

Sixty-third  
Legislative Assembly  
of North Dakota

ENGROSSED SENATE BILL NO. 2129

Introduced by

Senators Laffen, Cook, Sorvaag

Representatives N. Johnson, Kreun, Sukut

1 A BILL for an Act to amend and reenact section 54-21.3-04.1 of the North Dakota Century  
2 Code, relating to the state building code and accessibility standards.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 ~~— **SECTION 1. AMENDMENT.** Section 54-21.3-04.1 of the North Dakota Century Code is  
5 amended and reenacted as follows:~~

6 ~~— **54-21.3-04.1. Accessibility standards.**~~

7 ~~— Notwithstanding section 54-21.3-04, every building or facility subject to the federal  
8 Americans with Disabilities Act of 1990 [Pub. L. 101-336; 104 Stat. 327] must conform to the  
9 accessibility standards of the Americans with Disabilities Act Accessibility Guidelines for  
10 Buildings and Facilities as contained in the appendix to title 28, Code of Federal Regulations,  
11 part 36 [28 CFR 36]. State and political subdivision entities may not claim the exceptions to the  
12 requirement that elevators be installed in certain buildings as those exceptions are stated in  
13 exception 1 to section 4.1.3(5) and in section 4.1.6(1)(k)(i) in the Americans with Disabilities Act  
14 Accessibility Guidelines for Buildings and Facilities found in the appendix to 28 CFR 36. A  
15 structural change to an existing state or political subdivision building or facility is not required if  
16 another method is effective in achieving compliance with regulations adopted under Public Law  
17 101-336. For public accommodations, an alternative to a structural change in existing buildings  
18 or facilities is permitted only after it has been documented, in accordance with regulations  
19 adopted under Public Law 101-336, that a particular structural change is not readily achievable.  
20 A state agency or the governing body of a political subdivision shall require from any person  
21 preparing plans and specifications for a building or facility subject to the Americans with  
22 Disabilities Act of 1990 [Pub. L. 101-336; 104 Stat. 327], a statement that the plans and  
23 specifications are, in the professional judgment of that person, in conformance with the  
24 Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities found in the~~

1 appendix to 28 CFR 36, subject to the exception stated in this section. A statement of  
2 conformance must be submitted to the department of commerce division of community services  
3 for recording.

4 ~~1. This section replaces any reference to "accessibility standards" in the state and a  
5 political subdivision's building code. Notwithstanding section 54-21.3-04, every  
6 building or facility subject to the federal Americans with Disabilities Act must conform  
7 to the accessibility standards as published by the department of justice revised  
8 regulations for titles II and III of the Americans with Disabilities Act of 1990 in the  
9 federal register on September 15, 2010. The 2010 standards are minimum  
10 requirements, both scoping and technical, for newly designed and constructed or  
11 altered state and local government facilities, public accommodations, and commercial  
12 facilities to be readily accessible to and usable by individuals with disabilities.~~

13 ~~2. These standards include standards for state and local governments, which consist of  
14 the title II regulations at 28 CFR 35.151 and the 2004 Americans with Disabilities Act  
15 accessibility guidelines at 36 CFR, part 1191, appendices B and D; the 2010  
16 standards for public accommodations and commercial facilities, which consist of the  
17 title III regulations at 28 CFR, part 36, subpart D, and the 2004 Americans with  
18 Disabilities Act accessibility guidelines at 36 CFR, part 1191, appendices B and D.~~

19 ~~3. These standards include the elevator requirements and exceptions are stated in  
20 206.2.3; exceptions: 11 through 7.~~

21 ~~4. All state agencies, governing bodies of a political subdivision, and controlling bodies of  
22 all public accommodations and commercial facilities shall require from the person  
23 preparing drawings and specifications for a building or facility, subject to the  
24 Americans with Disabilities Act of 1990, revised 2010, a statement referencing all  
25 applicable sections of the standards, that the drawings and specifications are in the  
26 professional judgment of that person, in conformance with 2010 Americans with  
27 Disabilities Act standards for accessible design. For all public facilities, the statement  
28 of conformance must be submitted to the controlling body before construction  
29 proceeds. A copy of the statement must be submitted to the department of commerce  
30 division of community services for recording.~~

~~5. A building constructed after July 31, 2013, in excess of seven thousand five hundred square feet [696.77 square meters], which is classified within the state building code as assembly, business, educational, instructional, or mercantile occupancy and required by the state building code to be accessible must include at the primary exterior public entrance an automatic door or power-assisted manual door that complies with the requirements of the Americans with Disabilities Act of 1990, revised 2010.~~

**SECTION 1. AMENDMENT.** Section 54-21.3-04.1 of the North Dakota Century Code is amended and reenacted as follows:

**54-21.3-04.1. Accessibility standards - Automatic doors.**

1. Notwithstanding section 54-21.3-04, every building or facility subject to the federal Americans with Disabilities Act of 1990 [Pub. L. 101-336; 104 Stat. 327] must conform to the ~~accessibility standards of the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities~~ 2010 Americans with Disabilities Act standards for accessible design as contained in ~~the appendix to~~ title 28, Code of Federal Regulations, ~~part~~ parts 35 and 36 [28 CFR 35 and 36]. ~~State and political subdivision entities may not claim the exceptions to the requirement that elevators be installed in certain buildings as those exceptions are stated in exception 1 to section 4.1.3(5) and in section 4.1.6(1)(k)(i) in the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities found in the appendix to 28 CFR 36. A structural change to an existing state or political subdivision building or facility is not required if another method is effective in achieving compliance with regulations adopted under Public Law 101-336. For public accommodations, an alternative to a structural change in existing buildings or facilities is permitted only after it has been documented, in accordance with regulations adopted under Public Law 101-336, that a particular structural change is not readily achievable.~~

2. A state agency or the governing body of a political subdivision shall require from any ~~person~~ individual preparing plans and specifications for a building or facility subject to the Americans with Disabilities Act of 1990 [Pub. L. 101-336; 104 Stat. 327], a statement that the plans and specifications are, in the professional judgment of that ~~person~~ individual, in conformance with the Americans with Disabilities Act ~~Accessibility~~

1 ~~Guidelines for Buildings and Facilities found in the appendix to 28 CFR 36, subject to~~  
2 ~~the exception stated in this section~~ standards for accessible design as provided under  
3 subsection 1. A statement of conformance must be submitted to the department of  
4 commerce division of community services for recording.

5 3. After July 31, 2013, a newly designed and constructed building in excess of seven  
6 thousand five hundred square feet [696.77 square meters] which is classified within  
7 the state building code as assembly, business, educational, institutional, or mercantile  
8 occupancy and required by the state building code to be accessible must include at  
9 the primary exterior public entrance an automatic door or power-assisted manual door  
10 that complies with the requirements of the Americans with Disabilities Act of 1990,  
11 revised 2010. If a multiple unit building does not have a primary exterior public  
12 entrance, an individual unit within that building is not required to include an automatic  
13 door or power-assisted manual door unless that individual unit is in excess of seven  
14 thousand five hundred square feet [696.77 square meters].