



Ohio Legislative Service Commission

Bill Analysis

Aida S. Montano

Am. S.B. 183

128th General Assembly

(As Reported by H. Civil and Commercial Law)

Sens. Schaffer, Patton, Kearney, Buehrer, Harris, Husted, Wagoner, Wilson, Hughes, R. Miller, Gillmor

Reps. Coley, Huffman, Mecklenborg, Stautberg, Stebelton

BILL SUMMARY

- Narrows a grandfather exemption in the Architects Law to exempt certain corporations only from the ownership provisions of the Law.

CONTENT AND OPERATION

Corporations and the Architects Law

Under continuing law, no person can practice architecture or hold forth as an architect or registered architect unless the person (1) has complied with the Architects Law and (2) is the holder of a certificate of qualification to practice architecture issued or renewed and registered under that Law (R.C. 4703.18(A)). In general, a corporation may provide architectural services in Ohio as long as the services are provided only through natural persons registered to provide those services in Ohio (R.C. 4703.18(G)). A corporation cannot provide architectural services, however, nor can it hold itself out to the public as providing architectural services or use a name including the word "architect" or any modification or derivation of the word, unless the corporation files certain information with the Architects Board and otherwise complies with all requirements of the Architects Law. Currently, a corporation that was granted a charter prior to August 7, 1943, to engage in providing architectural services or that was otherwise lawfully providing architectural services prior to November 15, 1982, is exempt from this prohibition. The bill removes that exemption. (R.C. 4703.18(H).)

Corporations are further prohibited under current law from providing or offering to provide architectural services in Ohio unless more than 50% of the shareholders or directors are professional engineers, surveyors, architects, or landscape

architects, or a combination of those professions, who are registered in Ohio or any other state and who own more than 50% of the interests in the corporation. The bill expressly exempts from those ownership provisions a corporation that was granted a charter prior to August 7, 1943, to engage in providing architectural services or was otherwise lawfully providing architectural services prior to November 15, 1982, in Ohio. (R.C. 4703.18(J).)

With regard to a corporation organized under the General Corporation Law (R.C. Chapter 1701.), the Architects Board currently cannot issue a certificate of authorization allowing the corporation to engage in providing architectural services in Ohio unless persons owning more than 50% of the corporation's shares and more than 50% of the interests in the corporation are professional engineers, surveyors, architects, or landscape architects, or a combination of those professions, who are registered in Ohio or any other state. The bill expressly exempts from those ownership provisions a corporation that was granted a charter prior to August 7, 1943, to engage in providing architectural services or was otherwise lawfully providing architectural services prior to November 15, 1982. (R.C. 4703.18(L).)

Effect on existing contracts

Section 3 of the bill states that the amendments included in the bill must not be interpreted as affecting the obligations imposed under any contract in existence on the bill's effective date. Any corporation providing architectural services pursuant to a contract on the bill's effective date must comply with the changes prior to renewing the contract.

Declarations of the General Assembly regarding the Architects Law

Under Section 4 of the bill, the General Assembly recognizes and finds all of the following:

(1) The Architects Law is designed to protect the public from persons not qualified to provide architectural services.

(2) If the public is provided accurate information about the qualifications of persons that hold themselves as providers of architectural services, the public is better able to decide who to engage to provide those services.

(3) Persons who hold themselves out as providing architectural services should have the qualifications that the representation indicates they have.

(4) The existing exemption for corporations that were granted a charter prior to August 7, 1943, to engage in providing architectural services or that were otherwise

lawfully providing architectural services prior to November 15, 1982, has outlived its usefulness in its current form.

The bill declares that it is the intent of the General Assembly in passing the bill to protect the safety and general welfare of the people of Ohio. The bill also declares that it is the policy of the state to require persons providing architectural services to comply with the Architects Law and to meet the quality standards that are included in that Law in order to maintain the provision of reliable architectural services. As such, the amendments included in the bill are intended to be remedial and not punitive in nature.

HISTORY

ACTION	DATE
Introduced	10-08-09
Reported, S. Insurance, Commerce & Labor	12-09-09
Passed Senate (30-1)	12-15-09
Reported, H. Civil & Commercial Law	03-23-10

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