

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SIXTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 409**

FINAL READING

Introduced by Kolowski, 31; Blood, 3.

Read first time January 18, 2019

Committee: Urban Affairs

1 A BILL FOR AN ACT relating to the Health Care Facility Licensure Act; to  
2 amend section 71-439, Reissue Revised Statutes of Nebraska; to adopt  
3 design standards for health care facilities; and to repeal the  
4 original section.

5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 71-439, Reissue Revised Statutes of Nebraska, is  
2 amended to read:

3 71-439 (1)(a) For purposes of construction relating to ambulatory  
4 surgical centers, critical access hospitals, general acute hospitals, and  
5 hospitals, the Legislature adopts the 2018 Guidelines for Design and  
6 Construction of Hospitals, the 2018 Guidelines for Design and  
7 Construction of Outpatient Facilities, and the 2018 Guidelines for Design  
8 and Construction of Residential Health, Care, and Support Facilities  
9 published by the Facility Guidelines Institute.

10 (b) For new construction of assisted-living facilities, long-term  
11 care hospitals, nursing facilities, and skilled nursing facilities on or  
12 after the effective date of this act, the Legislature adopts the 2018  
13 Guidelines for Design and Construction of Hospitals, the 2018 Guidelines  
14 for Design and Construction of Outpatient Facilities, and the 2018  
15 Guidelines for Design and Construction of Residential Health, Care, and  
16 Support Facilities published by the Facility Guidelines Institute, except  
17 that the Legislature adopts only the definition of new construction found  
18 in section 1.1-2.1 and excludes the part of the definition found in  
19 sections 1.1-2.2 and 1.1-2.3 and any related provisions of such  
20 guidelines.

21 (2) The department may waive any rule, regulation, or standard  
22 adopted and promulgated by the department relating to construction or  
23 physical plant requirements of a licensed health care facility or health  
24 care service upon proof by the licensee satisfactory to the department  
25 (a) that such waiver would not unduly jeopardize the health, safety, or  
26 welfare of the persons residing in or served by the facility or service,  
27 (b) that such rule, regulation, or standard would create an unreasonable  
28 hardship for the facility or service, and (c) that such waiver would not  
29 cause the State of Nebraska to fail to comply with any applicable  
30 requirements of medicare or medicaid so as to make the state ineligible  
31 for the receipt of all funds to which it might otherwise be entitled.

1           (3) ~~(2)~~ In evaluating the issue of unreasonable hardship, the  
2 department shall consider the following:

3           (a) The estimated cost of the modification or installation;

4           (b) The extent and duration of the disruption of the normal use of  
5 areas used by persons residing in or served by the facility or service  
6 resulting from construction work;

7           (c) The estimated period over which the cost would be recovered  
8 through reduced insurance premiums and increased reimbursement related to  
9 cost;

10          (d) The availability of financing; and

11          (e) The remaining useful life of the building.

12          (4) ~~(3)~~ Any such waiver may be granted under such terms and  
13 conditions and for such period of time as provided in rules and  
14 regulations adopted and promulgated by the department.

15          Sec. 2. Original section 71-439, Reissue Revised Statutes of  
16 Nebraska, is repealed.