

As Reported by the House Judiciary Committee

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Sub. H. B. No. 333

Representative Stinziano

Cosponsors: Representatives Hackett, Henne, Hood, Mallory, O'Brien,

Lynch

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A B I L L

To enact section 4112.16 of the Revised Code to 1
authorize an alleged aggrieved party to provide a 2
notice of an alleged accessibility law violation 3
in advance of filing a civil action and to 4
establish the circumstances under which an alleged 5
aggrieved party is entitled to attorney's fees in 6
a civil action based on the violation. 7

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

Section 1. That section 4112.16 of the Revised Code be 8
enacted to read as follows: 9

Sec. 4112.16. (A) Prior to filing a civil action alleging 10
violation of an accessibility law, the alleged aggrieved party may 11
notify the owner, agent, or other responsible party of the 12
property where the alleged violation occurred by personal service, 13
in accordance with applicable state or federal laws, or by 14
certified mail, of alleged accessibility law violations for which 15
an action may be filed by the alleged aggrieved party. If an 16
alleged aggrieved party does not serve notice, the alleged 17
aggrieved party is not entitled to attorney's fees upon the 18
judgment of a civil action alleging violation of an accessibility 19

law unless the trial court determines that attorney's fees are 20
appropriate due to the nature of the violations, including their 21
willfulness, duration, or severity. If an alleged aggrieved party 22
serves notice in accordance with division (B) of this section, the 23
alleged aggrieved party is precluded from filing such a civil 24
action until one of the following occurs: 25

(1) The alleged aggrieved party receives a response as 26
described in division (C)(1) of this section and the property 27
owner, agent, or other responsible party of the property fails to 28
make the improvements or bring the property into compliance with 29
accessibility laws and fails to provide a reasonable explanation 30
for the failure within sixty days as required by division (D) of 31
this section. 32

(2) The alleged aggrieved party receives a response as 33
described in division (C)(2) of this section. 34

(3) The alleged aggrieved party receives a response as 35
described in division (C)(3) of this section, but the alleged 36
aggrieved party reasonably believes that the alleged violations 37
continue to exist. 38

(4) The property owner, agent, or other responsible party of 39
the property fails to respond to the notice within fifteen 40
business days as required by division (C) of this section. 41

(B) A notice provided pursuant to division (A) of this 42
section shall furnish similar information or be in substantially 43
similar form to the following: 44

THIS LETTER IS TO INFORM YOU THAT THE PROPERTY LOCATED AT 45
(address of property), FOR WHICH YOU ARE THE PROPERTY OWNER, 46
AGENT, OR OTHER RESPONSIBLE PARTY, MAY BE IN VIOLATION OF FEDERAL 47
AND/OR STATE ACCESSIBILITY LAWS AND CAUSED HARM TO (name of 48
alleged aggrieved party). 49

SPECIFICALLY, THE POSSIBLE VIOLATION(S) HAS/HAVE BEEN 50
IDENTIFIED AS FOLLOWS: 51

(Notice must identify the specific facts that constitute the 52
alleged violation, including the approximate date on which the 53
alleged violation occurred or was observed and identification of 54
the location of the alleged violation with sufficient detail, so 55
that the location can be identified by the property owner, agent, 56
or other responsible party.) 57

YOU HAVE 15 BUSINESS DAYS TO RESPOND TO THIS NOTICE BY 58
PERSONAL SERVICE OR CERTIFIED MAIL. YOUR RESPONSE MUST BE 59
ADDRESSED TO (address where personal service may be received or 60
certified mail may be sent). OHIO LAW ALLOWS YOU TO RESPOND IN ONE 61
OF THREE WAYS: 62

(1) YOU MAY EXPRESSLY STATE THAT IMPROVEMENTS WILL BE MADE TO 63
BRING THE PROPERTY INTO COMPLIANCE WITH APPLICABLE ACCESSIBILITY 64
LAWS. IF YOU RESPOND IN THIS MANNER, YOU HAVE A MAXIMUM OF 60 DAYS 65
TO COMPLETE THESE IMPROVEMENTS. THE 60-DAY PERIOD SHALL BEGIN ON 66
THE DATE YOUR RESPONSE TO THIS NOTICE IS RECEIVED AT THE ADDRESS 67
GIVEN ABOVE. IF THE IMPROVEMENTS NECESSARY TO BRING THE PROPERTY 68
INTO COMPLIANCE WITH THE APPLICABLE ACCESSIBILITY LAWS ARE NOT 69
COMPLETED WITHIN THE 60-DAY PERIOD, THE ALLEGED AGGRIEVED PARTY 70
MAY BRING A LAWSUIT AGAINST YOU. YOU MAY EXTEND THE 60-DAY PERIOD 71
ONLY IF YOU PROVIDE A REASONABLE EXPLANATION AS TO WHY 72
IMPROVEMENTS CANNOT BE MADE WITHIN 60 DAYS. REASONABLE 73
EXPLANATIONS INCLUDE DEMONSTRATED NEED FOR DELAY, SUCH AS 74
CONSTRUCTION AND PERMITTING RELATED ISSUES. 75

(2) YOU MAY CHALLENGE THE VALIDITY OF THE ALLEGED VIOLATIONS. 76
IF YOU RESPOND IN THIS MANNER, THE ALLEGED AGGRIEVED PARTY MAY 77
BRING A LAWSUIT AGAINST YOU IMMEDIATELY. 78

(3) IF THE VIOLATIONS LISTED ABOVE ARE THE SAME AS OR SIMILAR 79
TO PREVIOUS VIOLATIONS THAT YOU BELIEVE HAVE BEEN CORRECTED, YOU 80

MAY RESPOND BY STATING THAT THE NECESSARY IMPROVEMENTS HAVE BEEN 81
MADE TO BRING THE PROPERTY INTO COMPLIANCE WITH THE APPLICABLE 82
ACCESSIBILITY LAWS. YOU MUST ALSO ATTACH EVIDENCE THAT VERIFIES 83
THOSE IMPROVEMENTS. 84

IF YOU HAVE ANY QUESTIONS ABOUT THIS NOTICE OR YOUR RIGHTS 85
UNDER FEDERAL OR OHIO LAW, PLEASE CONTACT YOUR LEGAL COUNSEL. 86

(C) Within fifteen business days after an alleged aggrieved 87
party serves or sends a notice pursuant to division (A) of this 88
section, the property owner, agent, or other responsible party of 89
the property where the alleged violation occurred shall respond to 90
the notice by personal service or certified mail to the alleged 91
aggrieved party. That response shall do one of the following: 92

(1) Expressly state that improvements will be made to bring 93
the property into compliance with applicable accessibility laws. 94

(2) Challenge the validity of the alleged violation. If the 95
property owner, agent, or other responsible party responds in this 96
manner, the alleged aggrieved party may file an action, subject to 97
any applicable statutes of limitations, any time after receipt of 98
that response. 99

(3) State that the alleged violations identified by the 100
alleged aggrieved party have been corrected to comply with 101
applicable accessibility laws. The property owner, agent, or other 102
responsible party shall attach evidence to the response that 103
verifies those improvements. 104

(D)(1)(a) If a property owner, agent, or responsible party of 105
the property where the alleged accessibility law violation 106
occurred responds in the manner described in division (C)(1) of 107
this section, the property owner, agent, or responsible party 108
shall have sixty days to remedy the alleged violation. The 109
sixty-day period shall begin on the date the alleged aggrieved 110
party receives the response described in division (C) of this 111

section. The owner, agent, or other responsible party may extend 112
the sixty-day period by not more than sixty days upon providing a 113
reasonable explanation as to why the improvement requires more 114
than sixty days to complete. Reasonable explanations include 115
demonstrated need for extension, such as construction and 116
permitting related issues. 117

(b) If the property owner, agent, or other responsible party 118
of the property where the alleged accessibility law violation 119
occurred responds in the manner described in division (C)(1) of 120
this section and makes the improvements to bring the property into 121
compliance with applicable accessibility laws within the sixty-day 122
period described in division (D)(1)(a) of this section or provides 123
a reasonable explanation as to why those improvements are not 124
completed, the response as described in division (C)(1) shall not 125
be considered an admission of guilt and shall be inadmissible as 126
evidence in any future actions based on the same facts filed 127
against the property owner, agent, or other responsible party. 128

(2)(a) If the property owner, agent, or other responsible 129
party of the property where the alleged accessibility law 130
violation occurred fails to make the improvements to bring the 131
property into compliance with applicable accessibility laws within 132
the sixty-day period described in division (D)(1)(a) of this 133
section and, in the opinion of the aggrieved party, fails to 134
provide a reasonable explanation as to why those improvements are 135
not completed, the alleged aggrieved party may file a civil action 136
for accessibility law violation against that property owner, 137
agent, or other responsible party. 138

(b) In a civil action filed pursuant to division (D)(2)(a) of 139
this section in which a plaintiff prevails, the plaintiff shall 140
recover reasonable attorney's fees, in addition to any other 141
remedies available to the plaintiff. However, the plaintiff shall 142
not be entitled to attorney's fees under this division if the 143

plaintiff filed the civil action prior to the expiration of an 144
extension invoked by the defendant and the court determines that 145
the defendant's explanation as to the necessity of the extension 146
was reasonable. 147

(c) If the property owner, agent, or other responsible party 148
where the alleged accessibility law violation occurred makes the 149
improvements to bring the property into compliance with the 150
applicable accessibility laws within the sixty-day period 151
described in division (D)(1) of this section and provides evidence 152
to the alleged aggrieved party that the improvements have been 153
made, or if the property owner, agent, or other responsible party 154
demonstrates to the court's satisfaction that the explanation 155
given for the necessity of an extension was reasonable, the 156
alleged aggrieved party shall not receive any damages or 157
attorney's fees for any action arising out of the same or similar 158
facts that served as a basis for the alleged violation. The 159
alleged aggrieved party may receive damages and attorney's fees 160
for actions arising out of a recurrence of the same or similar 161
alleged accessibility law violation if it is determined that the 162
property owner, agent, or other responsible party failed to 163
maintain accessibility following the initial improvements. 164

(E)(1) This section shall not be construed to limit actions 165
for recovery of special damages filed by any person who suffers an 166
injury in fact because the person was denied full and equal access 167
to an accommodation as required by federal or state law. 168

(2) This section does not apply to actions initiated by the 169
Ohio civil rights commission under Chapter 4112. of the Revised 170
Code. 171

(F) As used in this section: 172

(1) "Accessibility law" means any federal law or section of 173
the Revised Code that ensures accessibility to services, programs, 174

<u>places of public accommodation, public conveyance and modes of</u>	175
<u>transportation, streets, highways, sidewalks, walkways, buildings,</u>	176
<u>medical facilities, and other public places for a person with a</u>	177
<u>disability.</u>	178
<u>(2) "Business day" means a day of the week excluding Sunday</u>	179
<u>and a legal holiday as defined in section 1.14 of the Revised</u>	180
<u>Code.</u>	181