

AMENDED IN ASSEMBLY SEPTEMBER 4, 2015

AMENDED IN ASSEMBLY AUGUST 20, 2015

AMENDED IN ASSEMBLY AUGUST 18, 2015

AMENDED IN ASSEMBLY JULY 13, 2015

AMENDED IN SENATE JUNE 2, 2015

AMENDED IN SENATE MAY 20, 2015

AMENDED IN SENATE MAY 4, 2015

SENATE BILL

No. 251

Introduced by Senator Roth
(Principal coauthor: Senator Galgiani)
(Coauthors: Senators Anderson and Nielsen)
(Coauthors: Assembly Members Cooper and Linder)

February 18, 2015

An act to amend Sections 55.32, 55.53, and 55.56, of the Civil Code, to amend Sections 4459.7, 4459.8, and 8299.06 of, to add Section 65941.6 to, and to add Article 4 (commencing with Section 65946) to Chapter 4.5 of Division 1 of Title 7 of, the Government Code, and to add and repeal Sections 17053.43 and 23643 of the Revenue and Taxation Code, relating to disability access.

LEGISLATIVE COUNSEL'S DIGEST

SB 251, as amended, Roth. Disability access: civil rights: income tax credit.

(1) Existing law prohibits discrimination on the basis of various specified personal characteristics, including disability. The Construction-Related Accessibility Standards Compliance Act

establishes standards for making new construction and existing facilities accessible to persons with disabilities and provides for construction-related accessibility claims for violations of those standards. Existing law requires that a demand letter alleging a violation of a construction-related accessibility standard or asserting a construction-related accessibility claim include specified information, and that copies of the demand letter be sent to the State Bar of California. Existing law repeals the requirement that a copy of a demand letter be sent to the State Bar of California on January 1, 2016.

This bill would extend the above-described January 1, 2016, repeal date, to January 1, 2019.

Existing law requires that a copy of the demand letter and the complaint be sent to the California Commission on Disability Access.

This bill would, in addition, require that information about the demand letter and the complaint be submitted to the commission in a standard format specified by the commission.

(2) Existing law specifies that a violation of construction-related ~~accessibility~~ *accessibility* standards personally encountered by a plaintiff may be sufficient to cause a denial of full and equal access if the plaintiff experienced difficulty, discomfort, or embarrassment because of the violation.

This bill would exclude certain technical violations from the scope of this provision, if specified conditions are met.

(3) Under existing law, a defendant is liable for actual damages plus minimum statutory damages for each instance of discrimination relating to a construction-related accessibility standard.

This bill would exempt a defendant from liability for minimum statutory damages with respect to a structure or area inspected by a certified access specialist for a period of 120 days if specified conditions are met. The bill would require a defendant who claims the benefit of this provision, to disclose the date and findings of any certified access specialist (CASp) inspection to the plaintiff.

(4) Existing law requires the State Architect to establish and publicize a program for the voluntary certification by the state of any person who meets specified criteria as a CASp. Existing law requires the State Architect to annually publish a list of CASps. Existing law requires each applicant for CASp certification or renewal to pay certain fees, and requires the State Architect to periodically review those fees, as specified. Existing law provides for the deposit of those fees into the

Certified Access Specialist Fund, which is continuously appropriated for use by the State Architect to implement the CASp program.

This bill would additionally require the State Architect to publish, and regularly update, easily accessible lists of businesses that file prescribed notices of inspection, and businesses which have been inspected by a CASp on or after January 1, 2016, including the date of the inspection. The bill would require the State Architect to develop a process by which a small business may notify the State Architect that a structure or area has had a CASp inspection and to develop a form for businesses to notify the public that the business has obtained a CASp inspection. The bill would also require applicants for CASp certification or renewal to additionally provide to the State Architect the name of the city, county, or city and county in which the applicant intends to provide or has provided services, and would require the Division of the State Architect to post that information on its Internet Web site.

(5) Existing law establishes the California Commission on Disability Access for purposes of developing recommendations to enable persons with disabilities to exercise their right to full and equal access to public facilities and facilitating business compliance with applicable state and federal laws and regulations. Existing law sets forth the powers and duties of the commission, including developing educational materials and information for businesses, building owners, tenants, and building officials, posting that information on the commission's Internet Web site, and coordinating with other state agencies and local building departments to ensure that information provided to the public on disability access requirements is uniform and complete.

This bill would additionally require the commission to provide a link on its Internet Web site to the Internet Web site of the Division of the State Architect's CASp certification program, and make the commission's educational materials and information available to other state agencies and local building departments.

(6) The Planning and Zoning Law establishes procedures for the application, and review of an application, for a development project. Existing law requires a public agency to notify applicants for development permits of specified information, including the time limits established for the review and approval of development permits.

This bill would additionally require local agencies to develop and provide to applicants materials relating to the requirements of the federal Americans with Disabilities Act of 1990, or to instead provide similar materials developed by the California Commission on Disability Access.

The bill would require a local agency to notify an applicant that approval of a permit does not signify that the applicant has complied with that act. The bill would also require local agencies to expedite review of projects for which the applicant provides a copy of a disability access certificate, demonstrates that the project is necessary to address an alleged violation of a construction-related access standard or a violation noted in a CASp report, and, if project plans are necessary for approval, has had a CASp review the project plans for compliance with all applicable construction-related accessibility standards. The bill would declare that these provisions constitute a matter of statewide concern and shall apply to charter cities and charter counties.

By imposing additional duties on local agencies with respect to the receipt and review of applications for development projects, this bill would impose a state-mandated local program.

(7) Existing federal law allows a credit against federal income taxes for eligible small businesses for eligible access expenditures, as those terms are defined, in an amount equal to 50% of eligible access expenditures for a taxable year that exceed \$250 but do not exceed \$10,250. The Personal Income Tax Law and the Corporation Tax Law allow a credit against the taxes imposed by those laws for the amount paid or incurred for eligible access expenditures in an amount equal to 50% of eligible access expenditures for a taxable year as do not exceed \$250, as specified.

This bill would, for taxable years beginning on or after January 1, 2016, and before January 1, 2021, allow a credit under both the Personal Income Tax Law and the Corporation Tax Law for eligible access expenditures in accordance with the above-described federal tax credit, except with a credit amount equal to 10% of eligible access expenditures for a taxable year, as specified.

(8) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

(9) This bill would incorporate additional changes to Section 55.32 of the Civil Code proposed by AB 1521 that would become operative if this bill and AB 1521 are both enacted and this bill is enacted last.

(9)

(10) This bill would incorporate additional changes to Section 8299.06 of the Government Code proposed by AB 1342 that would become operative if this bill and AB 1342 are *both* enacted and this bill is enacted last.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 55.32 of the Civil Code, as added by
2 Section 5 of Chapter 383 of the Statutes of 2012, is amended to
3 read:
4 55.32. (a) An attorney who provides a demand letter, as defined
5 in subdivision (a) of Section 55.3, shall do all of the following:
6 (1) Include the attorney’s State Bar license number in the
7 demand letter.
8 (2) Contemporaneously with providing the demand letter, send
9 a copy of the demand letter to the State Bar of California by
10 facsimile transmission at 1-415-538-2171, or by mail to 180
11 Howard Street, San Francisco, CA, 94105, Attention: Professional
12 Competence.
13 (3) Within five business days of providing the demand letter,
14 send a copy of the demand letter to the California Commission on
15 Disability Access.
16 (b) An attorney who sends or serves a complaint, as defined in
17 subdivision (a) of Section 55.3, shall send a copy of the complaint
18 to the California Commission on Disability Access within five
19 business days of sending or serving the complaint.
20 (c) A violation of paragraph (2) or (3) of subdivision (a) or
21 subdivision (b) shall constitute cause for the imposition of
22 discipline of an attorney where a copy of the complaint or demand
23 letter is not sent to the California Commission on Disability Access
24 within five business days, or a copy of the demand letter is not
25 sent to the State Bar within five business days. In the event the
26 State Bar receives information indicating that an attorney has failed
27 to send a copy of the complaint or demand letter to the California
28 Commission on Disability Access within five business days, the
29 State Bar shall investigate to determine whether paragraph (3) of
30 subdivision (a) or subdivision (b) has been violated.

1 (d) Notwithstanding subdivisions (a) and (b), an attorney is not
2 required to send to the State Bar of California or the California
3 Commission on Disability Access a copy of any subsequent
4 demand letter or amended complaint in the same dispute following
5 the initial demand letter or complaint, unless that subsequent
6 demand letter or amended complaint alleges a new
7 construction-related accessibility claim.

8 (e) A demand letter or complaint sent to the California
9 Commission on Disability Access shall be for the informational
10 purposes of Section 8299.08 of the Government Code. A demand
11 letter received by the State Bar from either the sender or recipient
12 of the demand letter shall be reviewed by the State Bar to determine
13 whether subdivision (b) or (c) of Section 55.31 has been violated.

14 (f) (1) Commencing July 31, 2013, and annually each July 31
15 thereafter, the State Bar shall report to the Legislature and the
16 Chairs of the Senate and Assembly Committees on Judiciary, both
17 of the following with respect to demand letters received by the
18 State Bar:

19 (A) The number of investigations opened to date on a suspected
20 violation of subdivision (b) or (c) of Section 55.31.

21 (B) Whether any disciplinary action resulted from the
22 investigation, and the results of that disciplinary action.

23 (2) A report to be submitted pursuant to this subdivision shall
24 be submitted in compliance with Section 9795 of the Government
25 Code.

26 (g) The California Commission on Disability Access shall
27 review and report on the demand letters and complaints it receives
28 as provided in Section 8299.08 of the Government Code.

29 (h) Paragraphs (2) and (3) of subdivision (a) and subdivision
30 (b) shall not apply to a demand letter or complaint sent or filed by
31 an attorney employed or retained by a qualified legal services
32 project or a qualified support center, as defined in Section 6213
33 of the Business and Professions Code, when acting within the
34 scope of employment in asserting a construction-related
35 accessibility claim. The Legislature finds and declares that qualified
36 legal services projects and support centers are extensively regulated
37 by the State Bar of California, and that there is no evidence of any
38 abusive use of demand letters or complaints by these organizations.
39 The Legislature further finds that, in light of the evidence of the
40 extraordinarily small number of construction-related accessibility

1 cases brought by regulated legal services programs, and given the
2 resources of those programs, exempting regulated legal services
3 programs from the requirements of this section to report to the
4 California Commission on Disability Access will not affect the
5 purpose of the reporting to, and tabulation by, the commission of
6 all other construction-related accessibility claims.

7 (i) This section shall become operative on January 1, 2013.

8 (j) This section shall remain in effect only until January 1, 2019,
9 and as of that date is repealed.

10 *SEC. 1.5. Section 55.32 of the Civil Code, as added by Section*
11 *5 of Chapter 383 of the Statutes of 2012, is amended to read:*

12 55.32. (a) An attorney who provides a demand letter, as defined
13 in subdivision (a) of Section 55.3, shall do all of the following:

14 (1) Include the attorney's State Bar license number in the
15 demand letter.

16 (2) Contemporaneously with providing the demand letter, send
17 a copy of the demand letter to the State Bar of California by
18 facsimile transmission at 1-415-538-2171, or by mail to 180
19 Howard Street, San Francisco, CA, 94105, Attention: Professional
20 Competence.

21 (3) Within five business days of providing the demand letter,
22 send a copy of the demand letter to the California Commission on
23 Disability Access.

24 (b) An attorney who sends or serves a complaint, as defined in
25 subdivision (a) of Section 55.3, shall ~~send~~ *do both of the following:*

26 (1) *Send* a copy of the complaint to the California Commission
27 on Disability Access within five business days of sending or
28 serving the complaint.

29 (2) *Notify the California Commission on Disability Access within*
30 *five business days of judgment, settlement, or dismissal of the claim*
31 *or claims alleged in the complaint of the following information in*
32 *a standard format specified by the commission:*

33 (A) *The date of the judgment, settlement, or dismissal.*

34 (B) *Whether or not the construction-related accessibility*
35 *violations alleged in the complaint were remedied in whole or in*
36 *part after the plaintiff filed a complaint or provided a demand*
37 *letter, as defined by Section 55.3.*

38 (C) *If the construction-related accessibility violations alleged*
39 *in the complaint were not remedied in whole or in part after the*
40 *plaintiff filed a complaint or provided a demand letter, as defined*

1 by Section 55.3, whether or not another favorable result was
2 achieved after the plaintiff filed the complaint or provided the
3 demand letter.

4 (D) Whether or not the defendant submitted an application for
5 an early evaluation conference and stay pursuant to Section 55.54,
6 whether the defendant requested a site inspection, the date of any
7 early evaluation conference, and the date of any site inspection.

8 (c) A violation of paragraph (2) or (3) of subdivision (a) or
9 subdivision (b) shall constitute cause for the imposition of
10 discipline of an attorney where a copy of the ~~complaint or~~
11 ~~complaint, demand letter letter, or notification of a case outcome~~
12 is not sent to the California Commission on Disability Access
13 within five business days, or a copy of the demand letter is not
14 sent to the State Bar within five business days. In the event the
15 State Bar receives information indicating that an attorney has failed
16 to send a copy of the ~~complaint or complaint, demand letter letter,~~
17 ~~or notification of a case outcome~~ to the California Commission
18 on Disability Access within five business days, the State Bar shall
19 investigate to determine whether paragraph (3) of subdivision (a)
20 or subdivision (b) has been violated.

21 (d) Notwithstanding subdivisions (a) and (b), an attorney is not
22 required to send to the State Bar of California or the California
23 Commission on Disability Access a copy of any subsequent
24 demand letter or amended complaint in the same dispute following
25 the initial demand letter or complaint, unless that subsequent
26 demand letter or amended complaint alleges a new
27 construction-related accessibility claim.

28 (e) A ~~demand letter or complaint letter, complaint, or~~
29 ~~notification of a case outcome~~ sent to the California Commission
30 on Disability Access shall be for the informational purposes of
31 Section 8299.08 of the Government Code. A demand letter received
32 by the State Bar from either the sender or recipient of the demand
33 letter shall be reviewed by the State Bar to determine whether
34 subdivision (b) or (c) of Section 55.31 has been violated.

35 (f) (1) Commencing July 31, 2013, and annually each July 31
36 thereafter, the State Bar shall report to the Legislature and the
37 Chairs of the Senate and Assembly Committees on Judiciary, both
38 of the following with respect to demand letters received by the
39 State Bar:

1 (A) The number of investigations opened to date on a suspected
2 violation of subdivision (b) or (c) of Section 55.31.

3 (B) Whether any disciplinary action resulted from the
4 investigation, and the results of that disciplinary action.

5 (2) A report to be submitted pursuant to this subdivision shall
6 be submitted in compliance with Section 9795 of the Government
7 Code.

8 (g) The California Commission on Disability Access shall
9 review and report on the demand ~~letters and complaints~~ *letters,*
10 *complaints, and notifications of case outcomes* it receives as
11 provided in Section 8299.08 of the Government Code.

12 (h) Paragraphs (2) and (3) of subdivision (a) and subdivision
13 (b) shall not apply to a demand letter or complaint sent or filed by
14 an attorney employed or retained by a qualified legal services
15 project or a qualified support center, as defined in Section 6213
16 of the Business and Professions Code, when acting within the
17 scope of employment in asserting a construction-related
18 accessibility claim. The Legislature finds and declares that qualified
19 legal services projects and support centers are extensively regulated
20 by the State Bar of California, and that there is no evidence of any
21 abusive use of demand letters or complaints by these organizations.
22 The Legislature further finds that, in light of the evidence of the
23 extraordinarily small number of construction-related accessibility
24 cases brought by regulated legal services programs, and given the
25 resources of those programs, exempting regulated legal services
26 programs from the requirements of this section to report to the
27 California Commission on Disability Access will not affect the
28 purpose of the reporting to, and tabulation by, the commission of
29 all other construction-related accessibility claims.

30 (i) This section shall become operative on January 1, 2013.

31 (j) This section shall remain in effect only until January 1, ~~2016,~~
32 ~~2019,~~ and as of that date is ~~repealed, unless a later enacted statute,~~
33 ~~that is enacted before January 1, 2016, deletes or extends that date.~~
34 *repealed.*

35 SEC. 2. Section 55.32 of the Civil Code, as added by Section
36 6 of Chapter 383 of the Statutes of 2012, is amended to read:

37 55.32. (a) An attorney who provides a demand letter, as defined
38 in subdivision (a) of Section 55.3, shall do all of the following:

39 (1) Include the attorney's State Bar license number in the
40 demand letter.

1 (2) Within five business days of providing the demand letter,
2 send a copy of the demand letter, and submit information about
3 the demand letter in a standard format specified by the California
4 Commission on Disability Access, to the commission.

5 (b) An attorney who sends or serves a complaint, as defined in
6 subdivision (a) of Section 55.3, shall send a copy of the complaint
7 and submit information about the complaint in a standard format
8 specified by the California Commission on Disability Access to
9 the commission within five business days of sending or serving
10 the complaint.

11 (c) A violation of paragraph (2) of subdivision (a) or subdivision
12 (b) shall constitute cause for the imposition of discipline of an
13 attorney if a copy of the demand letter or complaint is not sent to
14 the California Commission on Disability Access within five
15 business days. In the event the State Bar receives information
16 indicating that an attorney has failed to send a copy of the demand
17 letter or complaint to the California Commission on Disability
18 Access within five business days, the State Bar shall investigate
19 to determine whether paragraph (2) of subdivision (a) or
20 subdivision (b) has been violated.

21 (d) Notwithstanding subdivisions (a) and (b), an attorney is not
22 required to send to the California Commission on Disability Access
23 a copy of any subsequent demand letter or amended complaint in
24 the same dispute following the initial demand letter or complaint,
25 unless that subsequent demand letter or amended complaint alleges
26 a new construction-related accessibility claim.

27 (e) A demand letter sent to the California Commission on
28 Disability Access shall be for the informational purposes of Section
29 8299.08 of the Government Code. A demand letter received by
30 the State Bar from the recipient of the demand letter shall be
31 reviewed by the State Bar to determine whether subdivision (b)
32 or (c) of Section 55.31 has been violated.

33 (f) (1) Notwithstanding Section 10231.5 of the Government
34 Code, on or before July 31, 2019, and annually thereafter, the State
35 Bar shall report to the Legislature and the Chairs of the Senate and
36 Assembly Judiciary Committees, both of the following with respect
37 to demand letters received by the State Bar:

38 (A) The number of investigations opened to date on a suspected
39 violation of subdivision (b) or (c) of Section 55.31.

1 (B) Whether any disciplinary action resulted from the
2 investigation, and the results of that disciplinary action.

3 (2) A report to be submitted pursuant to this subdivision shall
4 be submitted in compliance with Section 9795 of the Government
5 Code.

6 (g) The California Commission on Disability Access shall
7 review and report on the demand letters and complaints it receives
8 as provided in Section 8299.08 of the Government Code.

9 (h) The expiration of any ground for discipline of an attorney
10 shall not affect the imposition of discipline for any act prior to the
11 expiration. An act or omission that constituted cause for imposition
12 of discipline of an attorney when committed or omitted prior to
13 January 1, 2019, shall continue to constitute cause for the
14 imposition of discipline of that attorney on and after January 1,
15 2019.

16 (i) Paragraph (2) of subdivision (a) and subdivision (b) shall
17 not apply to a demand letter or complaint sent or filed by an
18 attorney employed or retained by a qualified legal services project
19 or a qualified support center, as defined in Section 6213 of the
20 Business and Professions Code, when acting within the scope of
21 employment in asserting a construction-related accessibility claim.
22 The Legislature finds and declares that qualified legal services
23 projects and support centers are extensively regulated by the State
24 Bar of California, and that there is no evidence of any abusive use
25 of demand letters or complaints by these organizations. The
26 Legislature further finds that, in light of the evidence of the
27 extraordinarily small number of construction-related accessibility
28 cases brought by regulated legal services programs, and given the
29 resources of those programs, exempting regulated legal services
30 programs from the requirements of this section to report to the
31 California Commission on Disability Access will not affect the
32 purpose of the reporting to, and tabulation by, the commission of
33 all other construction-related accessibility claims.

34 (j) This section shall become operative on January 1, 2019.

35 *SEC. 2.5. Section 55.32 of the Civil Code, as added by Section*
36 *6 of Chapter 383 of the Statutes of 2012, is amended to read:*

37 55.32. (a) An attorney who provides a demand letter, as defined
38 in subdivision (a) of Section 55.3, shall do all of the following:

39 (1) Include the attorney's State Bar license number in the
40 demand letter.

1 (2) Within five business days of providing the demand letter,
2 send a copy of the demand ~~letter to the~~ *letter, and submit information*
3 *about the demand letter in a standard format specified by the*
4 *California Commission on Disability Access. Access, to the*
5 *commission.*

6 (b) An attorney who sends or serves a complaint, as defined in
7 subdivision (a) of Section 55.3, shall ~~send~~ *do both of the following:*

8 (1) *Send a copy of the complaint to the and submit information*
9 *about the complaint in a standard format specified by the California*
10 *Commission on Disability Access to the commission within five*
11 *business days of sending or serving the complaint.*

12 (2) *Notify the California Commission on Disability Access within*
13 *five business days of judgment, settlement, or dismissal of the claim*
14 *or claims alleged in the complaint of the following information in*
15 *a standard format specified by the commission:*

16 (A) *The date of the judgment, settlement, or dismissal.*

17 (B) *Whether or not the construction-related accessibility*
18 *violations alleged in the complaint were remedied in whole or in*
19 *part after the plaintiff filed a complaint or provided a demand*
20 *letter, as defined by Section 55.3.*

21 (C) *If the construction-related accessibility violations alleged*
22 *in the complaint were not remedied in whole or in part after the*
23 *plaintiff filed a complaint or provided a demand letter, as defined*
24 *by Section 55.3, whether or not another favorable result was*
25 *achieved after the plaintiff filed the complaint or provided the*
26 *demand letter.*

27 (D) *Whether or not the defendant submitted an application for*
28 *an early evaluation conference and stay pursuant to Section 55.54,*
29 *whether the defendant requested a site inspection, the date of any*
30 *early evaluation conference, and the date of any site inspection.*

31 (c) A violation of paragraph (2) of subdivision (a) or subdivision
32 (b) shall constitute cause for the imposition of discipline of an
33 attorney if a copy of the demand ~~letter or complaint~~ *letter,*
34 *complaint, or notification of a case outcome* is not sent to the
35 California Commission on Disability Access within five business
36 days. In the event the State Bar receives information indicating
37 that an attorney has failed to send a copy of the demand ~~letter or~~
38 ~~complaint~~ *letter, complaint, or notification of a case outcome* to
39 the California Commission on Disability Access within five
40 business days, the State Bar shall investigate to determine whether

1 paragraph (2) of subdivision (a) or subdivision (b) has been
2 violated.

3 (d) Notwithstanding subdivisions (a) and (b), an attorney is not
4 required to send to the California Commission on Disability Access
5 a copy of any subsequent demand letter or amended complaint in
6 the same dispute following the initial demand letter or complaint,
7 unless that subsequent demand letter or amended complaint alleges
8 a new construction-related accessibility claim.

9 (e) A demand letter *or notification of a case outcome* sent to
10 the California Commission on Disability Access shall be for the
11 informational purposes of Section 8299.08 of the Government
12 Code. A demand letter received by the State Bar from the recipient
13 of the demand letter shall be reviewed by the State Bar to determine
14 whether subdivision (b) or (c) of Section 55.31 has been violated.

15 (f) (1) Notwithstanding Section 10231.5 of the Government
16 Code, on or before July 31, ~~2016~~, 2019, and annually thereafter,
17 the State Bar shall report to the Legislature and the Chairs of the
18 Senate and Assembly Judiciary Committees, both of the following
19 with respect to demand letters received by the State Bar:

20 (A) The number of investigations opened to date on a suspected
21 violation of subdivision (b) or (c) of Section 55.31.

22 (B) Whether any disciplinary action resulted from the
23 investigation, and the results of that disciplinary action.

24 (2) A report to be submitted pursuant to this subdivision shall
25 be submitted in compliance with Section 9795 of the Government
26 Code.

27 (g) The California Commission on Disability Access shall
28 review and report on the demand ~~letters and complaints~~ *letters,*
29 *complaints, and notifications of case outcomes* it receives as
30 provided in Section 8299.08 of the Government Code.

31 (h) The expiration of any ground for discipline of an attorney
32 shall not affect the imposition of discipline for any act prior to the
33 expiration. An act or omission that constituted cause for imposition
34 of discipline of an attorney when committed or omitted prior to
35 January 1, ~~2016~~, 2019, shall continue to constitute cause for the
36 imposition of discipline of that attorney on and after January 1,
37 ~~2016~~, 2019.

38 (i) Paragraph (2) of subdivision (a) and subdivision (b) shall
39 not apply to a demand letter or complaint sent or filed by an
40 attorney employed or retained by a qualified legal services project

1 or a qualified support center, as defined in Section 6213 of the
 2 Business and Professions Code, when acting within the scope of
 3 employment in asserting a construction-related accessibility claim.
 4 The Legislature finds and declares that qualified legal services
 5 projects and support centers are extensively regulated by the State
 6 Bar of California, and that there is no evidence of any abusive use
 7 of demand letters or complaints by these organizations. The
 8 Legislature further finds that, in light of the evidence of the
 9 extraordinarily small number of construction-related accessibility
 10 cases brought by regulated legal services programs, and given the
 11 resources of those programs, exempting regulated legal services
 12 programs from the requirements of this section to report to the
 13 California Commission on Disability Access will not affect the
 14 purpose of the reporting to, and tabulation by, the commission of
 15 all other construction-related accessibility claims.

16 (j) This section shall become operative on January 1, ~~2016~~.
 17 2019.

18 SEC. 3. Section 55.53 of the Civil Code is amended to read:

19 55.53. (a) For purposes of this part, a certified access specialist
 20 shall, upon completion of the inspection of a site, comply with the
 21 following:

22 (1) For a meets applicable standards site, if the CASp determines
 23 the site meets all applicable construction-related accessibility
 24 standards, the CASp shall provide a written inspection report to
 25 the requesting party that includes both of the following:

26 (A) An identification and description of the inspected structures
 27 and areas of the site.

28 (B) A signed and dated statement that includes both of the
 29 following:

30 (i) A statement that, in the opinion of the CASp, the inspected
 31 structures and areas of the site meet construction-related
 32 accessibility standards. The statement shall clearly indicate whether
 33 the determination of the CASp includes an assessment of readily
 34 achievable barrier removal.

35 (ii) If corrections were made as a result of the CASp inspection,
 36 an itemized list of all corrections and dates of completion.

37 (2) For an inspected by a CASp site, if the CASp determines
 38 that corrections are needed to the site in order for the site to meet
 39 all applicable construction-related accessibility standards, the

1 CASp shall provide a signed and dated written inspection report
2 to the requesting party that includes all of the following:

3 (A) An identification and description of the inspected structures
4 and areas of the site.

5 (B) The date of the inspection.

6 (C) A statement that, in the opinion of the CASp, the inspected
7 structures and areas of the site need correction to meet
8 construction-related accessibility standards. This statement shall
9 clearly indicate whether the determination of the CASp includes
10 an assessment of readily achievable barrier removal.

11 (D) An identification and description of the structures or areas
12 of the site that need correction and the correction needed.

13 (E) A schedule of completion for each of the corrections within
14 a reasonable timeframe.

15 (3) The CASp shall provide, within 30 days of the date of ~~an~~
16 *the* inspection ~~for~~ of a business that qualifies for the provisions of
17 subparagraph (A) of paragraph (3) of subdivision (g) of Section
18 55.56, a copy of a report prepared pursuant to that subparagraph
19 to the business.

20 (4) The CASp shall file, within 10 days of inspecting a business
21 pursuant to subparagraph (A) of paragraph (3) of subdivision (g)
22 of Section 55.56, a notice with the State Architect for listing on
23 the State Architect's Internet Web site, as provided by subdivision
24 (d) of Section 4459.7 of the Government Code, indicating that the
25 CASp has inspected the business, the name and address of the
26 business, the date of the filing, the date of the inspection of the
27 business, the name and license number of the CASp, and a
28 description of the structure or area inspected by the CASp.

29 (5) The CASp shall post the notice described in paragraph (4),
30 in a form prescribed by the State Architect, in a conspicuous
31 location within five feet of all public entrances to the building on
32 the date of the inspection and instruct the business to keep it in
33 place until the earlier of either of the following:

34 (A) One hundred twenty days after the date of the inspection.

35 (B) The date when all of the construction-related violations in
36 the structure or area inspected by the CASp are corrected.

37 (b) For purposes of this section, in determining whether the site
38 meets applicable construction-related accessibility standards when
39 there is a conflict or difference between a state and federal
40 provision, standard, or regulation, the state provision, standard, or

1 regulation shall apply unless the federal provision, standard, or
2 regulation is more protective of accessibility rights.

3 (c) Every CASp who conducts an inspection of a place of public
4 accommodation shall, upon completing the inspection of the site,
5 provide the building owner or tenant who requested the inspection
6 with the following notice, which the State Architect shall make
7 available as a form on the State Architect’s Internet Web site:

8

9 NOTICE TO PRIVATE PROPERTY OWNER/TENANT:

10

11 YOU ARE ADVISED TO KEEP IN YOUR RECORDS ANY
12 WRITTEN INSPECTION REPORT AND ANY OTHER
13 DOCUMENTATION CONCERNING YOUR PROPERTY SITE
14 THAT IS GIVEN TO YOU BY A CERTIFIED ACCESS
15 SPECIALIST.

16 IF YOU BECOME A DEFENDANT IN A LAWSUIT THAT
17 INCLUDES A CLAIM CONCERNING A SITE INSPECTED
18 BY A CERTIFIED ACCESS SPECIALIST, YOU MAY BE
19 ENTITLED TO A COURT STAY (AN ORDER TEMPORARILY
20 STOPPING ANY LAWSUIT) OF THE CLAIM AND AN EARLY
21 EVALUATION CONFERENCE.

22 IN ORDER TO REQUEST THE STAY AND EARLY
23 EVALUATION CONFERENCE, YOU WILL NEED TO VERIFY
24 THAT A CERTIFIED ACCESS SPECIALIST HAS INSPECTED
25 THE SITE THAT IS THE SUBJECT OF THE CLAIM. YOU
26 WILL ALSO BE REQUIRED TO PROVIDE THE COURT AND
27 THE PLAINTIFF WITH THE COPY OF A WRITTEN
28 INSPECTION REPORT BY THE CERTIFIED ACCESS
29 SPECIALIST, AS SET FORTH IN CIVIL CODE SECTION
30 55.54. THE APPLICATION FORM AND INFORMATION ON
31 HOW TO REQUEST A STAY AND EARLY EVALUATION
32 CONFERENCE MAY BE OBTAINED AT
33 www.courts.ca.gov/selfhelp-start.htm.

34 YOU ARE ENTITLED TO REQUEST, FROM A CERTIFIED
35 ACCESS SPECIALIST WHO HAS CONDUCTED AN
36 INSPECTION OF YOUR PROPERTY, A WRITTEN
37 INSPECTION REPORT AND OTHER DOCUMENTATION AS
38 SET FORTH IN CIVIL CODE SECTION 55.53. YOU ARE ALSO
39 ENTITLED TO REQUEST THE ISSUANCE OF A DISABILITY

1 ACCESS INSPECTION CERTIFICATE, WHICH YOU MAY
2 POST ON YOUR PROPERTY.

3

4 (d) (1) Commencing July 1, 2010, a local agency shall employ
5 or retain at least one building inspector who is a certified access
6 specialist. The certified access specialist shall provide consultation
7 to the local agency, permit applicants, and members of the public
8 on compliance with state construction-related accessibility
9 standards with respect to inspections of a place of public
10 accommodation that relate to permitting, plan checks, or new
11 construction, including, but not limited to, inspections relating to
12 tenant improvements that may impact access. If a local agency
13 employs or retains two or more certified access specialists to
14 comply with this subdivision, at least one-half of the certified
15 access specialists shall be building inspectors who are certified
16 access specialists.

17 (2) Commencing January 1, 2014, a local agency shall employ
18 or retain a sufficient number of building inspectors who are
19 certified access specialists to conduct permitting and plan check
20 services to review for compliance with state construction-related
21 accessibility standards by a place of public accommodation with
22 respect to new construction, including, but not limited to, projects
23 relating to tenant improvements that may impact access. If a local
24 agency employs or retains two or more certified access specialists
25 to comply with this subdivision, at least one-half of the certified
26 access specialists shall be building inspectors who are certified
27 access specialists.

28 (3) If a permit applicant or member of the public requests
29 consultation from a certified access specialist, the local agency
30 may charge an amount limited to a reasonable hourly rate, an
31 estimate of which shall be provided upon request in advance of
32 the consultation. A local government may additionally charge or
33 increase permitting, plan check, or inspection fees to the extent
34 necessary to offset the costs of complying with this subdivision.
35 Any revenues generated from an hourly or other charge or fee
36 increase under this subdivision shall be used solely to offset the
37 costs incurred to comply with this subdivision. A CASp inspection
38 pursuant to subdivision (a) by a building inspector who is a
39 certified access specialist shall be treated equally for legal and
40 evidentiary purposes as an inspection conducted by a private CASp.

1 Nothing in this subdivision shall preclude permit applicants or any
2 other person with a legal interest in the property from retaining a
3 private CASp at any time.

4 (e) (1) Every CASp who completes an inspection of a place of
5 public accommodation shall, upon a determination that the site
6 meets applicable standards pursuant to paragraph (1) of subdivision
7 (a) or is inspected by a CASp pursuant to paragraph (2) of
8 subdivision (a), provide the building owner or tenant requesting
9 the inspection with a numbered disability access inspection
10 certificate indicating that the site has undergone inspection by a
11 certified access specialist. The disability access inspection
12 certificate shall be dated and signed by the CASp inspector, and
13 shall contain the inspector's name and license number. Upon
14 issuance of a certificate, the CASp shall record the issuance of the
15 numbered certificate, the name and address of the recipient, and
16 the type of report issued pursuant to subdivision (a) in a record
17 book the CASp shall maintain for that purpose.

18 (2) Beginning March 1, 2009, the State Architect shall make
19 available for purchase by any local building department or CASp
20 sequentially numbered disability access inspection certificates that
21 are printed with a watermark or other feature to deter forgery and
22 that comply with the information requirements specified in
23 subdivision (a).

24 (3) The disability access inspection certificate may be posted
25 on the premises of the place of public accommodation, unless,
26 following the date of inspection, the inspected site has been
27 modified or construction has commenced to modify the inspected
28 site in a way that may impact compliance with construction-related
29 accessibility standards.

30 (f) Nothing in this section or any other law is intended to require
31 a property owner or tenant to hire a CASp. A property owner's or
32 tenant's election not to hire a CASp shall not be admissible to
33 prove that person's lack of intent to comply with the law.

34 SEC. 4. Section 55.56 of the Civil Code is amended to read:

35 55.56. (a) Statutory damages under either subdivision (a) of
36 Section 52 or subdivision (a) of Section 54.3 may be recovered in
37 a construction-related accessibility claim against a place of public
38 accommodation only if a violation or violations of one or more
39 construction-related accessibility standards denied the plaintiff

1 full and equal access to the place of public accommodation on a
2 particular occasion.

3 (b) A plaintiff is denied full and equal access only if the plaintiff
4 personally encountered the violation on a particular occasion, or
5 the plaintiff was deterred from accessing a place of public
6 accommodation on a particular occasion.

7 (c) A violation personally encountered by a plaintiff may be
8 sufficient to cause a denial of full and equal access if the plaintiff
9 experienced difficulty, discomfort, or embarrassment because of
10 the violation.

11 (d) A plaintiff demonstrates that he or she was deterred from
12 accessing a place of public accommodation on a particular occasion
13 only if both of the following apply:

14 (1) The plaintiff had actual knowledge of a violation or
15 violations that prevented or reasonably dissuaded the plaintiff from
16 accessing a place of public accommodation that the plaintiff
17 intended to use on a particular occasion.

18 (2) The violation or violations would have actually denied the
19 plaintiff full and equal access if the plaintiff had accessed the place
20 of public accommodation on that particular occasion.

21 (e) (1) The following technical violations are presumed to not
22 cause a person difficulty, discomfort, or embarrassment for the
23 purpose of an award of minimum statutory damages in a
24 construction-related accessibility claim, as set forth in subdivision
25 (c), where the defendant is a small business, as described by
26 subparagraph (B) of paragraph (2) of subdivision (g), the defendant
27 has corrected, within 15 days of the service of a summons and
28 complaint asserting a construction-related accessibility claim or
29 receipt of a written notice, whichever is earlier, all of the technical
30 violations that are the basis of the claim, and the claim is based on
31 one or more of the following violations:

32 (A) Interior signs, other than directional signs or signs that
33 identify the location of accessible elements, facilities, or features,
34 when not all such elements, facilities, or features are accessible.

35 (B) The lack of exterior signs, other than parking signs and
36 directional signs, including signs that indicate the location of
37 accessible pathways or entrance and exit doors when not all
38 pathways, entrance and exit doors are accessible.

39 (C) The order in which parking signs are placed or the exact
40 location or wording of parking signs, provided that the parking

1 signs are clearly visible and indicate the location of accessible
2 parking and van-accessible parking.

3 (D) The color of parking signs, provided that the color of the
4 background contrasts with the color of the information on the sign.

5 (E) The color of parking lot striping, provided that it exists and
6 provides sufficient contrast with the surface upon which it is
7 applied to be reasonably visible.

8 (F) Faded, chipped, damaged, or deteriorated paint in otherwise
9 fully compliant parking spaces and passenger access aisles in
10 parking lots, provided that it indicates the required dimensions of
11 a parking space or access aisle in a manner that is reasonably
12 visible.

13 (G) The presence or condition of detectable warning surfaces
14 on ramps, except where the ramp is part of a pedestrian path of
15 travel that intersects with a vehicular lane or other hazardous area.

16 (2) The presumption set forth in paragraph (1) affects the
17 plaintiff’s burden of proof and is rebuttable by evidence showing,
18 by a preponderance of the evidence, that the plaintiff did, in fact,
19 experience difficulty, discomfort, or embarrassment on the
20 particular occasion as a result of one or more of the technical
21 violations listed in paragraph (1).

22 (f) Statutory damages may be assessed pursuant to subdivision
23 (a) based on each particular occasion that the plaintiff was denied
24 full and equal access, and not upon the number of violations of
25 construction-related accessibility standards identified at the place
26 of public accommodation where the denial of full and equal access
27 occurred. If the place of public accommodation consists of distinct
28 facilities that offer distinct services, statutory damages may be
29 assessed based on each denial of full and equal access to the distinct
30 facility, and not upon the number of violations of
31 construction-related accessibility standards identified at the place
32 of public accommodation where the denial of full and equal access
33 occurred.

34 (g) (1) Notwithstanding any other law, a defendant’s liability
35 for statutory damages in a construction-related accessibility claim
36 against a place of public accommodation is reduced to a minimum
37 of one thousand dollars (\$1,000) for each offense if the defendant
38 demonstrates that it has corrected all construction-related violations
39 that are the basis of a claim within 60 days of being served with
40 the complaint, and the defendant demonstrates any of the following:

1 (A) The structure or area of the alleged violation was determined
2 to be “CASp-inspected” or “meets applicable standards” and, to
3 the best of the defendant’s knowledge, there were no modifications
4 or alterations that impacted compliance with construction-related
5 accessibility standards with respect to the plaintiff’s claim that
6 were completed or commenced between the date of that
7 determination and the particular occasion on which the plaintiff
8 was allegedly denied full and equal access.

9 (B) The structure or area of the alleged violation was the subject
10 of an inspection report indicating “CASp determination pending”
11 or “Inspected by a CASp,” and the defendant has either
12 implemented reasonable measures to correct the alleged violation
13 before the particular occasion on which the plaintiff was allegedly
14 denied full and equal access, or the defendant was in the process
15 of correcting the alleged violation within a reasonable time and
16 manner before the particular occasion on which the plaintiff was
17 allegedly denied full and equal access.

18 (C) For a claim alleging a construction-related accessibility
19 violation filed before January 1, 2018, the structure or area of the
20 alleged violation was a new construction or an improvement that
21 was approved by, and passed inspection by, the local building
22 department permit and inspection process on or after January 1,
23 2008, and before January 1, 2016, and, to the best of the
24 defendant’s knowledge, there were no modifications or alterations
25 that impacted compliance with respect to the plaintiff’s claim that
26 were completed or commenced between the completion date of
27 the new construction or improvement and the particular occasion
28 on which the plaintiff was allegedly denied full and equal access.

29 (D) The structure or area of the alleged violation was new
30 construction or an improvement that was approved by, and passed
31 inspection by, a local building department official who is a certified
32 access specialist, and, to the best of the defendant’s knowledge,
33 there were no modifications or alterations that affected compliance
34 with respect to the plaintiff’s claim that were completed or
35 commenced between the completion date of the new construction
36 or improvement and the particular occasion on which the plaintiff
37 was allegedly denied full and equal access.

38 (2) Notwithstanding any other law, a defendant’s liability for
39 statutory damages in a construction-related accessibility claim
40 against a place of public accommodation is reduced to a minimum

1 of two thousand dollars (\$2,000) for each offense if the defendant
2 demonstrates both of the following:

3 (A) The defendant has corrected all construction-related
4 violations that are the basis of a claim within 30 days of being
5 served with the complaint.

6 (B) The defendant is a small business that has employed 25 or
7 fewer employees on average over the past three years, or for the
8 years it has been in existence if less than three years, as evidenced
9 by wage report forms filed with the Economic Development
10 Department, and has average annual gross receipts of less than
11 three million five hundred thousand dollars (\$3,500,000) over the
12 previous three years, or for the years it has been in existence if
13 less than three years, as evidenced by federal or state income tax
14 returns. The average annual gross receipts dollar amount shall be
15 adjusted biannually by the Department of General Services for
16 changes in the California Consumer Price Index for All Urban
17 Consumers, as compiled by the Department of Industrial Relations.
18 The Department of General Services shall post that adjusted
19 amount on its Internet Web site.

20 (3) (A) Notwithstanding any other law, a defendant shall not
21 be liable for minimum statutory damages in a construction-related
22 accessibility claim, with respect to a violation noted in a report by
23 a certified access specialist (CASp), for a period of 120 days
24 following the date of the inspection if the defendant demonstrates
25 compliance with each of the following:

26 (i) The defendant is a business that has employed 100 or fewer
27 employees on average over the past three years, or for the years it
28 has been in existence if less than three years, as evidenced by wage
29 report forms filed with the Employment Development Department.

30 (ii) The structure or area of the alleged violation was the subject
31 of an inspection report indicating “CASp determination pending”
32 or “Inspected by a CASp.”

33 (iii) The inspection predates the filing of the claim by, or receipt
34 of a demand letter from, the plaintiff regarding the alleged violation
35 of a construction-related accessibility standard, and the defendant
36 was not on notice of the alleged violation prior to the CASp
37 inspection.

38 (iv) The defendant has corrected, within 120 days of the date
39 of the inspection, all construction-related violations in the structure

1 or area inspected by the CASp that are noted in the CASp report
2 that are the basis of the claim.

3 (B) Notwithstanding any other law, a defendant who claims the
4 benefit of the reduction of minimum statutory damages under this
5 subdivision shall disclose the date and findings of any CASp
6 inspection to a plaintiff if relevant to a claim or defense in an
7 action.

8 (4) A defendant may assert the reduction of minimum statutory
9 damages under this subdivision only once for each structure or
10 area inspected by a CASp, unless the inspected structure or area
11 has undergone modifications or alterations that affect the
12 compliance with construction-related accessibility standards of
13 those structures or areas after the date of the last inspection, and
14 the defendant obtains an additional CASp inspection within 30
15 days of final approval by the building department or certificate of
16 occupancy, as appropriate, regarding the modification or
17 alterations.

18 (5) If the defendant has failed to correct, within 120 days of the
19 date of the inspection, all construction-related violations in the
20 structure or area inspected by the CASp that are noted in the CASp
21 report, the defendant shall not receive any reduction of minimum
22 statutory damages, unless a building permit is required for the
23 repairs which cannot reasonably be completed by the defendant
24 within 120 days and the defendant is in the process of correcting
25 the violations noted in the CASp report, as evidenced by having,
26 at least, an active building permit necessary for the repairs to
27 correct the violation that was noted, but not corrected, in the CASp
28 report and all of the repairs are completed within 180 days of the
29 date of the inspection.

30 (6) This subdivision shall not be applicable to intentional
31 violations.

32 (7) Nothing in this subdivision affects the awarding of actual
33 damages, or affects the awarding of treble actual damages.

34 (8) This subdivision shall apply only to claims filed on or after
35 the effective date of Senate Bill 1186 of the 2011–12 Regular
36 Session of the Legislature, except for paragraphs (3), (4), and (5),
37 which shall apply to claims filed on or after January 1, 2016.
38 Nothing in this subdivision is intended to affect a complaint filed
39 before that date.

1 (h) This section does not alter the applicable law for the
2 awarding of injunctive or other equitable relief for a violation or
3 violations of one or more construction-related accessibility
4 standards, nor alter any legal obligation of a party to mitigate
5 damages.

6 (i) In assessing liability under subdivision (d), in an action
7 alleging multiple claims for the same construction-related
8 accessibility violation on different particular occasions, the court
9 shall consider the reasonableness of the plaintiff's conduct in light
10 of the plaintiff's obligation, if any, to mitigate damages.

11 (j) For purposes of this section, the "structure or area inspected"
12 means one of the following: the interior of the premises, the
13 exterior of the premises, or both the interior and exterior.

14 SEC. 5. Section 4459.7 of the Government Code is amended
15 to read:

16 4459.7. (a) (1) No later than October 31 of each year, the
17 State Architect shall publish and make available to the public a
18 list of certified access specialists who have met the requirements
19 of Section 4459.5.

20 (2) The State Architect shall publish and regularly update on
21 its Internet Web site easily accessible lists of all of the following:

22 (A) Businesses that have obtained a CASp inspection and have
23 filed, or a CASp has filed on their behalf, a notice pursuant to
24 paragraph ~~(3)~~ (4) of subdivision ~~(g)~~ (a) of Section ~~55.56~~ 55.53 of
25 the Civil Code.

26 (B) Businesses which have been inspected by a certified access
27 specialist on or after January 1, 2016, including the date of the
28 inspection.

29 (3) The lists required pursuant to this section shall include a
30 written disclaimer of liability as specified in subdivision (b).

31 (b) Notwithstanding any other provision of law, a state agency
32 or employee of a state agency may not be held liable for any injury
33 or damages resulting from any service provided by a certified
34 access specialist whose name appears on the list published pursuant
35 to subdivision (a).

36 (c) The State Architect may perform periodic audits of work
37 performed by a certified access specialist as deemed necessary to
38 ensure the desired standard of performance. A certified access
39 specialist shall provide an authorized representative of the State
40 Architect with complete access, at any reasonable hour of the day,

1 to all technical data, reports, records, photographs, design outlines
2 and plans, and files used in building inspection and plan review,
3 with the exception of proprietary and confidential information.

4 (d) By January 1, 2016, the State Architect shall develop a
5 process by which a certified access specialist (CASp) may notify
6 the State Architect that a structure or area on the premises of a
7 business has been inspected by a CASp and to notify the public
8 that the business has a “CASp determination pending,” or has been
9 “Inspected by a CASp,” as provided by paragraph (3) of
10 subdivision (g) of Section 55.56 of the Civil Code, which shall
11 include the name and address of the business, the date of the
12 notification, the date of the inspection of the business, the name
13 and license number of the CASp, and a description of the structure
14 or area inspected by a CASp.

15 (e) By January 1, 2016, the State Architect shall develop a form
16 for a business to notify the public that the business has obtained a
17 CASp inspection pursuant to paragraph (3) of subdivision (g) of
18 Section 55.56 of the Civil Code, which shall include the date of
19 the notification, the date of the inspection, and a description of the
20 structure or area inspected by a CASp.

21 (f) For purposes of this section, the “structure or area inspected”
22 means one of the following: the interior of the premises, the
23 exterior of the premises, or both the interior and exterior.

24 SEC. 6. Section 4459.8 of the Government Code is amended
25 to read:

26 4459.8. (a) The certification authorized by Section 4459.5 is
27 effective for three years from the date of initial certification and
28 expires if not renewed. The State Architect, upon consideration of
29 any factual complaints regarding the work of a certified access
30 specialist or of other relevant information, may suspend
31 certification or deny renewal of certification.

32 (b) (1) The State Architect shall require each applicant for
33 certification as a certified access specialist to do both of the
34 following:

35 (A) Pay fees, including an application and course fee and an
36 examination fee, at a level sufficient to meet the costs of application
37 processing, registration, publishing a list, and other activities that
38 are reasonably necessary to implement and administer the certified
39 access specialist program.

1 (B) Provide to the State Architect the name of the city, county,
2 or city and county in which the applicant intends to provide
3 services.

4 (2) The State Architect shall require each applicant for renewal
5 of certification to do both of the following:

6 (A) Pay a fee sufficient to cover the reasonable costs of
7 reassessing qualifications of renewal applicants.

8 (B) Provide to the State Architect the name of the city, county,
9 or city and county in which the applicant has provided services
10 since the last day of certification by the State Architect.

11 (3) The State Architect shall periodically review his or her
12 schedule of fees to ensure that the fees for certification are not
13 excessive while covering the costs to administer the certified access
14 specialist program. The application fee for a California licensed
15 architect, landscape architect, civil engineer, or structural engineer
16 shall not exceed two hundred fifty dollars (\$250).

17 (c) All fees collected pursuant to this section shall be deposited
18 into the Certified Access Specialist Fund, which is hereby created
19 in the State Treasury. Notwithstanding Section 13340, this fund
20 is continuously appropriated without regard to fiscal years for use
21 by the State Architect to implement Sections 4459.5 to 4459.8,
22 inclusive.

23 (d) The State Architect shall post on his or her Internet Web
24 site the name of the city, county, or city and county in which each
25 certified access specialist provides or intends to provide services.

26 SEC. 7. Section 8299.06 of the Government Code is amended
27 to read:

28 8299.06. (a) A priority of the commission shall be the
29 development and dissemination of educational materials and
30 information to promote and facilitate disability access compliance.

31 (b) The commission shall work with other state agencies,
32 including the Division of the State Architect and the Department
33 of Rehabilitation, to develop educational materials and information
34 for use by businesses to understand its obligations to provide
35 disability access and to facilitate compliance with
36 construction-related accessibility standards.

37 (c) The commission shall develop and make available on its
38 Internet Web site, or make available on its Internet Web site if
39 developed by another governmental agency, including Americans
40 with Disabilities Act centers, toolkits or educational modules to

1 assist a California business to understand its obligations under the
2 law and to facilitate compliance with respect to the top 10 alleged
3 construction-related violations, by type, as specified in subdivision
4 (a) of Section 8299.08. Upon completion of this requirement, the
5 commission shall develop and make available on its Internet Web
6 site, or work with another agency to develop, other toolkits or
7 educational modules that would educate businesses of the
8 accessibility requirements and to facilitate compliance with that
9 requirement.

10 (d) The commission shall post the following on its Internet Web
11 site:

12 (1) Educational materials and information that will assist
13 building owners, tenants, building officials, and building inspectors
14 to understand the disability accessibility requirements and to
15 facilitate compliance with disability access laws. The commission
16 shall at least annually review the educational materials and
17 information on disability access requirements and compliance
18 available on the Internet Web site of other local, state, or federal
19 agencies, including Americans with Disabilities Act centers, to
20 augment the educational materials and information developed by
21 the commission.

22 (2) A link to the Internet Web site of the Division of the State
23 Architect's certified access specialist (CASp) program to assist
24 building owners and tenants in locating or hiring a CASp.

25 (e) The commission shall, to the extent feasible, coordinate with
26 other state agencies and local building departments to ensure that
27 information provided to the public on disability access requirements
28 is uniform and complete, and make its educational materials and
29 information available to those agencies and departments.

30 SEC. 7.5. Section 8299.06 of the Government Code is amended
31 to read:

32 8299.06. (a) A priority of the commission shall be the
33 development and dissemination of educational materials and
34 information to promote and facilitate disability access compliance.

35 (b) The commission shall work with other state agencies,
36 including the Division of the State Architect and the Department
37 of Rehabilitation, to develop educational materials and information
38 for use by businesses to understand their obligations to provide
39 disability access and to facilitate compliance with
40 construction-related accessibility standards.

1 (c) The commission shall develop and make available on its
2 Internet Web site, or make available on its Internet Web site if
3 developed by another governmental agency, including Americans
4 with Disabilities Act centers, toolkits or educational modules to
5 assist a California business to understand its obligations under the
6 law and to facilitate compliance with respect to the top 10 alleged
7 construction-related violations, by type, as specified in subdivision
8 (a) of Section 8299.08. Upon completion of this requirement, the
9 commission shall develop and make available on its Internet Web
10 site, or work with another agency to develop, other toolkits or
11 educational modules that would educate businesses of the
12 accessibility requirements and to facilitate compliance with that
13 requirement.

14 (d) The commission shall post the following on its Internet Web
15 site:

16 (1) Educational materials and information that will assist
17 building owners, tenants, building officials, and building inspectors
18 to understand the disability accessibility requirements and to
19 facilitate compliance with disability access laws. The commission
20 shall at least annually review the educational materials and
21 information on disability access requirements and compliance
22 available on the Internet Web sites of other local, state, or federal
23 agencies, including Americans with Disabilities Act centers, to
24 augment the educational materials and information developed by
25 the commission.

26 (2) A link to the Internet Web site of the Division of the State
27 Architect's Certified Access Specialist (CASp) Program to assist
28 building owners and tenants in locating or hiring a CASp.

29 (e) The commission shall, to the extent feasible, coordinate with
30 other state agencies and local building departments to ensure that
31 information provided to the public on disability access requirements
32 is uniform and complete, and make its educational materials and
33 information available to those agencies and departments.

34 (f) The commission shall establish a permanent legislative
35 outreach coordinator position and a permanent educational outreach
36 coordinator position.

37 SEC. 8. Section 65941.6 is added to the Government Code, to
38 read:

39 65941.6. (a) Each local agency shall develop materials relating
40 to the requirements of the federal Americans with Disabilities Act

1 of 1990 (42 U.S.C. Sec. 12101 et seq.). The local agency shall
2 provide these materials to an applicant along with notice that
3 approval of a permit does not signify that the applicant has
4 complied with the federal Americans with Disabilities Act of 1990.

5 (b) For the purposes of complying with the requirements of
6 subdivision (a), a local agency may, in lieu of developing its own
7 materials, provide applicants with those materials which the
8 California Commission on Disability Access has developed and
9 made available pursuant to Section 8299.06.

10 SEC. 9. Article 4 (commencing with Section 65946) is added
11 to Chapter 4.5 of Division 1 of Title 7 of the Government Code,
12 to read:

13
14 Article 4. Expedited Review

15
16 65946. (a) For the purposes of this section, the following
17 definitions shall apply:

18 (1) “Certified access specialist” or “CASp” means any person
19 who has been certified pursuant to Section 4459.5.

20 (2) “Construction-related accessibility standard” means a
21 provision, standard, or regulation under state or federal law
22 requiring compliance with standards for making new construction
23 and existing facilities accessible to persons with disabilities,
24 including, but not limited to, any provision, standard, or regulation
25 set forth in Section 51, 54, 54.1, or 55 of the Civil Code, Section
26 19955.5 of the Health and Safety Code, the California Building
27 Standards Code (Title 24 of the California Code of Regulations),
28 the federal Americans with Disabilities Act of 1990 (Public Law
29 101-336; 42 U.S.C. Sec. 12101 et seq.), and the federal Americans
30 with Disabilities Act Accessibility Guidelines (Appendix A to Part
31 36 of Title 28 of the Code of Federal Regulations).

32 (3) “Written inspection report” means the CASp report required
33 to be provided pursuant to subdivision (a) of Section 55.53 of the
34 Civil Code.

35 (b) A local agency shall expedite review of a project application
36 if the project applicant meets all of the following conditions:

37 (1) The applicant provides a copy of a disability access
38 inspection certificate, provided by a CASp pursuant to subdivision
39 (e) of Section 55.53 of the Civil Code, pertaining to the site of the
40 proposed project.

1 (2) The applicant demonstrates that the proposed project is
2 necessary to address either an alleged violation of a
3 construction-related accessibility standard or a violation noted in
4 a written inspection report.

5 (3) If project plans are necessary for the approval of a project,
6 the applicant has had a CASp review the project plans for
7 compliance with all applicable construction-related accessibility
8 standards.

9 SEC. 10. Section 17053.43 is added to the Revenue and
10 Taxation Code, to read:

11 17053.43. (a) For each taxable year beginning on or after
12 January 1, 2016, and before January 1, 2021, there shall be allowed
13 as a credit against the “net tax,” as defined in Section 17039, the
14 amount paid or incurred for eligible access expenditures. The credit
15 shall be allowed in accordance with Section 44 of the Internal
16 Revenue Code, relating to expenditures to provide access to
17 disabled individuals, except that the credit amount specified in
18 subdivision (b) shall be substituted for the credit amount specified
19 in Section 44(a) of the Internal Revenue Code.

20 (b) The credit amount allowed under this section shall be an
21 amount equal to 10 percent of so much of the eligible access
22 expenditures for the taxable year as exceed two hundred fifty
23 dollars (\$250) but do not exceed ten thousand two hundred fifty
24 dollars (\$10,250).

25 (c) In the case where the credit allowed by this section exceeds
26 the “net tax,” the excess may be carried over to reduce the “net
27 tax” in the following year, and the succeeding four years, if
28 necessary, until the credit is exhausted.

29 (d) The credit allowed by this section may be claimed only on
30 a timely filed original return of the taxpayer.

31 (e) The Franchise Tax Board may prescribe rules, guidelines,
32 or procedures necessary or appropriate to carry out the purposes
33 of this section, including any guidelines regarding the
34 substantiation of the credit allowed by this section. Chapter 3.5
35 (commencing with Section 11340) of Part 1 of Division 3 of Title
36 2 of the Government Code does not apply to any rule, guideline,
37 or procedure prescribed by the Franchise Tax Board pursuant to
38 this section.

39 (f) This section shall remain in effect only until December 1,
40 2021, and as of that date is repealed.

1 SEC. 11. Section 23643 is added to the Revenue and Taxation
2 Code, to read:

3 23643. (a) For each taxable year beginning on or after January
4 1, 2016, and before January 1, 2021, there shall be allowed as a
5 credit against the “tax,” as defined in Section 23036, the amount
6 paid or incurred for eligible access expenditures. The credit shall
7 be allowed in accordance with Section 44 of the Internal Revenue
8 Code, relating to expenditures to provide access to disabled
9 individuals, except that the credit amount specified in subdivision
10 (b) shall be substituted for the credit amount specified in Section
11 44(a) of the Internal Revenue Code and the second sentence of
12 Section 44(d)(3) of the Internal Revenue Code, relating to
13 partnerships and “S” corporations, shall not apply.

14 (b) The credit amount allowed under this section shall be an
15 amount equal to 10 percent of so much of the eligible access
16 expenditures for the taxable year as exceed two hundred fifty
17 dollars (\$250) but do not exceed ten thousand two hundred fifty
18 dollars (\$10,250).

19 (c) In the case where the credit allowed by this section exceeds
20 the “tax,” the excess may be carried over to reduce the “tax” in
21 the following year, and the succeeding four years, if necessary,
22 until the credit is exhausted.

23 (d) The credit allowed by this section may be claimed only on
24 a timely filed original return of the taxpayer.

25 (e) The Franchise Tax Board may prescribe rules, guidelines,
26 or procedures necessary or appropriate to carry out the purposes
27 of this section, including any guidelines regarding the
28 substantiation of the credit allowed by this section. Chapter 3.5
29 (commencing with Section 11340) of Part 1 of Division 3 of Title
30 2 of the Government Code does not apply to any rule, guideline,
31 or procedure prescribed by the Franchise Tax Board pursuant to
32 this section.

33 (f) This section shall remain in effect only until December 1,
34 2021, and as of that date is repealed.

35 SEC. 12. The Legislature finds and declares that Sections 8
36 and 9 of this act, pertaining to the review and approval of
37 development permit applications, constitute matters of statewide
38 concern, and shall apply to charter cities and charter counties.
39 These sections shall supersede any inconsistent provisions in the
40 charter of any city, county, or city and county.

1 SEC. 13. It is the intent of the Legislature to make the findings
2 required by Section 41 of the Revenue and Taxation Code with
3 respect to the tax credits allowed by Sections 10 and 11 of this act.

4 SEC. 14. ~~Section~~ *(a) Sections 1.5 and 2.5 of this bill*
5 *incorporate amendments to Section 55.32 of the Civil Code*
6 *proposed by this bill and Assembly Bill 1521. They shall only*
7 *become operative if (1) both bills are enacted and become effective*
8 *on or before January 1, 2016, (2) each bill amends Section 55.32*
9 *of the Civil Code, and (3) this bill is enacted after Assembly Bill*
10 *1521, in which case Section 55.32 of the Civil Code, as amended*
11 *by Assembly Bill 1521, shall remain operative only until the*
12 *operative date of this bill, at which time Sections 1.5 and 2.5 of*
13 *this bill shall become operative, and Sections 1 and 2 of this bill*
14 *shall not become operative.*

15 *(b) Section 7.5 of this bill incorporates amendments to Section*
16 *8299.06 of the Government Code proposed by both this bill and*
17 *Assembly Bill 1342. It shall only become operative if (1) both*
18 *bills are enacted and become effective on or before January 1,*
19 *2016, (2) each bill amends Section 8299.06 of the Government*
20 *Code, and (3) this bill is enacted after Assembly Bill 1342, in*
21 *which case Section 7 of this bill shall not become operative.*

22 SEC. 15. If the Commission on State Mandates determines
23 that this act contains costs mandated by the state, reimbursement
24 to local agencies and school districts for those costs shall be made
25 pursuant to Part 7 (commencing with Section 17500) of Division
26 4 of Title 2 of the Government Code.