

CHAPTER 138  
FORMERLY  
SENATE BILL NO. 110

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO THE ARCHITECTURAL ACCESSIBILITY BOARD.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 7304, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 7304. Architectural Accessibility Board — Created; composition; terms; vacancies; compensation.

(a) ~~There is hereby created an~~ The Architectural Accessibility Board ~~which is created as~~ is an agency of the State for carrying out the purpose of this chapter. The Board, for administrative purposes, ~~shall be~~ is within the Office of Management and Budget.

(b) (1) ~~The Board shall be~~ is composed of 9 ~~voting~~ members who ~~shall be responsible for carrying out the duties of the Board, and non-voting, ex officio members, who shall serve in an advisory capacity.~~ are appointed by the Governor as follows:

~~(c) The voting members of the Board shall be:~~

(1) (a) One architect registered in ~~the State;~~ this State.

(2) (b) One registered professional engineer in the field of structural ~~engineering;~~ engineering.

(3) (c) One general contractor with experience in commercial ~~construction;~~ construction.

(4) (d) One attorney licensed in ~~the State;~~ this State.

(5) (e) Four ~~persons~~ individuals with disabilities, at least 1 of whom ~~shall use a wheelchair;~~ uses a wheelchair.

~~(6) (f) One member of the general public who is a parent, guardian~~ guardian, or representative of a ~~person~~ an individual with a ~~disability or persons with disabilities, or who~~ disability; provides services to ~~persons~~ individuals with ~~disabilities~~ disabilities; or ~~who~~ has a demonstrated involvement in programs for ~~persons~~ individuals with disabilities.

(2) The Governor may appoint a member for a term of less than 4 years to ensure no more than 3 members' terms expire in a year.

(3) Provided, nothing herein shall be Nothing in this section may be construed to prevent or disfavor a ~~person~~ an individual with a disability from serving in any of the positions described in paragraphs ~~(c)(1) through (4)~~ paragraphs (c)(1)a. through d. of this section. ~~It is the~~ The intent of paragraphs ~~(c)(5) and (6) (c)(1)e. and f.~~ of this section is to provide for representatives of various types of disabilities and ~~those persons~~ individuals with disabilities who cannot effectively represent themselves on the Board.

(d)(1) The following persons, or persons designated by 1 of the following, shall be ex officio, or nonvoting members of the Board: The chair may request that any of the following individuals, or their designees, attend a scheduled meeting as needed to conduct business within the individual's area of expertise:

- (1) Secretary of the Department of Health and Social ~~Services;~~ Services.
- (2) Secretary of the Department of ~~Labor;~~ Labor.
- (3) Secretary of the Department of ~~Transportation;~~ Transportation.
- (4) Director of the Office of Management and ~~Budget;~~ Budget.
- (5) Secretary of the Department of ~~Education;~~ Education.
- ~~(6) Director of the Office of Management, Budget and Planning;~~
- (7) Chairperson of the Governor's Commission of Employment of the ~~Handicapped;~~ Handicapped.
- (8) Chairperson of the Developmental Disabilities Planning ~~Council;~~ Council.
- (9) Chairperson of the Human Relations ~~Commission;~~ Commission.
- (10) Chief building inspectors of each of the counties of the this State and of the City of Wilmington, or ~~in the event that~~ if no such position exists, then ~~a person~~ an individual designated by the governing body of the ~~jurisdiction;~~ jurisdiction.

~~provided, nothing herein shall limit the persons from whom the Board may seek advice in the exercise of its duties.~~

~~(e) Voting members of the Board shall be appointed by the Governor for terms of 4 years, except that the terms of those initially appointed shall be as follows:~~

- ~~(1) The general contractor and 1 specified person with a disability shall be appointed for a term of 1 year;~~
- ~~(2) The professional engineer and 1 specified person with a disability shall be appointed for a term of 2 years;~~
- ~~(3) The architect and 1 specified person with a disability shall be appointed for a term of 3 years;~~
- ~~(4) The attorney and 1 specified person with a disability shall be appointed for a term of 4 years.~~

~~(f) (e) The Chairperson shall be appointed by the Governor shall appoint a chair from among the voting members of the Board. The chair serves as the chair at the pleasure of the Governor.~~

~~(g) Any vacancy among the voting members of the Board shall be filled by the Governor for the balance of the unexpired term. The missing of either 3 consecutive meetings or of any 4 out of any 12 consecutive meetings shall constitute an executed resignation from the Board by a voting member. The Governor has the authority to remove a voting member of the Board for good cause. (f) The Governor may remove a member for gross inefficiency, misfeasance, nonfeasance, malfeasance, or neglect of duty in office. A member is deemed in neglect of duty if the member is absent from 3 consecutive, regular Board meetings or attends less than 50% of Board meetings in a calendar year. The Governor may consider the member to have resigned, and may accept the member's resignation.~~

~~(h) (g) Voting members of the Board shall Members must receive a compensation of \$25 per day when they the members are engaged in their duties as members of the Board. The members shall Members must be reimbursed for their actual travel and other necessary expenses incurred in carrying out their duties.~~

Section 2. Amend § 7305, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and by redesignating accordingly: :

§ 7305. Architectural Accessibility Board — Procedures.

(a) ~~The Board shall meet as often as deemed necessary by a majority of the Board, but in no event shall the Board meet less frequently than once every 2 calendar months. The Board shall meet at least once every 2 months, and may meet more frequently as determined by a majority of the Board.~~

(b) ~~Five voting members of the Board shall constitute a quorum, which shall be necessary to vote on any issue must be present at a Board meeting in order to have a quorum and conduct official business unless otherwise provided in this chapter. Counting for quorum does not include member positions that are vacant.~~

(c) ~~Except as otherwise provided by this chapter, the Board shall not take any action without a majority vote of a quorum of the voting members at a duly called meeting.~~

~~(d)~~ (c) The Board shall may adopt other procedures as it deems appropriate.

Section 3. Amend § 7306, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 7306. Architectural Accessibility Board — Duties and powers.

(a) In addition to the other duties expressly conferred by this chapter, the Board ~~shall have~~ has the following duties and responsibilities:

(1) ~~Promulgate~~ Through the approval of a majority of the voting Board members following a public hearing, promulgate rules and regulations which ~~shall contain~~ establishing standards for the design and construction of facilities covered by this chapter to assure that ~~such facilities covered by this chapter are safely accessible to and usable by persons~~ individuals with disabilities can safely access and use the facilities. Such standards shall be adopted by a majority vote of the Board following public hearings and shall The standards must take into account the requirements and standards that are either of the following:

a. requirements and standards recommended Recommended or amended by the American National Standards Institute (ANSI) and the Building Officials and Code Administrators ~~(BOCA) and any amendments thereto, (BOCA).~~

b. and standards and requirements set out in applicable guidelines of the federal government; provided, that until such time as the regulations containing standards as required by this paragraph are formally adopted by the Board, the standards contained in § 6917(a) (n) [repealed] of this title shall remain in force and effect and shall be applied by the Board; Required under applicable federal law.

(2) ~~Promulgate~~ Through the approval of a majority of the voting Board members following a public hearing, promulgate rules and regulations for the granting of waivers from the requirements of this chapter and the Board's standards. ~~Such rules and regulations shall be adopted by a majority vote of the Board after public hearings and~~ The rules and regulations may provide for conditional or temporary waivers where appropriate, and ~~shall~~ must take into account such factors as the availability of acceptable alternatives to the Board's standards, ~~and whether or not~~ standards and whether compliance with the standards will produce extreme economic hardship without substantial benefit to ~~persons with disabilities;~~ individuals with disabilities.

(3) Publish the standards and regulations adopted ~~pursuant to~~ under paragraphs (a)(1) and (2) of this section and make copies available to architects, engineers, contractors, state and local building ~~inspectors and inspectors,~~ public works ~~officials~~ officials, and other interested persons and ~~groups;~~ groups.

(4) Review all submissions to the Board ~~pursuant to the requirements of~~ under § 7308 of this title to determine if the requirements of this chapter and the standards of the Board are met and, upon a determination that the pertinent requirements are met, issue a letter of approval for such ~~construction;~~ construction.

(5) Monitor compliance with pertinent standards during construction of a facility for which a letter of approval has been ~~issued;~~ issued.

(6) ~~Upon written application setting forth good and sufficient reason therefor, grant written waivers from this chapter and the standards of the Board, pursuant to § 7309 of this title;~~ Grant a waiver under § 7309 of this title.

(7) Receive and act upon complaints concerning alleged noncompliance with this chapter and the standards of the ~~Board;~~ Board.

(8) Conduct a polling place accessibility assessment upon referral from ~~a department of election in implementation of § 4512 of Title 15;~~ the Department of Elections under § 4512 of Title 15.

(9) Survey existing facilities which ~~have been~~ the State has constructed, ~~leased~~ leased, or financed by ~~the State prior to~~ before July 13, 1979, and recommend to the Director of the Office of Management and Budget steps to eliminate existing architectural ~~barriers;~~ barriers.

(10) Formulate educational and training courses to assist in the accomplishment of the purpose of this ~~chapter;~~ chapter.

(11) Make studies and collect and retain data relative to the purpose of this ~~chapter;~~ chapter.

(12) Provide for public awareness of architectural accessibility and of the requirements ~~relative thereto~~ related to architectural accessibility.

(b) ~~For the effectuation of the purposes of this chapter, the Board, in addition to such other powers expressly granted to it by this chapter, shall have~~ To achieve the purposes of this chapter and in addition to other responsibilities and duties under this chapter, the Board has the following powers:

(1) To make and promulgate rules and regulations, ~~not inconsistent~~ consistent with this chapter, that are necessary and proper for the Board's administration and ~~operation of the Board~~ operation, and for the conduct of the ~~business of the Board;~~ Board's business.

(2) ~~To appoint, in~~ In conjunction with the Director of the Office of Management and Budget, to appoint a Chief Administrator, who ~~shall serve~~ serves as the Board's Chief Executive Officer ~~for the Board and who shall supervise such~~ and supervises clerical and other staff as ~~may be provided by~~ the Director of the Office of Management and ~~Budget;~~ Budget may provide.

(3) To hold ~~hearings, inspect construction or to provide for inspection by~~ the Chief Administrator, by other staff of the Office of Management and Budget as may be made available by the Director, or by purchase of ~~services, request information~~ hearings; inspect construction; provide for inspection by the Chief Administrator.

other staff of the Office of Management and Budget as the Director may make available, or through purchase of services; request information; and perform other acts which are necessary and proper for effectuating the purpose of this chapter.

Approved July 23, 2019