

AMERICANS W/DISABILITIES ACT

Managing Your Risk

3.0 Hours Fair Housing

This course pertains to the Titles of the ADA that impact the real estate industry and identifies agent responsibilities for grandfathered property and new construction in managing risk.

I. Americans with Disabilities Act (ADA)

- A. Brief History
- B. Overview of all Titles
- C. Identify those impacting the Real Estate Industry

II. Definition of Handicapped

- A. Disabilities recognized
- B. Exceptions

III. Titles

- A. Title I – Equal Employment
 - a. Purpose
- B. Title II
 - a. Prohibits discrimination on the basis of disability in government services
- C. Title III
 - a. Prohibits discrimination on the basis of disabilities by Public Accommodations and Commercial Facilities
- D. Title IV – Telecommunications
 - a. Requires Communications companies to develop telephone relay services in every state
- E. Title V - Miscellaneous Provisions
 - a. Connects the Four Titles to other provisions of other Laws (ABA)

IV. Most Common Issues

- A. New Construction
- B. Alterations for accommodation
- C. ADA Facilities (grandfathered)
- D. Architectural Accessibility
- E. Signage
- F. Websites

V. Case Examples

The Americans with Disabilities Act (ADA) became law in 1990. The ADA is a civil rights law that prohibits discrimination against individuals with disabilities in all areas of public life, including jobs, schools, transportation, and all public and private places that are open to the general public. The purpose of the law is to make sure that people with disabilities have the same rights and opportunities as everyone else. The ADA is divided into five titles (or sections) that relate to different areas of public life.

Title I - Employment

- Helps people with disabilities access the same employment opportunities and benefits available to people without disabilities.
- Applies to employers with 15 or more employees.
- Requires employers to provide reasonable accommodations to qualified applicants or employees. A “reasonable accommodation” is a change that accommodates employees with disabilities so they can do the job without causing the employer “undue hardship” (too much difficulty or expense).
- Defines disability, establishes guidelines for the reasonable accommodation process, and addresses medical examinations and inquiries.
- Regulated and enforced by the U.S. Equal Employment Opportunity Commission

Title II - Public Services: State and Local Government

- Prohibits discrimination on the basis of disability by “public entities” such as state and local government agencies. .
- Requires public entities to make their programs, services and activities accessible to individuals with disabilities.
- Outlines requirements for self-evaluation and planning; making reasonable modifications to policies, practices, and procedures where necessary to avoid discrimination; identifying architectural barriers; and communicating effectively with people with hearing, vision and speech disabilities.
- Regulated and enforced by the U.S. Department of Justice

Title III - Public Accommodations and Services Operated by Private Entities

- Prohibits places of public accommodation from discriminating against individuals with disabilities. Public accommodations include privately owned, leased or operated facilities like hotels, restaurants, retail merchants, doctor's offices, golf courses, private schools, day care centers, health clubs, sports stadiums, movie theaters, and so on.
- Sets the minimum standards for accessibility for alterations and new construction of commercial facilities and privately owned public accommodations. It also requires public accommodations to remove barriers in existing buildings where it is easy to do so without much difficulty or expense.
- Directs businesses to make "reasonable modifications" to their usual ways of doing things when serving people with disabilities.
- Requires that businesses take steps necessary to communicate effectively with customers with vision, hearing, and speech disabilities.
- Regulated and enforced by the U.S. Department of Justice

Title IV - Telecommunications

- Requires telephone and Internet companies to provide a nationwide system of interstate and intrastate telecommunications relay services that allows individuals with hearing or speech disabilities to communicate over the telephone.
- Requires closed captioning of federally funded public service announcements.
- Regulated by the Federal Communication Commission

Title V - Miscellaneous Provisions

- Contains a variety of provisions relating to the ADA as a whole, including its relationship to other laws, state immunity, its impact on insurance providers and benefits, prohibition against retaliation and coercion, illegal use of drugs, and attorney's fees.
- Provides a list of certain conditions that are not considered disabilities.

Transportation

- Public Transportation offered by a state or local government is covered by Title II of the ADA. Publicly funded transportation includes, but is not limited to, bus and passenger train (rail) service. Rail service includes subways (rapid rail), light rail, commuter rail, and Amtrak.
- If transportation is offered by a private company, it is covered by Title III. Privately funded transportation includes, but is not limited to, taxicabs, airport shuttles, intercity bus companies, such as Greyhound, and hotel-provided transportation.
- The U.S. Department of Transportation, Federal Transit Administration releases information, guidance and regulations on transportation and the ADA.