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INTERIOR DESIGN: LICENSURE EXEMPTIONS

House Bill 4535 (Substitute H-2)
First Analysis (7-1-97)

Sponsor: Rep. Michael J. Griffin
Committee: Regulatory Affairs

THE APPARENT PROBLEM:

Architects are generally associated with the design and construction of buildings, and interior designers with the design layout of the interior of a building to meet a client's functional need. Where many of the design practices of the two professions are clearly distinct, there exist some overlapping areas. For instance, both architects and certain interior designers are trained in selecting finishes for a large commercial property that would meet building codes, designing the interior partitioning to meet the functional needs of a business (reception area, offices, and so on), drawing the reflected ceiling plans, and drawing the outlet location plan. Interior designers maintain that many in their profession are more than qualified to engage in the design practices that overlap with those of architects. According to information supplied by the Coalition for Interior Design Registration, there are about 200,000 practicing interior designers in the United States, with about 3,000 in Michigan. Interior designers generate about \$40 billion a year in business, which is slightly more than one percent of the gross national product. Twenty U.S. jurisdictions have enacted interior design legislation requiring licensure. Passage of the National Council for Interior Design Qualification (NCIDQ) examination, a six-section exam that includes a drafting component and tests an applicant's knowledge in such things as building codes and barrier-free design laws, problem solving skills, and determining a client's need as to space and function, is a prerequisite for membership in all of the interior design professional organizations and a component of licensure in those states that license interior designers.

Currently, under Michigan law, architects are licensed under the Occupational Code, but interior designers are not regulated. Further, plans and drawings submitted to local building inspectors must have an architect's seal in order to be approved for a building permit, and plans, specifications, and estimates of certain public works must be prepared by licensed architects. Reportedly, because of the overlap of certain design practices, building inspectors have often approved plans drawn by interior designers and issued building permits despite

the lack of an architect's seal. Some believe that the economic

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downturn in construction in the 1980s and early 1990s led to increased pressure on building inspectors by architects to stick to the letter of the law and not approve plans or plans for public works that did not carry an architect's seal. Since that time, interior designers in the state have been subjected to several restraint of trade lawsuits and have been denied building permits. In lieu of licensing interior designers in the state, some believe that the concerns of both interior designers and architects can be met by exempting qualified interior designers (those who have passed a NCIDQ exam) from having to have an architect's seal for certain design plans in order to obtain building permits.

THE CONTENT OF THE BILL:

The bill would amend Article 20 of the Occupational Code, entitled Architects, Professional Engineers, and Land Surveyors, to exempt a trained interior designer from licensure and other requirements of the article under certain circumstances.

The bill would exempt a person trained in the design of interior spaces (not to be confused with an interior decorator) who prepares documents for services in connection with the design of interior spaces including preparation of documents relative to furnishings, fixtures, equipment, and interior construction that do not materially affect the building's mechanical, structural, electrical, or life safety systems. The bill would define "interior designer" as a person engaged in the activities previously described and who met one or more of the following:

--Beginning on the bill's enactment date, had proof of passing the 1997 National Council For Interior Design Qualification (NCIDQ) examination. The bill would adopt the examination and the qualifications to sit for the examination by reference. (Any subsequent update or revision of the NCIDQ examination could be adopted by reference by rule promulgated by the director of the Department of Consumer and Industry Services if acceptable to the Board of Architects).

--As of the bill's enactment, had been engaged in the activities of an interior designer and had passed any previous NCIDQ examination.

--Demonstrated to an advisory committee on interior design (up until one year after the department had received a confirmation letter by the subcommittee that it was fully functional) that he or she had been engaged in the activities of an interior designer and had met the educational and experience requirements that would have conferred eligibility to sit for the 1997 NCIDQ exam. (Note: To sit for the exam, a person must have a combination of education and experience totaling six years; e.g. a four-year degree and two years experience, a three-year degree and three years experience, or six years of experience.)

The bill would require the Board of Architects to create an advisory subcommittee on interior design to verify qualifications of those interior designers who had not passed an NCIDQ exam but who were seeking qualification for the exemption from Article 20 on the basis of education and experience. The subcommittee would consist of not more than five members selected by the Board of Architects. One member would have to be a licensed architect, one a public member, and the rest would be interior designers. The board would have to assure that the advisory subcommittee would be fully functional not later than six months after the bill's enactment, and the full functionality of the subcommittee would have to be confirmed in a letter to the department. Further, the advisory subcommittee would have to compile a list of individuals whose qualifications for the exemption had been verified. (Note: The language in the bill is not clear as to whether the list would only contain the names of those persons grandfathered in, or if it would be a continuously updated list in order to add the names of designers as they passed the NCIDQ exams.) The list would have to be readily available to the state or any municipality that issued permits under the state Construction Code Act (MCL 125.1501 et al.).

Currently, Article 20 requires licensees to obtain a seal authorized by the appropriate board that has the licensee's name and the legend indicating either "licensed architect", "licensed professional engineer", or "licensed land surveyor". Certain documents, such as plans, plats, drawings, maps, and the title sheet of specifications prepared by a licensee and submitted to a governmental agency for approval or for filing as a public record must carry the embossed or printed seal of the person "in responsible charge". Submitting such documents to a public official or municipality for approval, a permit, or a plan for filing as a public record without having the proper seal or seals subjects a person to penalties under the code. Further, governmental agencies are prohibited from engaging in the construction of a public work

involving architecture or professional engineering unless certain requirements are met, including having the plans and specifications and estimates prepared by a licensed architect or licensed professional engineer, and the materials used reviewed by and completed phases of construction made under the direct supervision of a licensed architect or licensed professional engineer. House Bill 4535 would prohibit a public authority from rejecting any documents relating to the design of interior spaces as specified above solely for the lack of a seal.

sections in such things as identification and application, problem

MCL 339.2012

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, no increased cost would be associated with the bill's provision for the Board of Architects to create an advisory subcommittee on interior design. The HFA also reports that there would be no fiscal impact estimated for the list of approved interior designers compiled by the advisory subcommittee as there are no specific publication requirements in the bill. (6-27-97)

ARGUMENTS:

For:

The bill represents a carefully brokered agreement between architects and interior designers that was about 12 years in the making. By limiting the exemption from licensure under the Occupational Code to those designers who have passed the National Council for Interior Design Qualification (NCIDQ) examination, the public health, welfare, and safety would continue to be protected by identifying the proper credentials for exemption, and the two professions could continue their respective design practices. It is important to remember that for over two decades, interior designers freely engaged in certain design practices that did not substantially affect building structure or life safety systems. It has only been more recently that the letter of the law has been more rigorously enforced and interior designers have been denied building permits if the plans lacked an architect's seal. Currently, a designer must submit his or her plans to an architect for review, and then the architect must redraw the designs according to the architect's specifications. Since those interior designers with NCIDQ certification are very knowledgeable, the architect's interpretation of the design is often verbatim to the interior designer's plans. This results in increased costs to the client, who in effect is paying to have the same design plans drawn twice.

The NCIDQ exam process is a very stringent, one-and-a-half-days long exam that tests an applicant in six

solving, building and barrier-free codes, determining a client's need as to function of space, a three-dimensional exercise to test application of theories, and a drafting portion. To be eligible for the bill's exemption, an interior designer would have to successfully complete a NCIDQ exam. Though the bill would allow some designers to substitute education and experience in lieu of passing the NCIDQ exam, the "grandfather" provision would be available for only about a year and a designer would have to be approved by an advisory subcommittee appointed by the Board of Architects. Plus, the board would be responsible to make the list of interior designers approved for the exemption available to state and local building inspectors for a quick verification of a designer's credentials.

Further, the bill would add additional protection to the public by exempting only those projects that would not materially affect a building's mechanical, structural, electrical, or life safety systems. According to industry representatives, as part of the educational requirements and NCIDQ examination preparations, interior designers are well-schooled to recognize what they are and are not capable and qualified to do. Requiring an interior designer to submit a drawing to an architect for his or her review and seal only when a building system would be materially affected would protect the public, and yet would lower costs when a project would result in only a minor change or no change.

Against:

It would appear that interior designers are seeking statutory recognition and a better way to go about that would be through a title bill, which would not create as broad an exemption as the bill under discussion. As it stands, the bill would allow interior designers (who are not licensed or registered, or subject to penalties under the Occupational Code) to engage in certain design functions that architects must be licensed to do. Further, where representatives of the architecture profession acknowledge that setting minimum standards for people who do design work, as the bill would do, is a step in the right direction, there is concern that the bill's standard regarding whether a component of construction would "materially affect" a building's mechanical, structural, electrical or life safety systems is too vague and could lead to inconsistent interpretation and enforcement on a state-wide basis. Further, clarification is needed regarding which names would be on the approved list compiled by the advisory committee on interior design -- those who would be grandfathered in, or all those who had been approved either through the grandfather clause or by passing an NCIDQ exam.

Response:

Though it is true that interior designers would not be subject to regulation under the Occupational Code, an interior designer is still liable for negligence as any business person would be. As to the term "materially affect", reportedly this term was suggested by the American Institute of Architects. The Coalition for Interior Design Registration suggests that a joint definition could be worked out and distributed to building inspectors around the state to assist in the determination of whether a plan would meet the exemption criteria of the bill. Further, the language in the bill regarding the list of persons exempted from the code could be easily clarified by amendment to specify that the list should contain the names of all persons eligible for exemption so that building officials could have one accurate source by which to verify a person's exemption eligibility under the bill.

POSITIONS:

The Coalition for Interior Design Registration (CIDR) supports the bill. (6-30-97)

The American Institute of Architects - Michigan Chapter, has no formal position on the bill at this time. (6-30-97)

The Department of Consumer and Industry Services does not have a position on the bill. (6-27-97)

Analyst: S. Stutzky

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.