



S.B. 261

125th General Assembly
(As Introduced)

Sen. Armbruster

BILL SUMMARY

- Creates the State Board for Certified Interior Designers and specifies the duties of that Board.
- Requires the Board to certify interior designers who meet certain requirements as "Ohio certified interior designers."
- Prohibits an individual from using the title "Ohio certified interior designer" unless the individual is currently so certified under the bill.
- Allows the Board to issue a certificate and a certificate number to certain individuals who have provided interior design services for at least ten years preceding certification if those individuals meet certain requirements.
- Requires every individual who wishes to renew a certificate as an Ohio certified interior designer to successfully complete at least one unit of continuing education annually.
- Requires the Board to maintain an official roster of all Ohio certified interior designers and to establish fees to obtain and renew a certificate.
- Establishes requirements related to the use and treatment of documents that are signed by an Ohio certified interior designer.
- Specifies disciplinary procedures applicable to certificate holders and penalties for persons who violate specified provisions of the bill.
- Makes changes in the Professional Design Services Law.

CONTENT AND OPERATION

Title provision concerning interior designers

(sec. 4768.02)

The bill prohibits an individual from using the title "Ohio certified interior designer" (see "*Definitions*" below) or any title, sign, card, or device indicating or tending to indicate, or representing in any manner, that the individual is certified as an Ohio interior designer, unless the individual is currently certified as an Ohio interior designer under the bill (sec. 4768.02(A)). Whoever violates this provision is guilty of a first degree misdemeanor (sec. 4768.99(C)).

The bill specifies that it does not apply to the following persons, provided that those persons do not refer to themselves as "Ohio certified interior designers" unless they are so certified under the bill: (1) Ohio-licensed architects or landscape architects, (2) Ohio-licensed engineers or surveyors, and (3) persons providing services to construct one-, two-, or three-family dwelling houses (sec. 4768.02(C)).

Except as otherwise provided in the bill, nothing in the bill prohibits a person who is not certified as an Ohio interior designer from providing interior design services or from using any title, sign, card, or device indicating or tending to indicate, or representing in any manner, that the individual provides interior design services (sec. 4768.02(B)).

State Board for Certified Interior Designers

(secs. 4768.03 and 4768.04)

The bill creates the State Board for Certified Interior Designers, consisting of five members to be appointed by the Governor with the advice and consent of the Senate. Each member must have performed interior design services¹ for at least ten years, have been a resident of this state for at least five years, and must be certified by the National Council for Interior Design Qualification (hereafter "NCIDQ") or its successor.

The Governor must make initial appointments to the Board within 90 days after the bill's effective date. Of the initial appointments, one member is appointed for a term ending two years after the bill's effective date, two are for a term ending

¹ *Interior design services are described in the bill as those services listed in the definition of "Ohio certified interior designer" (see "*Definitions*" below).*

three years after the bill's effective date, and two are for a term ending five years after the bill's effective date. Thereafter, terms of office are five years, with each term ending on the same day of the month as did the term that it succeeds.

Members may be reappointed. The Governor may remove a member for misconduct, incompetency, neglect of duty, or for other sufficient cause. Members of the Board must be reimbursed for all actual traveling, hotel, and other expenses necessarily incurred in carrying out their duties under the bill. (Sec. 4768.03.)

The bill requires the Board to adopt all necessary rules and bylaws, in accordance with the Administrative Procedure Act, and not inconsistent with the bill's provisions, and the constitutions and laws of Ohio or of the United States, to govern its times and places of meetings for organization and reorganization and for governing all other matters requisite to the exercise of its powers, the performance of its duties, and the transaction of its business. The Board may establish guidelines for the practice of providing interior design services. The Board must adopt and have an official seal.

The Board must hold at least two regular meetings each year. Special meetings must be held at the time provided in the bylaws of the Board. Notice of all meetings must be given in the manner provided for in the bylaws. The Board must elect or appoint annually from its members, the following officers: a chairperson, a vice-chairperson, and a secretary. The Board annually must appoint an executive director. A quorum of the Board must consist of not less than three members, and no action at any meeting can be taken without at least three votes being in accord. All vouchers of the Board must be approved by the chairperson or executive director, or both, as authorized by the Board.

The Board must keep a record of its proceedings and a record of all applications for certification. The records of the Board are prima-facie evidence of its proceedings and a transcript thereof, duly certified by the executive director under seal, is admissible in evidence as if the original were produced.

The executive director and any clerical or other assistant of the Board whom it may designate must give a surety bond to the state in a sum the Board determines. The premiums on the bonds must be regarded as a proper and necessary expense of the Board, and must be paid in the same manner as other expenditures of the Board. The Board may employ such clerical or other assistants as are necessary for the proper performance of its work and may make expenditures for any purpose that in the opinion of the Board is reasonably necessary for the proper performance of its duties.

Duties of the Board

(sec. 4768.05)

The bill requires the Board to do all of the following: (1) administer and enforce the bill and the rules the Board adopts under it, (2) establish a fee for the initial certification of interior designers and a renewal fee, which must be prorated to reflect the fee for part of a year in accordance with rules the Board adopts under the Administrative Procedure Act, (3) maintain an official roster of all Ohio certified interior designers, (4) require an Ohio certified interior designer to include the interior designer's certificate number on all business and advertising documents, (5) deposit all fees and receipts collected under the bill into the state treasury to the credit of the Occupational Licensing and Regulatory Fund, (6) review all applications of individuals applying for certification under the bill and approve the certification of those individuals who meet the bill's requirements, and (7) adopt rules in accordance with the Administrative Procedure Act, including rules regarding the use of an Ohio certified interior designer's signature or certificate number on documents, plans, reports, drawings, or specifications (secs. 4768.04(D) and 4768.05).

Ohio certified interior designers

(sec. 4768.06; Section 3)

The bill requires the Board to issue an Ohio interior designer certificate and a certificate number to any individual who (1) files an application with the Board on a form prescribed by the Board, (2) submits the required certification fee to the Board, and (3) submits proof that the individual has successfully passed the NCIDQ Examination (sec. 4768.06(A)). The Board is prohibited by the bill from issuing a certificate to an individual who has violated the title protection provision described above for a period of five years after that violation (sec. 4769.06(B)).

Reciprocity

(sec. 4768.06(C))

The bill requires the Board, upon proper application and payment of the required fee under the bill, to issue an Ohio interior designer certificate and a certificate number to an individual certified to perform interior design services under the laws of any other county or state or territory of the United States, if the requirements for that certification under those laws are substantially equal, in the Board's opinion, to the requirements for certification under the bill (sec. 4768.06(C)).

"Grandfather" provisions

(Section 3(A) and (B))

The bill allows the Board, for a period of two years after the bill's effective date, to issue a certificate as an Ohio certified interior designer and a certificate number to an individual who has provided interior design services for at least ten years preceding certification but who does not meet the NCIDQ Examination requirement described in the immediately preceding paragraph, if the individual submits all of the following: (1) an application on a form prescribed by the Board, (2) the certification fee established by the Board, (3) an affidavit signed by the applicant or any employer of the applicant detailing the period of time the individual has provided interior design services as defined by the bill, and (4) a certificate that the applicant has successfully passed section one of the NCIDQ Examination (Section 3(A)). Any individual who obtains a certificate under the provisions described in the preceding sentence must comply with the bill's renewal and continuing education requirements (Section 3(B)).

Renewal of certification; continuing education requirement

(secs. 4768.07, 4768.09, and 4768.99)

Renewal

A certificate issued under the bill expires annually 30 days after the certificate holder's birthday, except that an initial certificate expires 30 days after the certificate holder's birthday in the immediately succeeding calendar year after the calendar year in which it is issued. The birthday of any certificate holder born on February 29 must be deemed March 1 in any year in which there is no 29th day of February. A certificate may be renewed in accordance with the standard license renewal provisions contained in existing law. An individual wishing to renew certification must submit (1) an application for renewal on a form prescribed by the Board, (2) payment of the renewal fee established by the Board, and (3) submission of proof that the Ohio certified interior designer has met the bill's continuing education requirements (see "Continuing education," below). (Sec. 4768.07(A).)

If an Ohio certified interior designer fails to renew the interior designer's certificate, the Board, upon the interior designer's submission of an application, proper renewal fee, and proof of completion of the required continuing education, may renew the certificate any time within one year after the date of its expiration. A certificate that has expired for more than one year, but less than three years, may be restored if the applicant submits an application, proof of completion of the required continuing education, and the issuance fee for a renewal certificate, plus a

penalty of 10% of the renewal fee times each year the renewal was not obtained. If more than three years have elapsed since the certificate was renewed, the interior designer must follow the same procedure as is used to obtain an initial certificate as provided by the bill. (Sec. 4768.07(C).)

Continuing education

The bill requires every individual who wishes to renew a certificate as an Ohio certified interior designer to successfully complete at least one unit of continuing education within the broad range of subjects pertinent to the practice of interior design services during the 12-month period immediately preceding the expiration date of the individual's certificate and include proof of completion of this education from the NCIDQ, or its successor, on forms prescribed by the Board, with the individual's renewal application and renewal fee (sec. 4768.07(B)).

Discipline of certificate holders

(secs. 4768.09, 4768.10, and 4768.99)

The Board may suspend, revoke, or refuse to issue or renew the certificate of any individual if, after an adjudication conducted in accordance with the Administrative Procedure Act, the Board finds that (1) the certification was fraudulently obtained, (2) a judgment has been issued against the individual for gross incompetence, neglect, or misconduct within the last five years, (3) a judgment has been issued against the individual or the individual has pleaded guilty to or been found guilty of fraud or deceit in the individual's professional duties within the last five years, or (4) the individual violated or failed to comply with the bill or rules adopted under the bill (sec. 4768.09(A)). An individual may appeal any finding described in the preceding sentence in accordance with the Administrative Procedure Act (sec. 4768.09(B)). The bill provides that whoever falsifies an application for certification or renewal as an Ohio certified interior designer is guilty of a first degree misdemeanor, and the interior designer's certificate must be revoked for three years (see **COMMENT**) (sec. 4768.99(A)).

The bill provides that when the certificate of an Ohio certified interior designer has been revoked or suspended, the interior designer must surrender the certificate to the Board within 30 days after the revocation or suspension has become effective. If the certification of the interior designer has been suspended, the interior designer's certificate must be returned to the interior designer upon the expiration of the period of suspension. (Sec. 4768.09(C).) Whoever fails to surrender a certificate as described above is guilty of a third degree misdemeanor (see **COMMENT**); it is not clear whether this penalty also applies to a violation

of the requirement to return a certificate at the end of a period of suspension (sec. 4768.99(B)).

On receipt of a notice that a holder of an Ohio certified interior designer certificate is in default under a child support order under the procedures established under existing law, the bill requires the Board to comply with the requirements of that law for the denial, refusal to renew, and suspension of certificates issued under the bill (sec. 4768.10).

Prohibitions; penalty

(secs. 4768.08(C) and 4768.99(B))

The bill prohibits an Ohio certified interior designer from knowingly doing either of the following: (1) affixing, or permitting to be affixed, the Ohio certified interior designer's certificate number or signature to any document, plan, report, drawing, or specification that depicts work that the Ohio certified interior designer is not competent or certified to perform, or (2) affixing the Ohio certified interior designer's signature or certificate number to any document, plan, report, drawing, or specification that was not prepared by the Ohio certified interior designer, that was not prepared under the Ohio certified interior designer's supervision, or that was not prepared by the Ohio certified interior designer and not reviewed, approved, modified, or adopted by the Ohio certified interior designer as the Ohio certified interior designer's own work (sec. 4768.08(C)). Whoever violates either of these prohibitions is guilty of a third degree misdemeanor (see **COMMENT**) (sec. 4768.99(B)).

Filing of certain documents by an Ohio certified interior designer

(sec. 4768.08(A) and (B))

Under the bill, any documents, plans, reports, drawings, and specifications prepared or issued by an Ohio certified interior designer and filed for public record must bear the signature and certificate number of the Ohio certified interior designer who prepared or approved the documents and the date on which the documents were signed. The signature, date, and certificate number are evidence of the documents' authenticity. (Sec. 4768.08(A).)

A municipal, township, or county building department must accept any documents, plans, reports, drawings, or specifications filed by an Ohio certified interior designer for work that the Ohio certified interior designer is permitted to perform under the bill if those documents, plans, reports, drawings, or specifications otherwise meet the requirements for filing (sec. 4768.08(B)).

Professional Design Services Law changes

(secs. 153.65 and 153.67)

Current law requires public authorities to follow specified procedures when seeking to enter into a contract for "professional design services." "Professional design services" are defined as services within the scope of practice of a registered architect or landscape architect or registered professional engineer or surveyor. A public authority must evaluate the qualifications of professional design firms and then select and rank at least three firms it considers most qualified to perform a specific project. It then must negotiate a contract that addresses issues specified in current law with the most qualified firm. If it cannot negotiate a contract with the firm ranked most qualified, it must seek to negotiate a contract with the firm ranked next most qualified and continue this process until it successfully negotiates a contract.

The bill amends the definition of "professional design services" to include services within the scope of practice of an interior designer certified under the bill. (Sec. 153.65(C).)

It also requires each public authority planning to contract for professional design services to send its public announcements regarding the availability of those contracts to interior designer trade associations, in addition to those entities that are to receive such announcements under current law, unless the public authority sends the announcements to a professional design firm instead (sec. 153.67(D)(2)).

Definitions

(sec. 4768.01)

The bill defines "Ohio certified interior designer" to mean a person who does all of the following: (1) maintains a certificate issued pursuant to the bill, (2) provides design services for nonstructural elements or nonloadbearing, lateral-load design elements within and surrounding interior spaces of buildings, but specifically excluding mechanical, plumbing, sprinkler, electrical, and heating, ventilating, and air conditioning systems except for specification of fixtures and their location within interior spaces, (3) consults and prepares documents throughout the phases of the interior design project, including the fabrication, procurement, and installation phases, in connection with reflected ceiling plans, space planning, finishes, interior details, illumination, furniture, and furnishings. A person who provides any of the following services is specifically excluded from this definition and from the bill's requirements: (1) services that require performance by an architect or landscape architect as defined in the Architects

Law, (2) services that require performance by an engineer or surveyor as defined in Professional Engineers and Professional Surveyors Law, and (3) services to construct one-, two-, or three-family dwelling houses. (Sec. 4768.01(B).) "National Council for Interior Design Qualification" is defined to mean the national organization responsible for establishing minimum standards for the qualification of professional interior designers (sec. 4768.01(A)).

COMMENT

Current law provides that the penalty for a first degree misdemeanor is imprisonment for not more than six months or a fine of not more than \$1,000, or both. Current law provides that the penalty for a third degree misdemeanor is imprisonment for not more than 60 days or a fine of not more than \$500, or both. (Secs. 2929.24 and 2929.28, not in the bill.)

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	08-31-04	p. 2179

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