



# OHIO LEGISLATIVE SERVICE COMMISSION

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## Bill Analysis

Paul Luzzi

### **H.B. 504**

132nd General Assembly  
(As Introduced)

**Reps.** Pelanda, Cera, Patton, Slaby, Roegner, Fedor, Carfagna, Reineke, Lang, Rezabek, Boggs

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### **BILL SUMMARY**

- Prohibits a person from representing the person's self as a certified interior designer unless the person holds a current, valid interior designer certificate or an exception applies.
  - Defines "practice of interior design" as the preparation of plans or specifications for, or the supervision of, the new construction, alteration, or repair of the interior of a nonresidential building when the outer and structural elements of the building are not changing and when that work takes place independent of an architect.
  - Prohibits a person with a suspended, revoked, restricted, temporary, probationary, or inactive certificate from engaging in the practice of interior design unless the person does so under the supervision of a valid certificate holder and in compliance with the bill's requirements.
  - Requires the Ohio Board of Building Standards to implement and enforce the bill's provisions and issue and renew interior designer certificates.
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### **CONTENT AND OPERATION**

#### **Title protection and limitations on practice**

Except as otherwise permitted under the bill, the bill prohibits a person from representing the person's self as a certified interior designer unless the person holds a current, valid certificate to engage in the practice of interior design from the Board of

Building Standards.<sup>1</sup> Currently, Ohio does not regulate interior design at the state level; a possibility exists that a municipal corporation or a charter county, under its home rule powers, may regulate interior design.

The bill defines the "practice of interior design" as the preparation of a plan or specifications for, or the supervision of, the new construction, alteration, or repair of an interior space within a nonresidential building when the core and shell structural elements of the nonresidential building are not going to be changed and when the work takes place independent of an architect. The practice of interior design does not include making changes or additions to any of the following:

- Foundations, beams, trusses, columns, or other primary structural framing members or seismic systems;
- Structural concrete slabs, roof framing structures, or load-bearing and shear walls;
- Opening in roofs, exterior walls, or bearing and shear walls;
- Exterior doors, windows, awnings, canopies, sunshades, signage, or similar exterior building elements;
- As described in the Nonresidential Building Code adopted by the Board of Building Standards, life safety equipment, including smoke, fire, or carbon dioxide sensors or detectors, or other overhead building elements;
- Heating, ventilating, or air conditioning equipment or distribution systems, building management systems, high or medium voltage electrical distribution systems, standby or emergency power systems or distribution systems, plumbing or plumbing distribution systems, fire alarm systems, fire sprinkler systems, security or monitoring systems, or related building systems.<sup>2</sup>

The bill states that it cannot be construed as requiring a person to obtain an interior designer certificate to engage in an activity traditionally performed by an interior designer or other design professional, except for those practices specifically included in the bill's definition of "practice of interior design."<sup>3</sup> It is unclear if the statement prohibits a person from engaging in interior designer without a certificate (see **COMMENT**).

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<sup>1</sup> R.C. 4714.02(A)(1).

<sup>2</sup> R.C. 4714.01(B) and (D).

<sup>3</sup> R.C. 4714.03(A).



The bill also prohibits a person from practicing, representing the person's self as practicing or engaging in, or attempting to practice or engage in interior design when the person is restricted from doing so by a suspended, revoked, restricted, temporary, probationary, or inactive certificate. Such a person may engage in the practice of interior design under the supervision of another interior designer, provided the other interior designer follows the procedures described under "**Supervisory duties**," below.<sup>4</sup>

The bill also prohibits any person from knowingly doing any of the following:

- Impersonating another certified interior designer, except as permitted by law;
- Permitting the person's authority to practice or engage in any activity authorized under the bill to be used by another, except as permitted by the bill or under law;
- Obtaining a passing score on a certificate examination (see "**Certification**," below), applying for or obtaining a certificate, or otherwise dealing with the Board through the use of fraud, forgery, or intentional deception, misrepresentation, misstatement, or omission.<sup>5</sup>

## **Exempt activities**

Under the bill, a person holding a valid certificate to practice architecture issued under the Architects Law<sup>6</sup> who is practicing architecture or performing architecture acts or interior design is not required to have an interior design certificate. Nothing in the bill can be construed as limiting the scope of practice of a person holding a valid certificate to practice architecture or engineering.<sup>7</sup>

A person providing plans or specifications for approval by a building official is not required to have an interior designer certificate if the person is allowed to provide the plans or specifications under the Nonresidential Building Code. Additionally, a person who prepares construction-related documents that do not need to be approved by a building official is not required to have a certificate.

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<sup>4</sup> R.C. 4714.02(A)(2) and (3).

<sup>5</sup> R.C. 4714.02(D).

<sup>6</sup> R.C. Chapter 4703.

<sup>7</sup> R.C. 4714.02(A)(4) and 4714.03(B).



The bill also allows the Board to exempt other people and professions by adopting administrative rules.<sup>8</sup>

## **Issuance and renewal**

### **Certification**

To become certified to engage in the practice of interior design, a person must submit an application on a form adopted by the Board and pay the fee established by the Board in rules the Board must adopt under the bill. An applicant also must provide satisfactory evidence that the applicant is of good moral character and has passed the National Council of Interior Design Qualification Examination or an examination of an equivalent entity as determined by the Board in rules the Board adopts under the bill.

The Board must issue a certificate to a person who meets the bill's requirements for certification and provide each certified interior designer with a unique certificate number.<sup>9</sup>

### **Renewal**

Unless the Board has adopted a rule extending or shortening a renewal cycle, a certificate to engage in the practice of interior design is valid for two years after the date of issuance. Before a certificate expires, an applicant for renewal must provide the Board with a renewal application and a renewal fee established by the Board in rules adopted by the Board. The applicant also must provide satisfactory evidence that the applicant has met the requirements described under "**Continuing education**," below.<sup>10</sup> The Board may extend or shorten a renewal cycle by as much as one year for the purpose of staggering renewals.<sup>11</sup>

### **Continuing education**

Unless the Board extends or shortens a renewal cycle, a certified interior designer must complete 20 hours of continuing education every two years. The continuing education hours must either be provided by the Board or by a Board-approved entity. At least ten hours of continuing education must primarily emphasize health and safety. The Board must adopt rules establishing standards a continuing education provider must meet for approval.

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<sup>8</sup> R.C. 4714.02(A)(4).

<sup>9</sup> R.C. 4714.04 and 4714.09.

<sup>10</sup> R.C. 4714.04(A)(1) and (B).

<sup>11</sup> R.C. 4714.04(A)(2).



If the Board extends or shortens a renewal cycle, the Board also must proportionally increase or decrease the amount of continuing education required to renew a certificate.<sup>12</sup>

## **Duties of a certified interior designer**

Under the bill, a certified interior designer must sign any final plan or specification prepared by or under the supervision of the certified interior designer when the plan or specification is to be submitted to a client or a building official for the purpose of having the plan or specification approved in accordance with the Nonresidential Building Code. The signature must be accompanied by the interior designer's certificate number. A certified interior designer may only include the designer's signature and certificate number on a final plan or specification that is within the scope of practice of interior design and was either personally prepared by the designer or prepared under the designer's supervision as described below.<sup>13</sup>

### **Supervisory duties**

Under the bill a certified interior designer may only attach the designer's signature and certificate number to a final plan or specification that the designer did not personally prepare if one of the following applies:

- The plan or specification was prepared by an employee, subordinate, associate, or drafter under the direct supervision of the certified interior designer, and the certified interior designer assumes responsibility for the plan or specification.
- The plan or specification was prepared by another certified interior designer in Ohio or a similarly qualified designer in another state.

Before a certified interior designer submits a final plan or specification prepared by another interior designer to a client or to a building official, the signing and certifying interior designer must thoroughly review the work for compliance with all applicable laws, rules, and standards. The signing and certifying interior designer also must make any necessary corrections before submitting a final plan or specification to the client or a building official.<sup>14</sup>

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<sup>12</sup> R.C. 4714.07 and 4714.09.

<sup>13</sup> R.C. 4714.05(A) and (B).

<sup>14</sup> R.C. 4714.05(B).

## Prohibited acts

The bill prohibits a certified interior designer from doing any of the following:

- Failing to comply with the "**Duties of a certified interior designer**" discussed above;
- Recklessly engaging in conduct described by the Board as unprofessional in rules the Board adopts under the bill;
- If a certified interior designer who had a certificate reinstated following disciplinary action, knowingly using a different name than the name used before the action, except as permitted by law and after notice to, and approval by the Board.<sup>15</sup>

## Board duties

The Board is responsible for implementing the bill's provisions, issuing and renewing certificates, and enforcing the bill.<sup>16</sup> Under continuing law, the Board formulates and adopts rules governing the erection, construction, repair, and alteration of residential and nonresidential buildings. The Board also certifies local building departments for the purposes of enforcing the state building codes.<sup>17</sup>

## Enforcement

If, after an inspection or investigation, the Board believes a person has violated the bill, a Board rule, or an order issued by the Board, the Board may take any of the following actions:

- (1) Issue a warning to the person;
- (2) Attempt to negotiate a stipulated settlement;
- (3) Issue a citation to the person;
- (4) Order the person to appear at an administrative hearing.

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<sup>15</sup> R.C. 4714.02(B), (C), and (D) and 4714.09.

<sup>16</sup> R.C. 4714.04(B), 4714.08, and 4714.09(A).

<sup>17</sup> R.C. 3781.07 and 3781.10, not in the bill.



The Board is prohibited from taking any of the actions listed above more than six months after the alleged violation occurs.<sup>18</sup>

A warning, citation, order, or a copy of a citation or order, may be served by mail or by personal service to either the offending person or the person's agent. A Board employee or designee may personally serve the warning, citation, order, or copy. In all other respects a warning, citation, or order must comply with the Administrative Procedure Act. The Administrative Procedure Act does not refer to warnings or citations, but it does contain requirements with respect to who must be given notice of an order, the contents of an order, and the timeframe for appealing an order.<sup>19</sup>

### **Citations**

The bill requires a citation issued by the Board to be in writing. It must describe with particularity the alleged violation and include references to the law, rule, or order allegedly violated. The citation also must clearly state that the person may contest the allegations through an administrative hearing and that the person must notify the Board of an intent to contest within 20 days of receipt of the citation and provide an explanation of how to request a hearing. It also must clearly explain the administrative actions that will be taken or fines that will be levied if the person does not contest the allegations or the Board, after a hearing, makes a finding against the recipient. If a person shows good cause for an extension, the Board may extend the time period the person has to notify the Board of the person's intent to contest the citation.

A citation issued for an offense that has not yet resulted in a final order from the Board does not prevent the Board from issuing an additional citation for a subsequent offense.<sup>20</sup>

### **Final orders**

The Board must make a finding against a person and issue a final order against the person if any of the following occur:

- (1) The person violates a stipulated settlement;
- (2) The person fails to request an administrative hearing to contest a citation within the time allotted for the request;

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<sup>18</sup> R.C. 4714.08(A) and (G).

<sup>19</sup> R.C. 4714.08(E), by reference to R.C. Chapter 119.

<sup>20</sup> R.C. 4714.08(B) and (I).

(3) The Board, after conducting an administrative hearing, finds that the person violated the bill, a rule adopted by the Board, or an order issued by the Board.

The Board may take any of the following disciplinary administrative actions against the person in a final order:

- Refuse to issue or renew a certificate;
- Revoke, suspend, or restrict a certificate or place a certificate on probation;
- Issue a public or private reprimand to a certificate holder;
- Issue a cease and desist order;
- Impose a fine in the following amounts:
  - For a first offense, up to \$1,000;
  - For a second offense, up to \$2,000;
  - For any subsequent offense, up to \$2,000 for each violation or for each day during which a person fails to comply with an order.<sup>21</sup>

If a person fails to comply with an order issued by the Board, the Board may take additional administrative action.<sup>22</sup>

The Board may collect an unpaid fine by referring it to a collection agency or by suing the person who owes the fine. A suit by the Board to collect an unpaid fine must be brought in either the court of common pleas for the county in which the person resides or the Franklin County Court of Common Pleas. The bill requires a county prosecuting attorney or the Attorney General to provide legal assistance and advice to the Board in a suit to collect an unpaid fine. The court must award reasonable attorney fees and costs to the Board if a suit is successful.<sup>23</sup>

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<sup>21</sup> R.C. 4714.08(C), (D), and (H).

<sup>22</sup> R.C. 4714.08(F).

<sup>23</sup> R.C. 4714.08(J).

## Rule adoption

The bill requires the Board to adopt rules in accordance with the Administrative Procedure Act.<sup>24</sup> In addition to other rules the Board must adopt under the bill, the Board must adopt rules to establish both of the following:

- What happens to a certificate if the certificate holder fails to timely renew it;
- Procedures for placing a certificate on inactive status and for reinstating a certificate that has been revoked, suspended, restricted, or placed on inactive status.

The Board may adopt rules related to any other matter the Board considers pertinent, including rules regarding either of the following:

- Temporary certificates;
- Citations.<sup>25</sup>

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## COMMENT

The bill does not appear to expressly include a prohibition against practicing interior design without a certificate. However, it states that it cannot be construed as requiring a person to obtain an interior designer certificate to engage in an activity traditionally performed by an interior designer or other design professional, except for those practices specifically included in the bill's definition of "practice of interior design." The statement could be interpreted as prohibiting a person who does not hold a certificate from performing an activity that falls within the bill's definition of practice of interior design. However, it does not appear that the Board has the authority to discipline a person for practicing interior design without a certificate. An amendment could be prepared during the committee process to address this issue.

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## HISTORY

ACTION	DATE
Introduced	02-13-18

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<sup>24</sup> R.C. Chapter 119.

<sup>25</sup> R.C. 4714.09.

