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Legal Minute by *Cris Vaughan*

CALIFORNIA DISABILITY ACCESS LITIGATION INITIATIVES:

Two proposed initiatives related to disability access litigation in California have been submitted to the California Attorney General and approved for gathering of signatures to see if the initiatives can qualify for the California ballot. Disabled access litigation in California would significantly change if either or both of the proposed initiatives qualified for the ballot and passed.

The two proposed initiatives are identified as 15-0110 and 15-0113. They can be found on the California Attorney General website by searching the website for “initiative” and then looking for “active measures”.

Initiative 15-0110 seeks to add section 55.535 to California Civil Code. The proposed new statute states, “no construction-related access ability claim” lawsuit may be filed unless the person seeking to file the lawsuit has served a demand letter on the person, business or entity to be sued. The demand letter must specify each disabled access violation. If all of the violations specified in the letter are corrected within one hundred twenty (120) days of service of the demand letter, there is no liability for statutory damages.

Initiative 15-0113 seeks to add a new section to the California Constitution and contains two specific provisions. The first provision requires a person who seeks to file a complaint for disability discrimination against a business or property owner, to give the business or property owner notice ninety (90) days before any lawsuit can be filed in state court. If the business or property owner who receives the notice “cures the alleged violation”, the basis for any complaint referenced in the notice “shall be null and void.” This provision may, based upon the language used, apply only to disability access cases filed in a California state court rather than in a United States district court.

The second provision of 15-0113 requires “permitting authorities” to give “precedence” to businesses and property owners attempting to make alterations or repairs in order to comply with disabled access laws. The language of the second provision does not specify any further details.

Based on the deadlines for an initiative to qualify for the ballot, it does not appear either of the proposed initiatives will be on the November 8, 2016 California general election ballot.