



NATIONAL ASSOCIATION OF REALTORS®

*The Voice For Real Estate®*

500 New Jersey Avenue, N.W.  
Washington, DC 20001-2020  
202.383.1194 Fax 202.383.7580  
[www.realtors.org/governmentaffairs](http://www.realtors.org/governmentaffairs)

Al Mansell, CRB  
President

Terrence M. McDermott  
EVP/CEO

GOVERNMENT AFFAIRS  
Jerry Giovaniello, Senior Vice President  
Walter J. Witek, Jr., Vice President

June 10, 2005

The Honorable Mark Foley  
U.S. House of Representatives  
104 Cannon House Office Building  
Washington, DC 20515

Dear Representative Foley:

On behalf of the over one million members of the NATIONAL ASSOCIATION OF REALTORS®, and its affiliates, the Institute of Real Estate Management and the CCIM (Certified Commercial Investment Member) Institute, we are writing to lend our support of H.R. 2804, the ADA Notification Act.

The bill, which would require that commercial facilities and places of accommodation be given 90 days notice before a lawsuit is filed for alleged violations of the Americans with Disabilities Act, is good, sound legislation that will allow property owners to correct any alleged violations of the Americans with Disabilities Act (ADA) before they are brought to court. To be successful, and to achieve its programmatic and legislative intent, the ADA needs to refocus from the litigation arena to barrier removal. This legislation will do just that.

Title III of the ADA is designed to make places and opportunities accessible to those with disabilities. However, there is often confusion resulting from a lack of clear and specific requirements on how to design structures that comply with the law. As a result the building and design industry is often unknowingly in violation and subject to liability actions. In addition, purchasers of buildings that are not in compliance have no reliable methods to determine whether ADA requirements were met in the design and construction process. In some states, a few attorneys working with nonprofit entities have filed lawsuits indiscriminately against commercial property owners on behalf of disabled persons. The lawsuits are being filed without warning to the business owners, who are forced to spend scarce resources preparing a defense rather than making the building or facility accessible. When these cases are settled, the bulk of the fees collected are going directly to the attorneys since the ADA precludes the disabled community from collecting damages for violations to the law.

We support H.R. 2804, which would provide a notice and cure provision. This would allow these properties to make necessary corrections if violations exist, without incurring substantial litigation costs, allowing available monies to be preserved and used for compliance, and not litigation costs. Should these voluntary efforts fail, the right of the aggrieved party to litigation under ADA is preserved in this bill.

We have consistently maintained that, much like the Fair Housing Act, the ADA should provide a specific complaint and conciliation mechanism to ensure all parties understand the ADA and are in compliance with the ADA. Allowing for time to correct deficiencies will permit property owners to spend their resources making their properties accessible, rather than spending their time and money in court. We strongly support H.R. 2804, and thank you for championing this important issue.

Sincerely,

Al Mansell, President

National Association of REALTORS®