

# **Design and Construction Requirements as required under §103-50, Hawaii Revised Statutes**

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## **What types of buildings, facilities, and sites are covered by §103-50, Hawaii Revised Statutes (HRS)?**

§103-50, HRS states that all plans and specifications for the construction of public buildings, facilities, and sites shall be prepared so that the buildings, facilities, and sites are accessible to and usable by persons with disabilities.

The HRS 103-50 states that all plans and specifications for the construction of public buildings, facilities, or sites by the State or any county shall be prepared so that the buildings, facilities, or sites are accessible to and usable by persons with disabilities. "Public buildings, facilities, and sites" means buildings, facilities, sites, and the infrastructure thereof that 1) Are designed, constructed, purchased or leased with the use of any State or county funds or federal funds administered by the State or a county; 2) House State or county programs, services, or activities that are intended to be accessed by the general public; or 3) Are places of public accommodation or commercial facilities under the Americans with Disabilities Act, title 28 Code of Federal Regulations part 36, and are constructed on State or county lands; or 4) Are constructed on lands that will be transferred to the State or county upon completion of construction." The HRS 103-50 states that all agencies of the State and counties shall seek the "advice and recommendations" from the Disability and Communication Access Board on all plans and specifications to ensure conformance with the ADAAG and FHAAG, as well as any supplemental design guidelines established by the Disability and Communication Access Board.

## **Are there specific design standards?**

§103-50, HRS states that public buildings, facilities, and sites shall conform to the 2004 Americans with Disabilities Act Accessibility Guidelines (2004 ADAAG) and the requirements of the Fair Housing Accessibility Guidelines (FHAG) as adopted and amended by the Disability and Communication Access Board.

In addition, the Disability and Communication Access Board has the authority to adopt federal amendments to the 2004 ADAAG or establish guidelines for design specifications not covered in the 2004 ADAAG.

## **Is there a review process for §103-50, HRS projects?**

§103-50, HRS states that all agencies of the State and counties shall seek the "advice and recommendations" from the Disability and Communication Access Board on all plans and specifications prior to commencing with construction to ensure conformance with the 2004 ADAAG and FHAG, as well as any supplemental design guidelines established by the Disability and Communication Access Board.

The Disability and Communication Access Board provides technical assistance in the form of review and recommendations on design documents from conceptual and schematic stages through final construction plans. A written document review is provided on the plans in their final stage of preparation. The Disability and Communication Access Board transmits its

advice and recommendations to the agency overseeing the project and/or the design consultant that originated the submittal. The ultimate decision on any project is made between the oversight agency's project manager and the design or construction personnel. The administrative rules governing the procedures are covered in Hawaii Administrative Rules Chapter 11-216.

## **Who enforces the design requirements of §103-50, HRS?**

Assurances that a building, facility, or site is constructed in accordance with the appropriate design standards rests with the government agency or agencies which oversee the funding of the project.

## **Is there a process to obtain a “variance” or “waiver” from the requirements of §103-50, HRS?**

The Disability and Communication Access Board is authorized to approve a site specific alternate design, not a variance, if the alternative design provides equal or greater access for persons with disabilities. Waivers are not permitted. An application process, followed by a public hearing, will precede the decision on this request. The administrative rules governing the procedures for site specific design alternatives are contained in Hawaii Administrative Rules Chapter 11-216.

## **Is there a process to obtain a clarification of an accessibility guideline adopted under §103-50, HRS?**

The Disability and Communication Access Board is authorized to issue interpretive opinions for the purpose of clarifying accessibility guidelines for State and county construction projects. An application process will precede the decision on this request. The administrative rules governing the procedures for interpretive opinion are contained in Hawaii Administrative Rules Chapter 11-216.

## **Does the law replace existing local building codes?**

The requirements of §103-50, HRS do not supplant or replace State or local laws that impose higher accessibility standards. The governing principle to follow when local codes differ is that the more stringent requirements apply.



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