

**RHODE ISLAND GOVERNMENT REGISTER
PUBLIC NOTICE OF PROPOSED RULEMAKING**

GOVERNOR'S COMMISSION ON DISABILITIES

Title of Rule: Rhode Island Livable Home Modifications (525-RICR-20-00-03)

Rule Identifier: 525-RICR-20-00-3

Rulemaking Action: Direct Final Amendment

Important Dates:

Date of Public Notice: 10/09/2018

End of Public Comment: 11/12/2018

Authority for this Rulemaking:

RPublic Laws Chapter 18-047, Article 1, Section 1.

Summary of Rulemaking Action:

The Rhode Island Livable Home Modification Grants assist home owner and renters make home modification and accessibility enhancements to construct, retrofit, and/or renovate residences to allow individuals with disabilities to remain in community settings, rather than institutions.

Amendments to the existing Livable Home Modification program include:
3.4 Definitions
Expanding definition 1. Accessibility features to include backup electrical generators and home monitoring systems for residents with dementia.
Adding a new definition 7. "Health care facility".
Expanding definition 8. (renumbered to 9. "Qualified professional" to include a "physician".

3.7 Application
A. clarifying that the application can be filed by the resident's guardian or healthcare power of attorney. And adding an exemption from the requirement to not start home modifications include after the application has been approved. In limited circumstances, when the applicant would not be discharged until the residence was made accessible.

Additional Information and Comments:

If no formal objection is received on or before November 12, 2018, Governor's Commission on Disabilities will file the Amendment without opportunity for public comment..

Objections should be addressed to:

Bob Cooper,

Governor's Commission on Disabilities

John O Pastore Center

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Regulatory Analysis Summary and Supporting Documentation:

The home modification and accessibility enhancements to construct, retrofit, and/or renovate residences, allow individuals with significant impairments to remain in community settings.

For full regulatory analysis or supporting documentation see agency contact person above.

525-RICR-20-00-3

TITLE 525 – GOVERNOR'S COMMISSION ON DISABILITIES

CHAPTER 20 – CIVIL RIGHTS AND CERTIFICATION

SUBCHAPTER 00 – N/A

PART 3 – Rhode Island Livable Home Modifications

3.1 Statutory Authority

R.I. Public Laws [Chapter 47-30718-047, Article 1, Section 1.](#)

3.2 Purpose

- A. People with disabilities, who remain active in their community do not utilize health care services as they would in assisted living, nursing homes or other institutions.
- B. One of the keys for the individual with a disability to remain in her/his community is the ability to get into and out of their own home and navigate safely in their home, with or without assistance.
- C. Renovating a home or an apartment by removing barriers allows the family member with significant disabilities to stay safely, independently and out of long-term care facilities. It also can reduce falls and related ER, hospital and rehabilitation expenses.
- D. The Rhode Island Livable Home Modification Grants assists homeowner and renters retrofit residences to nationally recognized accessibility standards.

3.3 Incorporation by Reference

These regulations hereby adopt and incorporate Uniform Federal Accessibility Standards, 41 C.F.R. Part 101-19.6, App. A., <https://www.access-board.gov/guidelines-and-standards/buildings-and-sites/about-the-aba-standards/ufas> [[access-board.gov](https://www.access-board.gov)] and the Fair Housing Accessibility Guidelines (1991) https://www.hud.gov/program_offices/fair_housing_equal_opp/disabilities/fhguidelines/fhefha1#background, by reference, not including any further editions or amendments thereof and only to the extent that the provisions herein are not inconsistent with these regulations.

3.4 Definitions

- A. As used in this regulation:

1. "Accessibility features" means and includes the following:
 - a. Accessible route to a zero-step entrance on firm surface that is no steeper than a 1:12 slope from a driveway or public sidewalk;
 - b. Zero-step entrance;
 - c. Doors with at least thirty-two inches (32") of clear width;
 - d. Hallways and passages with at least thirty-six inches (36") of clear width;
 - e. Accessible light switches, electrical outlets and environmental controls;
 - f. Accessible bathroom;
 - g. Accessible and useable kitchen facilities;
 - h. Purchase and permanent installation of a backup electric generator for life sustaining electric-powered medical equipment in their homes for devices such as respirators, oxygen concentrators, and/or dialysis machines;
 - i. Installation of a permanent home monitoring system for residents with any form of dementia; and
 - hj. Retrofitting of an existing unit shall also include permanently installed lifts or elevators. The renovation of these features must meet the specifications of an existing standard.
2. "Commission" means the Governor's Commission on Disabilities.
3. "Countable income" means the resident with the disability's taxable income as reported on the prior year's 1040, 1040A or 1040EZ, minus exemptions listed in § 3.7(B) of this Part.
4. "Dependent" means the same as 26 C.F.R. § 1.152-1 – "General definition of a dependent" claimed as a dependent on the resident with a [disabilities' disability's](#) Federal Tax Return.
5. "Disability" means the same as defined by R.I. Gen. Laws § 42-87-1 ("definitions of disability"), except for R.I. Gen. Laws §§ 42-87-1(1)(ii) through (iv).
6. "Existing standards" means and includes adaptability features prescribed by the Rhode Island State Building Code, the Uniform Federal

Accessibility Standards, incorporated above, or Fair Housing Accessibility Guidelines, incorporated above.

7. "Health care facility" means an institution licensed by the Rhode Island Department of Health that provides health care services in a health care setting, including but not limited to hospitals and other licensed inpatient centers, skilled nursing facility, hospice and palliative care, residential treatment centers, and rehabilitation and other therapeutic health settings.

8. "Needs assessment", means an evaluation of:

- a. Balance, coordination, endurance, safety awareness, strength, attention, problem solving, vision, communication, and many other functions while the individual performs daily tasks;
- b. The home environment to identify barriers to safety, functional mobility and self-care activities;
- c. How a person interacts with the environment to complete a task or activity; and
- d. Through this process, modifications and intervention strategies are selected to improve the fit between these elements, with a goal of maximizing safety and independence in the home. The intervention plan may include but is not limited to strategies such as adaptive equipment, lighting, family caregiver training, or remodeling.

89. "Qualified professional" includes but is not limited to a physician, physical therapist, occupational therapist, audiologist, certified aging-in-place specialist, capable of conducting an assessment of a resident who as a disability.

910. "Resident who has a disability" means an individual who has a physical or mental impairment that substantially limits one or more of the major life activities of such individual.

4011. "Sensory modifications" means alarms, appliances and controls designed to assist sensory disabled persons that are structurally integrated into the residential unit. Built-in appliances would meet this definition. Accommodations or features that can be removed and reinstalled in another residential unit and so reused at another location are not considered to be sensory modifications for the purposes of this program. Appliances or alarms that can be reinstalled in another residence would not meet this definition.

3.5 Livable Home Modification Grants

- A. Any resident who has a disability who retrofits or hires someone to retrofit an existing residence, provided that such retrofitting of such existing residence meets the qualification criteria as established in § 3.6 of this Part and meets the eligibility requirements established in § 3.8 of this Part, shall be eligible for a livable home modification grant of fifty percent (50%) of the total amount spent upon meeting the qualification criteria for the retrofitting of such existing residence, not to exceed five thousand dollars (\$5,000). The grant shall be allowed for the state fiscal year in which the residence has been retrofitting or renovation of the residence or residential structure or unit has been completed.
- B. The grant requires an application by the resident who has a disability, or guardian as provided in § 3.6 of this Part.

3.6 Qualifications for grant

- A. Retrofitting of an existing unit. In order to qualify for the grant, the retrofitting of an existing residential unit must include at least one accessibility feature as defined in § 3.4 of this Part and meet the requirements of an Existing standard as defined in § 3.4 of this Part, or provide Sensory modifications as defined in § 3.4 of this Part.
- B. Grants shall be allowed under this regulation for the retrofitting, or renovation of residential rental property provided that the, of the rental property, agreed to maintained accessible for ten (10) years.
- C. Excluded from the grants are entities that are:
 - 1. Eligible for the federal disabled access credit established under the Internal Revenue Code, 26 U.S.C. § 44 and R.I. Gen. Laws § 44-54-1, disabled access credit for small businesses;
 - 2. Limited liability companies or foreign limited liability companies, as defined in R.I. Gen. Laws § 7-16-2;
 - 3. S Corporations established under Subchapter S of Chapter 1 of the Internal Revenue Code (26 U.S.C. §§ 1361 et seq.);
 - 4. Cooperative housing corporations, as defined in R.I. Gen. Laws § 7-6.1-4; or
 - 5. Corporations or foreign corporations, as defined in R.I. Gen. Laws § 7-1.2-106.
- D. Accessibility modifications that are eligible to be funded through other local, state or federal programs are not eligible for grants.

- E. No grant shall be allowed for the purchase or construction of residential rental property.
- F. In no case shall the Commission issue any grant relating to transactions or dealings between affiliated entities. In no case shall the Commission issue any grant more than once to the same or different persons relating to the same retrofitting, or renovation project.

3.7 Application

- A. Eligible residents, their guardian, or healthcare power of attorney shall apply for the grant by making application to the Commission, which shall issue a certification for an approved application to the resident who has a disability, or guardian.
 - 1. Construction, retrofitting, or renovation of the residence or residential structure may not begin until the certificate has been issued.
 - 2. In the following circumstances, the construction, retrofit, or renovation must begin prior to the issuance of the certification:
 - a. The applicant would not be discharged to a private residence from a Health care facility; or
 - b. The applicant would be unable to attend healthcare appointments following their diagnosis; or
 - c. The applicant would be unable to return to a private residence following the qualifying diagnosis.
- B. A copy of the Needs assessment of the resident who has the disability's need for the livable home modification grant to remain in community settings. The needs assessment must be conducted by a Qualified professional within six (6) months prior of the application date.
- C. Proof on income of the resident who has the disability, must be attached to the application.
 - 1. The prior year's W-2 Forms; or
 - 2. The prior year's filed and signed Federal Tax Return and Documentation of any exemptions listed in § 3.8(B) of this Part

3.8 Financial Eligibility

- A. Eligibility is determined by the income in the prior year of the resident who has the disability, not the household income.

1. If the resident who has the disability was not required to file a federal tax return in the prior year, the resident is automatically eligible for a Livable Home Modification Grant.
2. For residents who have a disability and filed a federal tax return in the prior year, that resident's countable income must not be greater than one-hundred and twenty percent (120%) of the US Department of Housing and Urban Development's Area Median Income for Rhode Island in the table at § 3.7(C) of this Part.

B. Exemptions from the resident's taxable income as reported on the prior year's 1040, 1040A or 1040EZ):

1. Total federal tax payments, as reported on the resident's 1040 or 1040A, or Total payments and credits as reported on the resident's 1040EZ;
2. Impairment related work expenses of the resident who has the disability, 20 C.F.R. §§ 404.976 or 404.1576 (minus any Impairment related work expense already deducted on Schedule A);
3. Medical and Dental Expenses (minus any medical and dental expense already deducted on Schedule A);
4. Achieving a Better Life Experience Act (ABLE) account contributions and distributions, 26 U.S.C. § 529A;
5. Income needed to fulfill a Plan for Achieving Self-Support (PASS), 42 U.S.C. § 1382b;
6. Disability benefits and payments, including: disability pension benefits; life insurance disability benefits; Social Security Disability Insurance (SSDI); Supplemental Security Income (SSI); and Veterans' Affairs service - connected disability benefits, provided any were included in the resident's federal taxable income); ~~and~~
7. The amount of any taxable grant administered by a federal, state, or local government program awarded to the resident who has the disability, provided any were included in the resident's federal taxable income.; ~~and~~
8. Withdrawals from a retirement or pension fund for medically necessary expenses.

C. The maximum countable income shall be adjusted by the number of dependents the resident who has the disability claimed as a tax dependent on the resident with a disabilities' Federal Tax Return, in the table below:

US Department of Housing and Urban Development's Area Median Income	
Number of dependents of the resident	The resident who has the disabilities' countable income
The resident (no dependents)	\$78,700
1 dependent	\$89,950
2 dependents	\$101,200
3 dependents	\$112,450
4 dependents	\$121,450
5 dependents	\$130,450
6 dependents	\$139,450
7 dependents	\$148,450

3.9 Filing a claim for reimbursement

A. Post retrofit documentation must include:

1. Before and after photographs of the area retrofitted;
2. A scope of work and work specifications;
3. Copies of purchase contracts, invoices, cancelled checks, construction contracts, etc., and
4. Certification from a Qualified professional that the retrofit meets the Existing standards for adaptability features.

B. Supporting documentation must be attached to the Livable Home Modification Grant Post-Retrofit Claim form.

C. In addition, documentation certifying that the retrofitting activities were paid for by or on behalf of the applicant must be included to be eligible for the LHMG program.

- D. The Livable Home Modification Grant Post-Retrofit Claim form must be submitted to the Commission, upon completion of the retrofitting or renovations, no later than July 10th for all projects completed prior to the end of the state's fiscal year, June 30th.