430 may be those dealing with accessibility in new housing construction. These will assure that, over time, the housing supply in America will increasingly include units with basic features of accessibility built in. The accessibility requirements apply to "covered multifamily dwellings" designed and constructed for first occupancy after 30 months from the date of enactment, i.e., after March 13, 1991. Covered multifamily units refers to ground floor units in all buildings having four or more housing units, plus all other housing units in buildings that have four or more units and have an elevator. The Act does not require the installation of elevators in any building that was designed and constructed to be a "walk-up" without an elevator.

For covered multifamily units, the following is required:

(a) public and common use areas must be readily accessible and usable by individuals with disabilities;

(b) all doors into and within housing units must be sufficiently wide to permit wheelchair passage; and

(c) the dwelling units must meet the following features of adaptive design:

(i) an accessible route into and through the dwelling;  
(ii) light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;

(iii) reinforcements in bathroom walls to allow later installation of grab bars; and

(iv) usable kitchens and bathrooms so that an individual in a wheelchair can maneuver about.

You may notice that the latter "features of adaptive design" are very similar to the concepts of a "universally accessible floor plan" and "adaptability" suggested by the Council in Toward Independence (pp. 8-9). These concepts had been advocated for some time by architect Ron Mace and others, but may have first been formally recommended for inclusion in the Fair Housing legislation in Toward Independence. In any event, the inclusion of the various provisions regarding discrimination on the basis of handicap in the Fair Housing Amendments Act represents a substantial victory for individuals with disabilities, and one that will have a tremendous impact in increasing the availability of housing opportunities in the future. P.L. 100-430 was the result of hard work by many, many individuals, and its enactment is something for which all of us may be proud.

I am attaching a copy of the enrolled bill that was signed into law by the President.