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OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
and Drafting

Legislative Budget
Office

H.B. 402
133rd General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsors: Reps. Lang and Sweeney

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SUMMARY

- Creates an interior designer certification and requires any person wishing to practice within the bill’s limited meaning of interior design to obtain a certificate.
- Allows a certified interior designer to submit an interior technical submission to a building official to obtain a building permit without the seal of an architect or engineer.
- Creates the Ohio Interior Design Examiners Board to implement and enforce the bill’s provisions and to issue and renew interior designer certificates, and specifies other Board duties.
- Requires the Board to adopt rules regarding reciprocity for individuals from other jurisdictions.

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DETAILED ANALYSIS

Background and definitions

Under current law, a construction document submitted for approval to obtain a building permit generally must include the seal of a registered architect or engineer. The bill creates an interior designer certification in order to allow an interior designer who obtains the certification to submit construction documents regarding certain projects to a building official for approval without the seal of a registered architect or engineer. The bill does not require every interior designer in Ohio to obtain the certification – only those wishing to engage in the bill’s limited meaning of “practice of interior design,” defined below. Currently, Ohio does not regulate interior design at the state level.¹

The bill defines the “**practice of interior design**” as:

“[T]he preparation of an interior technical submission (defined separately) for, or the supervision of, an interior alteration or construction project (defined separately), including the preparation of documents relating to interior life safety (defined separately), interior construction, materials, finishes, space planning, furnishing, fixtures, equipment, lighting, and reflected ceiling plans, and the preparation of interior technical submissions relating to interior construction that does not substantially affect the existing mechanical or structural systems of a building (defined separately) and when the exterior elements of the building are not going to be changed.”

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;

¹ See R.C. 4703.62(A)(1) (The bill shall not. . . “be construed as. . . [r]equiring a person to obtain an interior designer certificate to engage in an activity traditionally performed by an interior designer or other design professional”).

- Structural concrete slabs, roof framing structures, or load-bearing and shear walls;
- Openings 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;
- All aspects of an interior life safety plan that are unrelated to the practice of interior design, as defined and delineated in rules adopted by the Board.²

“Interior technical submission” means a design, drawing, specification, study, or other technical report or calculation that establishes the details of a project within the practice of interior design, including a description of standards of quality for materials, skilled labor, equipment, and construction systems, and that is signed and sealed by a certified interior designer in compliance with the bill.³

“Interior alteration or construction project” means a project for an interior space or area within a proposed or existing building or structure, including construction, modification, renovation, rehabilitation, or historic preservation, that involves changing or altering any of the following:

1. The design function or layout of rooms;
2. The state of permanent fixtures or equipment;
3. The interior space or area if the change or alteration requires verification of the compliance of the interior space or area with a building code, fire code, the federal Americans with Disabilities Act, or any state or local regulations;
4. Nonstructural elements⁴ of the interior space or area.⁵

² R.C. 4703.60 (G) and (I) and 4703.64(A)(11) and (12).

³ R.C. 4703.60(F).

⁴ Includes ceiling and partition systems that employ normal and typical bracing conventions and that are not part of the structural integrity of the building. R.C. 4703.60(H).

⁵ R.C. 4703.60(C).

“**Building**” means a nonresidential building⁶ and includes the structural, mechanical, and electrical systems, utility services, and other facilities required for the structure.⁷

“**Interior life safety**” means the analysis, development, interpretation, review, and employment of space plans or interior components for existing or proposed interior spaces to provide for compliance with a building code or other law, ordinance, or rule to eliminate, reduce, or control life-threatening or health-threatening situations, including to provide for egress or ingress to horizontal fire exit ways leading to predetermined vertical fire exit ways.⁸

Submission to building officials

Under current law, unless an exception applies, a construction document submitted to a building official for approval to obtain a building permit must include the seal of a registered architect or engineer. The bill allows a person to submit an interior technical submission for approval to obtain a building permit without a seal provided that the document is within the scope of the practice of interior design and bears a certified interior designer’s signature and certificate number. The construction documents that currently do not require a seal are the following:

- A document related to a residential building or an accessory structure to a residential building;
- A document related to an energy conservation design for a residential building;
- A document related to a fire protection system design signed by a certified fire protection system designer;
- A document related to the installation of replacement devices, equipment, or systems that are equivalent in type and design to the replaced devices, equipment, or systems;
- A document related to the alteration, construction, or repair of a nonresidential building that the building official determines does not involve the technical design analysis of work affecting public health or general safety in the following areas: means of egress, structural, mechanical, electrical, plumbing, or fire protection.⁹

Architects, engineers, and other professions

Under the bill, holding an interior designer certificate does not authorize a person to practice architecture under the Architects Law or engineering under the Professional Engineers

⁶ Any building that is not a “residential building” (a one-family, two-family, or three-family dwelling house and any accessory structure incidental to the dwelling house) or a manufactured or mobile home. R.C. 3781.06, not in the bill.

⁷ R.C. 4703.60(A).

⁸ R.C. 4703.60(E).

⁹ R.C. 3791.04(A) and Ohio Administrative Code 4101:1-1-01, Section 106.2.1.

and Surveyors Law.¹⁰ The bill also states that it should not be construed as preventing or restricting the practices, services, or activities of any person licensed in Ohio under any other law from engaging in the profession or occupation for which the person is licensed.¹¹

Ohio Interior Design Examiners Board

The bill creates the Ohio Interior Design Examiners Board, responsible for issuing interior design certificates, consisting of the following five members appointed by the Governor:

- Three members who have engaged in the practice of interior design for no less than five years and, beginning one year after the bill's effective date, are certified interior designers;
- One member who is an architect or a professional engineer authorized to practice in Ohio;
- One member who represents the public.

The Governor must make initial appointments to the Board not later than 90 days after the bill's effective date. Board members serve five-year terms, and the bill staggers the terms of the initial appointees. Members may be reappointed. If a vacancy occurs on the Board, the Governor must, within 90 days, appoint a person to hold the office for the remainder of the unexpired term. The bill permits the Governor to remove a member for cause. Board members are paid a per diem (in an amount set by the Director of Administrative Services) for the performance of their official duties and are reimbursed for necessary expenses.

The Board must elect a president and a secretary who hold their offices for one year. The secretary is responsible for keeping a true and complete record of all of the Board's proceedings.

The Ohio Interior Design Examiners Board must use the Architects Board's physical facilities and administrative staff to discharge of all the Ohio Interior Design Examiners Board's administrative duties. The Ohio Interior Design Examiners Board must pay a proportionate share of the cost of those administrative services, but the costs cannot exceed the Board's revenue.

The Board must meet at least twice each calendar year to transact regular business. It may hold additional meetings at the call of the president or a majority of the members after sending reasonable notice of the time and place of the meeting. Three members of the Board constitute a quorum for the transaction of business.¹²

¹⁰ R.C. 4703.62(B), by reference to R.C. Chapters 4703 and 4733.

¹¹ R.C. 4703.62(A)(2).

¹² R.C. 4703.63 and Section 4.

Board Duties

The bill requires, within 180 days after its effective date, the Board to adopt rules, in accordance with the Administrative Procedure Act,¹³ and bylaws necessary to implement the bill. The rules the Board adopts govern the standards of education, service, conduct, and practice of certified interior designers. In addition to other rules the Board must adopt under the bill (noted throughout this analysis), the Board must adopt rules to establish all of the following:

- The standards of practice for certified interior designers;
- 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 definition of “interior life safety plan” (the bill defines “interior life safety”) and the aspects of a plan that are related and unrelated to the practice of interior design.

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

- Temporary certificates;
- Citations.¹⁴

Reports and rosters

Beginning one year after the bill’s effective date, the Board must file an annual report with the Governor after the close of each fiscal year. The report must explain the Board’s operations as of June 30 for the year the report covers and include a statement of receipts and expenditures. The bill also requires the Board to prepare, in every even-numbered year, a roster showing the name, certificate number, and address of all the certified interior designers who are in good standing as of April 1 of that year.¹⁵

Issuance and renewal

Certification

A person seeking to receive an interior design certificate must submit an application on a form prescribed 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. An applicant also must satisfy requirements regarding financial

¹³ R.C. Chapter 119.

¹⁴ R.C. 4703.64(A) and (C) and Section 3.

¹⁵ R.C. 4703.65.

responsibility and professional liability insurance that the bill requires the Board to establish in rules.

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.¹⁶

Reciprocity

The bill requires the Board to adopt rules for granting an interior design certificate to any person who provides satisfactory evidence that the person is a certified, registered, or licensed interior designer in another state or country in which the qualifications, at the time of certification, registration, or licensure, were substantially equal, in the opinion of the Board, to the requirements in the bill. The Board, in the rules it adopts, must require an out-of-state applicant to pass the National Council for Interior Design Qualification Examination or an examination by an equivalent entity.¹⁷

Renewal

Unless the Board has adopted a rule extending or shortening a renewal cycle, an interior designer certificate 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. The Board may extend or shorten a renewal cycle by as much as one year for the purpose of staggering renewals.¹⁸

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. Continuing education must primarily emphasize health, welfare, and safety. The Board must adopt rules establishing standards a continuing education provider must meet for approval. The Board must model the standards for continuing education providers on recommendations established by the National Council of Interior Design Qualifications or a similar successor organization.

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.¹⁹

¹⁶ R.C. 4703.64(A)(2), (5), and (10) and 4703.66.

¹⁷ R.C. 4703.64(A)(5) and 4703.67.

¹⁸ R.C. 4703.64(A)(3) and (C)(1) and 4703.69.

¹⁹ R.C. 4703.64(A)(4) and (B) and 4703.70.

Duties of a certified interior designer

Under the bill, a certified interior designer must sign any interior technical submission prepared by or under the certified interior designer's supervision when the interior technical submission is submitted to a client or a building official for approval in accordance with the Nonresidential Building Code. The signature must be accompanied by the interior designer's certificate number. A certified interior designer only may include the designer's signature and certificate number on an interior technical submission 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.²⁰

Supervisory duties

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

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

Before a certified interior designer submits an interior technical submission 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 receive written permission from the original designer to submit the interior technical submission, must make any necessary corrections before submitting, and must assume all responsibility and liability for the interior technical submission.²¹

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;

²⁰ R.C. 4703.68(A) and (B).

²¹ R.C. 4703.68(B).

- Impersonating another certified interior designer, except as permitted by law;
- Permitting the designer's signature and certificate number to be attached to an interior technical submission, except as permitted by the bill or other law.²²

The bill also prohibits a certified interior designer or an applicant for a certificate from knowingly doing any of the following through the use of fraud, forgery, or intentional deception, misrepresentation, misstatement, or omission:

- Obtaining a passing score on a certificate examination;
- Applying for or obtaining a certificate;
- Otherwise dealing with the Board.²³

Finally, the bill prohibits a person from representing the person's self as a *certified* interior designer unless the person holds a current, valid interior designer certificate. A person cannot practice, represent the person's self as practicing or engaging in, or attempt 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**," above.²⁴

Enforcement

The Board is responsible for enforcing the bill and any rules adopted under it. The Board may subpoena witnesses and records in connection with its investigations and may incur any necessary expenses.²⁵

Interior designers and applicants

If, after an inspection or investigation, the Board believes a certified interior designer or an applicant for a certificate has violated the bill, a Board rule, or an order issued by the Board, the Board may take any of the following actions:

- Issue a warning to the person;
- Attempt to negotiate a stipulated settlement;
- Issue a citation to the person;
- Order the person to appear at an administrative hearing.

²² R.C. 4703.61(C) through (E) and 4703.64(A)(1).

²³ R.C. 4703.61(F).

²⁴ R.C. 4703.61(A) and (B).

²⁵ R.C. 4703.64(D).

The Board is prohibited from taking any of the actions listed above more than five years after the alleged violation occurs.²⁶

Notwithstanding any provision of the Administrative Procedure Act, 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. An Architects Board employee or an Ohio Certified Interior Design Examiner Board designee may personally serve the warning, citation, order, or copy.²⁷ 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.²⁸

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 Board also must clearly state in the citation 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 after receipt of the citation. The Board also must provide an explanation in the citation of how to request a hearing. It also must clearly explain in the citation the administrative actions that will be taken or fines that will be levied if the person does not contest the allegations or if 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 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.²⁹

Final orders

The Board must make a finding against a certified interior designer or an applicant for a certificate and issue a final order against the person if any of the following occur:

- The person violates a stipulated settlement;
- The person fails to request an administrative hearing to contest a citation within the time allotted for the request;
- 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 a certified interior designer or an applicant in a final order:

²⁶ R.C. 4703.71(A) and (G).

²⁷ R.C. 4703.71(E).

²⁸ R.C. 119.07 through 119.12, not in the bill.

²⁹ R.C. 4703.71(B) and (I).

- Refuse to issue or renew a certificate;
- Revoke, suspend, or restrict a certificate or place a certificate holder 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.³⁰

If a person fails to comply with an order issued by the Board, the Board may take additional administrative action.³¹

If the Board imposes a fine on an applicant or certified interior designer, and the person fails to pay that fine within the time established by the Board, the Board must forward the name of the applicant or designer and the amount of the fine to the Attorney General for collection. In addition to the unpaid fine, the applicant or designer must pay any fee assessed by the Attorney General for collection of the fine.³²

Uncertified individuals

The bill allows the Board to enforce the bill's prohibition against a person representing the person's self as a certified interior designer without a current, valid interior designer certificate. If, after an inspection or investigation, the Board determines that reasonable evidence exists that an uncertified person has violated the prohibition, the Board must send a written notice to that person and must include in the notice the information specified in the Administrative Procedure Act for notices given to licensees.

The bill requires the Board to hold a hearing regarding the alleged violation in the same manner prescribed for an adjudication hearing under the Administrative Procedure Act. If the Board, after the hearing, determines a violation has occurred, the Board, on an affirmative vote of a majority of its members, may impose a fine on the person in the same manner as described under "**Final orders**," above. The Board's determination is an order that the person may appeal in accordance with the Administrative Procedure Act.

If the Board assesses an uncertified person a fine for a violation and the person fails to pay that fine within the time prescribed by the Board, the Board must forward to the Attorney General the name of the person and the amount of the fine for the purpose of collecting that

³⁰ R.C. 4703.71(C), (D), and (H).

³¹ R.C. 4703.71(F).

³² R.C. 4703.71(J).

fine. The person also must pay any fee assessed by the Attorney General for collection of the fine.³³

Child support orders

On receipt of a notice that a certified interior designer is in default under a child support order under the procedures established under existing law, the bill requires the Board to comply with the requirements of that law and any rules adopted pursuant to it with respect to a certificate issued under the bill.³⁴

Human trafficking

The bill requires the Board to comply with the current law procedures in the event a certified interior designer is convicted of, or pleads guilty to, the offense of trafficking in persons.³⁵

Receipts

The bill requires all Board receipts to be deposited in the state treasury to the credit of the Occupational Licensing and Regulatory Fund.³⁶

HISTORY

Action	Date
Introduced	11-07-19

H0402-I-133/ts

³³ R.C. 4703.72.

³⁴ R.C. 4703.52.

³⁵ R.C. 4703.53.

³⁶ R.C. 4703.50.