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**BILL ANALYSIS**



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Senate Bill 1207 (as enacted)

**PUBLIC ACT 478 of 2018**

Sponsor: Senator Ken Horn

Senate Committee: Economic Development and International Investment

House Committee: Regulatory Reform

Date Completed: 2-13-19

**RATIONALE**

An essential part of economic development in Michigan's cities has been the rehabilitation of existing structures for the purpose of hosting a variety of new businesses. Currently, if a business renovates an existing structure's primary function area, the area where people carry out the major activities for which a facility is used, it also must alter the area, as well as the routes and the amenities that serve it, so that the building complies with Americans with Disabilities Act's (ADA's) requirement for accessibility. Some contend that the costs associated with accessibility compliance can be burdensome to renovation projects.

To address the disproportionate costs that providing accessibility can have on smaller projects, the ADA, as well as the International Existing Building Code (IEBC), specifies that a primary function area must be made accessible unless the costs of doing so are disproportionate; that is, those costs would exceed 20% of the total cost of the project in which case, the accessibility changes must be made up to the 20 % threshold. In addition, many states reportedly have adopted this standard. Accordingly, it was suggested that Michigan also should establish the 20% cost threshold.

**CONTENT**

**The bill amends the Single State Construction Code Act by adding Section 13g, which does the following:**

- Requires, except as otherwise provided by the Michigan rehabilitation code for existing buildings, where an alteration affects the accessibility to, or contains, an area of primary function, a route to a primary function area to be accessible.**
- Requires the accessible route to the primary function area to include toilet facilities and drinking fountains serving the area of primary function.**

Under the bill, except as otherwise provided by the Michigan rehabilitation code for existing buildings, where an alteration affects the accessibility to, or contains, an area of primary function, the route to the primary function area must be accessible. The accessible route to the primary function area must include toilet facilities and drinking fountains serving the area of primary function. The costs of providing the accessible route do not have to exceed 20% of the total costs of the alterations affecting the area of primary function.

Under the bill, "alteration" and "primary function" mean those terms as defined in the Michigan Rehabilitation Code for Existing Buildings or as otherwise provided by the Director by rule.

The bill will take effect on March 27, 2019.

MCL 125.1501 & 125.1531

## **ARGUMENTS**

*(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)*

### **Supporting Argument**

The renovation of an existing structure to ensure that it is ADA-compliant can be expensive. When the ADA was enacted in 1990, it did not require that existing buildings be retrofitted. Instead, it relied on the process of renovating old buildings to improve accessibility over time. Also, the ADA standards keep the costs of barrier removal and accessibility improvement manageable by specifying that costs for those improvements need not exceed 20% of the total cost of the project. The IEBC and, according to testimony before the Senate Committee on Economic Development and International Investment, approximately 30 other states have adopted similar standards.

The inclusion of the 20% standard in the Single State Construction Code will ensure that Michigan law is consistent with the majority of the states' construction codes, as well as Federal law. According to testimony, in Michigan, many businesses refused to renovate certain buildings, decided to renovate in a nonregulated manner, or began renovation and abandoned the project entirely, because the cost of accessibility compliance is too high. These concerns, if left unaddressed, could have encouraged businesses to move to other states as they expand. The cap allows businesses to anticipate the cost of expansions and renovations more effectively. Enacting the cap makes economic sense for Michigan and ensures that businesses consider accessibility compliance as a priority during alterations.

### **Opposing Argument**

The institution of a 20% cap for accessibility compliance on all alterations may result in many Michigan businesses not having sufficiently accessible facilities.

**Response:** Large alteration projects likely will not have difficulty complying with all the accessibility requirements since a 20% limit for a large project will cover a substantial number of accessibility improvements. However, absent the 20% threshold, many renovation projects that may improve accessibility to some degree in a smaller building may not be completed correctly, or may not be undertaken at all. The ADA standards includes a list of priority accessibility improvements to ensure that the most important items are renovated first. With the threshold, a renovated business that cannot afford to make its building wholly ADA compliant will create a more accessible and inclusive environment than what was present in the building's former condition.

Legislative Analyst: Tyler VanHuyse

## **FISCAL IMPACT**

The bill will have no fiscal impact on State or local government. Its provisions reflect regulations already in place from the 2010 American Disabilities Act Standards for Accessible Design.

Fiscal Analyst: Elizabeth Raczkowski

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.