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LICENSE INTERIOR DESIGNERS

House Bills 5153 and 5154
Sponsor: Rep. Joseph Young, Jr.
Committee: State Affairs

Complete to 1-27-94

A SUMMARY OF HOUSE BILLS 5153 AND 5154 AS INTRODUCED 10-20-93

House Bill 5154 would amend the Occupational Code (Public Act 299 of 1980) to require that anyone practicing "interior design" be licensed, regulate the practice of interior design, and restrict the use of certain titles (such as "interior designer," "interior decorator," and "interior space planner") to licensed interior designers. House Bill 5153 would amend the State License Fee Act (Public Act 152 of 1979) to establish fees for interior designers.

More specifically, House Bill 5154 would add a new article to the Occupational Code (MCL 339.105 et al.) to define the practice of interior design and prohibit its practice without a license, exempt certain other professions and people from the bill's requirements, restrict the use of certain titles, create a board of interior designers, establish the qualifications for and responsibilities of interior designers, allow reciprocity, list prohibited activities, and specify what an interior designer's name on a document would mean.

Practice of interior design. The practice of interior design would mean performing certain services, including preparing documents related to reflected ceiling plans; space plans; specifying furnishings, fixtures, and equipment; and making nonloadbearing structural elements. More generally, the practice of interior design would mean performing certain services that required applying the "principles and methodology of interior design" in order (a) to identify and research problems involving the function and quality of spaces inside buildings and (b) to propose creative solutions (to those interior problems) that protected the public health, welfare, and safety. Interior design services would include (a) performing "consultation, investigation, evaluation, planning, designing, design coordination, or review of material and completed phases of work" and (b) preparing a "document" (one or more "plans, specification, reports, studies, drawings, or addenda") whose proper preparation required the professional services of an interior designer.

The practice of interior design would not include the practice of architecture or mechanical or electrical services (except for specifying interior fixtures and their locations). The bill also would not apply to the following people:

- * employees or subcontractors who acted under the supervision of a licensed interior designer;
- * people who sold furnishings or building or decorating materials and who consulted with customers on their selection but who didn't prepare a document;
- * people who prepared layouts for kitchen or bathroom cabinets, appliances, or fixtures, when the layout would be carried out by a construction contractor ("construction contractors" would include general contractors, licensed residential builders or maintenance

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and alteration contractors, licensed master or journeyman plumbers, licensed electrical contractors, and licensed mechanical contractors);

- * people who prepared details and shop drawings to use in connection with doing their own work; and

- * owners who did interior design work for buildings on their own property and for their own use, and to which employees and the public didn't generally have access.

Title restrictions. The bill would restrict the use of certain titles to licensed interior designers. These restricted titles would include "interior designer," "interior decorator," "interior space planner," and any combination of words that included the term "interior" (or a similar term) which would connote qualification or licensure under the bill. Only firms with an officer, principal, or employee who was a licensed interior designer and who was available to perform the activities regulated under the bill would be able to use the term "interior designer" (or a similar term) in the name or a description of the firm. Residential builders' or licensed maintenance and alteration contractors' firms that already used the term "decorating" in the description of the services they offered could continue to use that term in their business name if they didn't use the word "interior."

Board of interior designers. The bill would create a board of interior designers. One of the members representing the general public would have to be a licensed architect. The board could promulgate rules requiring continuing education for license renewal. The rules could set the length of the program, the criteria for acceptable courses, the duties and qualifications of course sponsors, and the method of verifying participation in such courses. The board also could promulgate rules specifying the design of the seal that would be required on documents filed by licensed interior designers with public authorities.

Licensed interior designers. Someone licensed under the bill would have to use the title "licensed interior designer." Only individuals, not businesses, could be licensed as interior designers.

The Department of Commerce would have to issue a license to anyone who was of "good moral character" and who:

- (1) passed an examination acceptable to the department and the board of interior designers, and had practiced interior design for at least eight years or had at least six years of postsecondary education and practice in interior design;

- (2) had an equivalent license or registration from another state or jurisdiction; or

- (3) applied for licensure within a year after the bill took effect and presented proof to the board of (a) having passed a national examination meeting the standards of the National Council for Interior Design Qualification, (b) licensure as an architect, (c) having taught courses in interior design at the postsecondary level, having a baccalaureate degree in interior design, and being a member of a body that set educational standards for interior design programs or that created and administered certification examinations for interior design, or (d) at least eight years of practicing interior design or at least six years of a combination of postsecondary education and practice in interior design.

Licensed interior designers would be required to do all of the following:

(1) Keep a physical place of business, where books and records were kept and where business was usually done when not at a customer's place;

(2) Keep the department informed of any changes of business address within 30 days of the change;

(3) If the place of business was not in Michigan, file with the department an irrevocable consent to service of process (which would provide that service on the department in noncriminal proceedings would have the same force and validity as direct personal service, if the plaintiff sent a copy of the process and any pleadings to the nonresident licensee by first-class mail on or before the day the department was served);

(4) Embody all agreements with a customer in a written contract or agreement, one copy of which would have to be given to the customer (with any changes to the contract also being in writing and initialed by the customer);

(5) Comply with all (federal, state, and local) building codes and ordinances and safety regulations; and

(6) Account for all money received from customers, showing "the purpose for which the funds were expended in accordance with the contract."

Significance of a licensee's name on a document. When licensed interior designers attached their name to a document, they would be asserting that they:

(1) were responsible for the contents of the document, for ensuring that the document complied with appropriate standards and regulatory requirements, and for resolving technical issues contained in or related to the plan or purpose of the document,

(2) were the individual whose professional skill and judgment was embodied in the document;

(3) had exercised control and discretion over the initiation, continuation, suspension, and termination of the document, and controlled the issuance and filing of the document with public authorities;

(4) were responsible for advising the client; and

(5) were accountable for the work of subordinates and for exercising direction, control, restraint, and guidance over those subordinates.

Violations and penalties. Anyone who violated the bill's prohibition against practicing without a license or using restricted titles would be subject to the penalties set forth in Article 6 of the Occupational Code. (Article 6 imposes license actions -- limitation, suspension, revocation, or denial -- censure, probation, restitution, and civil and criminal fines of from \$500 to \$10,000, and imprisonment for up to one year, depending on the violation.)

Licensed interior designers also would be subject to the code's penalties if they did any of the following:

(1) Abandoned a contract without legal excuse;

(2) Departed from (or disregarded) the plans, specifications, or contract approved by the customer without the customer's written authorization for the change;

(3) Diverted funds received for one project to complete a project for another customer;

(4) Helped an unlicensed person to evade the bill's licensing requirements;

(5) Let an unlicensed person use their license or acted as an ostensible licensee for someone not eligible for licensure;

(6) Accepted a commission, bonus, or other valuable consideration from a noncustomer without telling the customer and getting his or her consent;

(7) Indicated -- by affixing their name, license number, or other information -- that they had prepared plans, designs, specifications, or other documents when they had in fact not done so; or

(8) Submitted a document to a public authority without a license endorsement (including their name, business address, licensed number, and license expiration date).

House Bill 5153 would establish fees for licenses (\$100 per year), application processing (\$20), and reexaminations (\$50).

Tie-bar. The two bills are tie-barred to each other.