

Regular Session, 2009

# ACT No. 368

HOUSE BILL NO. 365

BY REPRESENTATIVE SIMON

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

1 AN ACT

2 To enact Part VII-B of Chapter 10 of Title 38 of the Louisiana Revised Statutes of 1950, to  
3 be comprised of R.S. 38:2318.2, to establish and provide for the Percent for  
4 Universal Design Program; to require that a certain percent of the expenditure for  
5 construction or renovation of a state building shall be used to implement principles  
6 of universal design; to provide exceptions; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Part VII-B of Chapter 10 of Title 38 of the Louisiana Revised Statutes of  
9 1950, comprised of R.S. 38:2318.2, is hereby enacted to read as follows:

10 §2318.2. Percent for Universal Design Program; established

11 A. Recognizing the declaration of rights underlying the state's constitution,  
12 government is instituted to protect the rights of the individual and provide for the  
13 good of the whole; hence, the legislature declares it to be the public policy of the  
14 state that a portion of money spent by the state and state agencies on the construction  
15 or renovation of state buildings should be spent on implementing principles of  
16 universal design. In pursuit of this policy, the Percent for Universal Design Program  
17 is established for the purpose of providing for the implementation of such principles  
18 in or on state buildings and grounds to move beyond minimum accessibility  
19 requirements, maximize accessibility for all users regardless of their functional  
20 capabilities, and bring to the attention of architects, builders, and the public at large  
21 the vast benefits that can be realized by implementing universal design principles in  
22 the construction and renovation of all buildings, including those privately owned and  
23 personal residences.

1           B. The following terms as used in this Section shall have the meaning  
2           provided in this Subsection unless the context clearly indicates otherwise:

3           (1) "Renovation" does not include a project the principal purpose of which  
4           is the rehabilitation of plumbing, heating, ventilating, air conditioning, or electrical  
5           systems.

6           (2) "State building" means any building, facility, structure, or park built or  
7           renovated using state funds that will be owned by a department or agency in the  
8           executive, judicial, or legislative branch of state government, including any  
9           state-owned lands or space surrounding or integral to the building. "State building"  
10          does not include bridges, tunnels, or sewers, unless such structures are adjuncts of  
11          the principal element of the project.

12          (3) "State funds" or "state money" shall not include federal funds or  
13          insurance proceeds for the construction, replacement, renovation, or improvement  
14          of a state building damaged by a natural catastrophe when conditions governing the  
15          expenditure of such monies specifically preclude their use for the utilization and  
16          implementation of universal design features, nor shall it include state monies used  
17          as a match for such federal funds or insurance proceeds.

18          (4) "Universal design" as more fully defined in Subsection C of this Section,  
19          means certain design features that are not currently required by the Americans with  
20          Disabilities Act of 1990, although they may be used to satisfy the Americans with  
21          Disabilities Act requirements and when so utilized, the cost may be applied in  
22          satisfaction of the two percent monetary requirement of this Section.

23          C. Universal design is a principle of design guiding a wide range of design  
24          disciplines including environments, products, and communications including all of  
25          the following:

26          (1)(a) Equitable Use. The design is useful and marketable to people with  
27          diverse abilities.

28          (b) Guidelines. Provides the same means of use for all users: identical  
29          whenever possible; equivalent when not. Avoids segregating or stigmatizing any

1 users. Incorporates provisions for privacy, security, and safety that should be equally  
2 available to all users. Makes the design appealing to all users.

3 (2)(a) Flexibility in Use. The design accommodates a wide range of  
4 individual preferences and abilities.

5 (b) Guidelines. Provides choice in methods of use. Accommodates right or  
6 left handed access and use. Provides adaptability to the user's pace.

7 (3)(a) Simple and Intuitive Use. Use of the design is easy to understand,  
8 regardless of the user's experience, knowledge, language skills, or current  
9 concentration level.

10 (b) Guidelines. Eliminates unnecessary complexity. Consistent with user  
11 expectations and intuition. Accommodates a wide range of literacy and language  
12 skills. Arranges information consistent with its importance. Provides effective  
13 prompting and feedback during and after task completion.

14 (4)(a) Perceptible Information. The design communicates necessary  
15 information effectively to the user, regardless of ambient conditions or the user's  
16 sensory abilities.

17 (b) Guidelines. Uses different modes (pictorial, verbal, tactile) for redundant  
18 presentation of essential information. Provides adequate contrast between essential  
19 information and its surroundings. Maximizes "legibility" of essential information.  
20 Differentiates elements in ways that can be described which includes making it easy  
21 to give instructions or directions. Provides compatibility with a variety of techniques  
22 or devices used by people with sensory limitations.

23 (5)(a) Tolerance for Error. The design minimizes hazards and the adverse  
24 consequences of accidental or unintended actions.

25 (b) Guidelines. Arranges elements to minimize hazards and errors: most  
26 used elements, most accessible; hazardous elements eliminated, isolated, or shielded.  
27 Provides warnings of hazards and errors. Provides fail-safe features. Discourages  
28 unconscious action in tasks that require vigilance.

29 (6)(a) Low Physical Effort. The design can be used efficiently and  
30 comfortably and with a minimum of fatigue.

1           **(b) Guidelines. Allows user to maintain a neutral body position. Uses**  
2           **reasonable operating forces. Minimizes repetitive actions. Minimizes sustained**  
3           **physical effort.**

4           **(7)(a) Size and Space for Approach and Use. Appropriate size and space is**  
5           **provided for approach, reach, manipulation, and use regardless of user's body size,**  
6           **posture, or mobility.**

7           **(b) Guidelines. Provides a clear line of sight to important elements for any**  
8           **seated or standing user. Makes reach to all components comfortable for any seated**  
9           **or standing user. Accommodates variations in hand and grip size. Provides adequate**  
10           **space for the use of assistive devices or personal assistance.**

11           **D. Except as otherwise provided in this Section, whenever more than two**  
12           **million dollars of state funds, whether obtained from the sale of bonds or otherwise,**  
13           **is to be spent by a state agency for the construction or renovation of a state building,**  
14           **the agency that contracts for the construction or renovation shall expend two percent**  
15           **of the state money to utilize and incorporate universal design principles.**

16           **E. Nothing in this Part shall supercede, restrict, or limit the application of the**  
17           **following laws:**

18           **(1) The Americans with Disabilities Act of 1990 (42 U.S.C. §1201 et seq.).**

19           **(2) The Rehabilitation Act of 1973 (29 U.S.C. §701 et seq.) and ensuing**  
20           **regulations.**

21           **(3) The Fair Housing Act (42 U.S.C. §3601 et seq.).**

22           **(4) R.S. 40:1731 through 1744.**

23           **(5) R.S. 49:148 through 148.3.**

24           **F.(1) The commissioner of administration may adopt rules not inconsistent**  
25           **with the stated intent of this program to implement the provisions of this Section.**  
26           **The commissioner may also solicit the assistance and advice of the Louisiana**  
27           **Chapter of the American Institute of Architects in determining whether a particular**  
28           **design feature complies with the intent and principles of universal design. Neither**  
29           **the Louisiana Chapter of the American Institute of Architects nor any member**  
30           **thereof shall be liable for any opinion, assistance, or advice rendered pursuant to this**

1           Section. No member of the general public shall have a cause of action for damages  
 2           against the state, the commissioner of administration, nor any employee of the  
 3           division of administration for the inclusion or failure to include a particular design  
 4           feature.

5           (2) The rules provided for in this Section shall contain standards for  
 6           construction and renovation and this Section shall not be implemented until such  
 7           rules have been finally promulgated in accordance with the Administrative Procedure  
 8           Act and shall be specifically subject to oversight and approval by the House and  
 9           Senate committees on transportation, highways, and public works.

10          Section 2. Projects for the construction or renovations of state buildings that have  
 11          been let prior to the effective date of this Act shall not be required to incorporate the  
 12          principals of universal design.

13          Section 3. This Act shall become effective on January 1, 2010.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_