

WAC 162-38-070 Accessibility. (1) Laws requiring accessibility.

The principal laws that require that buildings be made accessible are:

(a) The state building code, chapter 19.27 RCW, which includes the standards for barrier free facilities in chapter 51-30 WAC, promulgated under the authority of chapter 70.92 RCW.

(b) The federal Fair Housing Amendments Act of 1988, codified at 42 U.S.C. 3601, et seq., and accompanying regulations (chapter 24 C.F.R. Part 100).

(c) The Americans With Disabilities Act of 1990, codified at 42 U.S.C. 12101, et seq.

(d) The Rehabilitation Act of 1973, codified at 29 U.S.C. 701, et seq., and accompanying regulations.

(e) The Architectural Barriers Act, codified at 42 U.S.C. 4151, et seq.

(3) **Practices that are not unfair.** It is not an unfair practice under RCW 49.60.222:

(a) To engage in a real estate transaction involving real property with structural barriers that were lawful when constructed and that are presently lawful under the state building code and other law outside of the law against discrimination; or

(b) To maintain real property with structural barriers to accessibility when the structural barriers were lawful when constructed and are presently lawful under the state building code and other law outside of the law against discrimination.

(4) **Unfair practices.** It is an unfair practice under RCW 49.60.222:

(a) To build or remodel in violation of the standards for barrier free facilities, chapter 51-30 WAC, or other requirement of law on accessibility as defined herein.

(b) To fail to maintain or fail to continue the accessibility of real property that was required by law to be accessible when built, remodeled, or rehabilitated.

(c) To take any action of the types set out in RCW 49.60.222 through 49.60.225 against a disabled person because the real property transaction involves real property that is not accessible.

(d) For an owner of four or more units of rental property who is making nonstructural changes in the rental property to fail to eliminate barriers to accessibility when this can be done without substantially changing the scope or cost of the project or requiring structural changes that are not otherwise required by law. Specifically, it is an unfair practice:

(i) When installing a nonstructural fixture or component, to choose and install one that is not accessible to the disabled or that makes the place of public accommodation less accessible to the disabled.

(ii) When replacing a nonstructural fixture or component, to replace it with one that is not accessible to the disabled or one that makes the place of public accommodation less accessible to the disabled.

(iii) When relocating a nonstructural fixture or component, to relocate it to a place that is not accessible to the disabled, unless no suitable place is accessible.

(iv) When modifying a nonstructural fixture or component, to do so in a way that does not eliminate barriers to the disabled, when possible.

[Statutory Authority: RCW 49.60.120(3) and 49.60.240. WSR 96-13-045, § 162-38-070, filed 6/13/96, effective 7/14/96. Statutory Authority: RCW 49.60.120(3). WSR 83-02-012 (Order 43), § 162-38-070, filed 12/23/82.]