



Dorothy Pelanda
State Representative, 86th District

To: Chairman Ron Young
Members of the House Economic Development, Commerce and Labor Committee

From: Representative Dorothy Pelanda

Date: May 21, 2018

RE: Substitute Version of HB 504 Explanation

As you are aware, I introduced House Bill 504 with the intent to establish a permissive certification of Ohio's educated and qualified commercial interior design professionals, not only to protect the public but also to retain talent from leaving our state and to increase job creation and competition in Ohio.

Commercial interior design was primarily developed in the post war era and now interior designers are suffering the unintended consequences of an older, overly broad, and under-inclusive state statute. In Ohio, interior design professionals are not free to practice to their fullest capabilities, which dramatically affects their ability to compete in the marketplace. This has put many professionals and interior design firms, the majority sole proprietorships owned by women, at a distinct disadvantage by operating in the state of Ohio. While many interior design professionals enjoy great working relationships with the architectural firms they work with, there are many who own their own businesses and Ohio's current environment makes it difficult to compete with these restrictions, which ultimately results in losing their own intellectual property of their designs.

It is with eagerness I share with you the updates to House Bill 504. The committee last heard from a series of proponent witnesses that expressed their opinions and business perspectives on the positive benefits of House Bill 504. Since that time, there have been two organizations that have come forward to suggest clarifying language and to provide other areas of concern from their respective organizations to the "As Introduced" version of the bill. The first is the National Kitchen and Bath Association (NKBA) and the second is the American Institute of Architects (AIA).

NKBA sought clarifications to ensure that a kitchen and bath design professional would be exempt from the voluntary certification. The bill specifically allows commercial interior design professionals the ability to practice and pursue their professional goals to their fullest capabilities while protecting the public, as well as retain talent and increase job creation in Ohio.

I did so with a keen sense of not creating burdens on other businesses, such as those like NKBA. NKBA had suggested that we specifically exempt a “kitchen and bath designer”, however the Ohio Revised Code does not define “Kitchen and bath designer”, and to my understanding, no other state currently has a specific definition that defines the profession. Additionally, they have requested that we also insert a new definition of “residential space” and a definition of “light commercial space”. While I very much value the business members in the kitchen and bath designer profession, it is not my intent to attempt to define another industry in the context of HB 504. I would certainly be willing to discuss the defining of their profession as a general matter with their organization, but believe strongly that this issue would require a separate piece of legislation and much more consideration beyond their suggested amendment.

It was prudent in the Substitute Version to clarify the exemption so that the measure does not require a person to obtain an interior designer certificate to engage in an activity traditionally performed by an interior designer or other design professional. In addition, we have clarified any ambiguities with regard to the measure’s intent to apply only to commercial spaces or the “nonresidential building codes”. Furthermore, the substitute bill as crafted does not require, but allows a commercial interior designer who seeks certification to submit for application. However, to obtain a permissive certification one must be qualified to take and pass the National Council for Interior Design Qualification (NCIDQ) examination or the examination of an equivalent entity. It is my belief that this clarification would further exempt the members of NKBA from any perceived requirement to voluntarily certify.

- *Lines 276 – 287 not requiring a person to obtain an interior design certificate to engage in an activity traditionally performed by other design professionals*
- *Lines 185 – 191 the measure only deals with “nonresidential building codes”*
- *Lines 412 -415 clarifies that an applicant shall submit qualifications of passing the National Council for Interior Design Qualifications (NCIDQ), which is primarily given to a member of the interior design profession.*

The AIA is the national trade group representing architects. The proponents of the bill had previously been working with the AIA-Ohio chapter based on precedence and collaboration of success in other states. On April 11th, AIA-National provided me four bullet points expressing their concerns with the As Introduced version of HB 504, and on April 18th, I met with AIA-National to discuss their four points of concern, which were as follows:

- *The bill as drafted is in direct conflict with what the scope of the “practice of architecture” as defined by the State of Ohio.*
- *Concerns with certain terms or lack of definition for terms, such as “core and shell structural elements”, “nonresidential building code”.*
- *Lack of insurance liability being expanded to interior designers to go along with the expansion of scope of practice.*
- *Why is this under the Ohio Board of Building Standards?*

With the proponents of the bill, we went to work to begin to address these concerns. As a procedural note, there was a -2-version of the bill that was never accepted in committee and served as a major basis for the -3-version pending before you. During the review of the -2 version, I conducted an interested party meeting on May 1st, with the AIA-National, the International Interior Design Association (IIDA), the Legislative Service Commission (LSC), and the Chairman’s Staff. Progress was made; however, it was evident that AIA preferred to pursue a regulatory route similar to the combined Architects/Landscape Architects Board in which many industry definitions are written by rule by a regulatory board. This would be in lieu of placing the measure with the Ohio Board of Building Standards.

At the interested party meeting, I challenged the AIA to provide a counterproposal to the -2 version. AIA provided language and I have worked to address not only the four original bullet point concerns, but also additional issues that were raised. The bill before you, I believe, substantially addresses their concerns. So you are aware, to better align the new changes contained in the substitute bill, LSC changed the code section originally assigned (ORC 4714) to code section 4703.

For your review, I wanted to provide the specific changes in the substitute measure that addresses AIA's original four bullets as well as their subsequent suggested changes (listed below). Please know the Substitute Version was reached after careful consideration, meetings, and correspondence from all parties and I believe it to be an agreeable solution that strikes a balance between all parties and ensures that the bill does not in any way prohibit the professional standards that are afforded to the architect profession.

If you should have any questions, please do not hesitate to call me with regard to Substitute House Bill 504. Thank you.

4703.60

One of the bill's main concepts was to define the "practice of interior design" and what is "not the practice of interior design". As you see in the first two bullet points, this is impacted by the definition of interior design. In 4703.60 the definitions are largely like they were in the as introduced version; however, I removed references to "core and shell structure" and practice that is "independent of an architect" (lines 192-197) and allowed the definition to be further written in rule, ***satisfying bullets 1 and 2.***

4703.61 (formerly 4714.02) - There were no changes to this section.

4703.62 (formerly 4714.03) - The section was reorganized at the suggestion of LSC. The following is an excerpt from a cover memorandum on the language.

"As noted in the bill analysis, it is unclear whether the As Introduced version of the bill prohibits the practice of interior design by a person who does not hold an interior designer certificate. The attached version expressly states that it does not require a person to obtain an interior designer certificate to practice interior design. Based on the clarification, I removed from the bill a list of people permitted to practice interior design without a certificate. The As Introduced version states that the bill does not limit the scope of practice of an architect or engineer. My understanding of the statement is that it is intended to clarify that an architect or an engineer does not need a certificate to practice interior design. Because the substitute bill expressly states that no person is required to have a certificate, I have rewritten the architect and engineering provision to say that an interior designer certificate does not authorize the practice of architecture or engineering."

This section is significant because it places clear guardrails in the bill about the practice of interior design, architecture and engineering and is broad enough to cover the kitchen and bath members that sought recognition in this bill. Nationally, there is no definition of kitchen and bath designer and I do not believe Ohio wants to be the first.

4703.64 (new) - The AIA in its 4th bullet point questions why the bill seeks to place interior design regulation under the Board of Building Standards. You have my testimony on my rationale for regulation under the Board of Building Standards (BBS). Instead of regulation for this practitioner under the BBS, the American Institute of Architects (AIA) advocated for a board to be created under the Architects Board umbrella (aligning all design functions in one place).

I know this is an important point for the members of the committee. However, the Architects Board, in response to inquiries from my office stated that the addition of interior designers under the umbrella of the architects board, will be a minimal startup cost of around \$3,000 and the actual board function makes more sense under their umbrella than where we placed it at BBS and may technically save money overall. We believe that this is a better scenario than what we initially shared with you. The name of the board shall be the Ohio Interior Design Examiners Board. ***This addresses bullet point #4.***

4703.64 (formerly 4714.09) - The section remains substantially the same with a few exceptions. There are requirements that the standards of practice shall be defined, rules for financial responsibility and professional liability shall be promulgated and the definition of “interior life safety plan” shall be in rule. The Board is also required to enforce the rules and has subpoena power and the ability to incur costs. Although, it is my understanding that the architects and landscape architect’s boards rarely use this provision.

4703.65 (new) - In mimicking the Ohio Landscape Architects Board structure, the new board is required to submit reports on finances and number of certificate holders similar to the landscape architect’s requirements.

4703.66 (formerly 4714.04) - This section outlines how an individual becomes a certified interior designer. Language was added that applicants must have the ability to meet financial responsibility and professional liability insurance. ***This addresses bullet point #3.***

4703.67 (new) - This section outlines the rules for reciprocity of interior designers from other states. Rules require the Board to enforce rules and has subpoena power and the ability to incur costs.

4703.68 (formerly 4714.05) - This language remains the same except that the Architects Board suggested adding language in line 464-466 regarding getting written permission from someone to submit a plan or specification. There are instances when a designer leaves a firm, but the initial plans are left behind. In this instance there must be consent provided to submit the plans.

4703.69 (formerly 4714.06) - The section deals with the certificate length of terms. There were no changes other than the reference to the name of the board as a regulator.

4703.70 (formerly 4714.07) - The section outlines the amount of continuing education (CE) needed to renew a certificate. As introduced it required 20 hours of CE, with 10 hours emphasizing health and safety. AIA requested that all 20 hours be dedicated to health, welfare and safety. Although not included in the original four bullet points, I made this change.

4703.71 (formerly 4714.08) - Simply changes references of the Board of Building Standards to the Ohio Interior design Examiners Board. The bill requires the Board to refer unpaid fines to the Attorney General for collection, instead of through a collection agency or a lawsuit. Language was also changed at the request of the AIA outside of the four bullets seeking an extension of time for the board to not take action after an alleged violation occurred. Six months was changed to 5 years (Division (G)).

4703.72 (new) - This section is new and allows the Board to fine a person who does not have an interior design certificate if the Board concludes, after an administrative hearing, that the person is representing that the person is a certified interior designer.

3791.04 (new) - This section allows a certified interior designer to submit construction documents related to interior design to a building official for approval without the seal of an architect or engineer.

4703.50 (new) - Adds the newly formed board to the list of agencies that pay into the occupational licensing and regulatory fund (4K9).

4703.52 (new) - Adds the newly formed board to the list of agencies that adhere to child support regulations.

4703.53 (new) - Adds the newly formed board to the list of agencies that comply with human trafficking regulations