

1 SENATE BILL 261

2 **53RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2018**

3 INTRODUCED BY

4 Mary Kay Papen

5
6
7
8
9
10 AN ACT

11 RELATING TO INTERIOR DESIGNERS; STREAMLINING LICENSURE
12 REQUIREMENTS; CREATING A SEAL OR STAMP; ALLOWING INTERIOR
13 DESIGNERS TO SUBMIT PLANS FOR PERMITS; AMENDING, REPEALING AND
14 ENACTING SECTIONS OF THE NMSA 1978.

15
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

17 SECTION 1. Section 61-24C-3 NMSA 1978 (being Laws 1989,
18 Chapter 53, Section 3, as amended) is amended to read:

19 "61-24C-3. DEFINITIONS.--As used in the Interior
20 Designers Act:

21 A. "board" means the interior design board;

22 [~~B. "interior design" means services that do not~~
23 ~~necessarily require performance by an architect, such as~~
24 ~~administering contracts for fabrication, procurement or~~
25 ~~installation in the implementation of designs, drawings and~~

.210121.1

underscored material = new
[bracketed material] = delete

underscored material = new
[bracketed material] = delete

1 ~~specifications for any interior design project and~~
2 ~~consultations, studies, drawings and specifications in~~
3 ~~connection with reflected ceiling plans, space utilization,~~
4 ~~furnishings or the fabrication of nonstructural elements within~~
5 ~~and surrounding interior spaces of buildings, but specifically~~
6 ~~excluding mechanical and electrical systems, except for~~
7 ~~specifications of fixtures and their location within interior~~
8 ~~spaces; and]~~

9 B. "building" means a structure consisting of a
10 foundation, floors, walls, columns, girders, beams and a roof
11 or a combination of those parts, with or without other parts or
12 appurtenances;

13 C. "building shell" means a building framework,
14 perimeter and exterior walls, the building core and columns and
15 other structural, mechanical and load-bearing elements of the
16 building;

17 D. "building shell system" means a mechanical,
18 plumbing, fire protection, electrical, structural or motorized
19 vertical transportation system designed for or located within a
20 building shell;

21 E. "interior construction document" means detailed
22 drawings and specifications sealed and signed by a licensed
23 interior designer certifying compliance with applicable current
24 building codes, ordinances, laws and regulations that define
25 the work to be constructed in such form as is required for

.210121.1

underscored material = new
[bracketed material] = delete

1 approval of a construction permit by a building official or
2 fire marshal and may be combined with documents prepared under
3 the responsible control, seal and signature of other registered
4 or licensed professionals;

5 F. "interior design" means the rendering of or the
6 offering to render designs, consultations, studies, planning,
7 drawings, specifications, contract documents or other technical
8 submissions and the administration of interior construction of
9 a building in order to enhance and protect the health, safety
10 and welfare of the public. "Interior design" includes:

11 (1) space planning, finishes, furnishings and
12 the design for fabrication of nonstructural interior
13 construction within interior spaces of buildings;

14 (2) responsibility for life safety design of
15 proposed elements or modifications of existing nonstructural
16 and nonengineered elements of construction, including
17 partitions, doors, stairways and paths of egress connecting to
18 exits or exitways;

19 (3) modification of existing building
20 construction so as to alter the number of persons for which the
21 egress systems of the building are designed; and

22 (4) reviewing, analyzing and evaluating
23 building codes, fire codes, accessibility standards, including
24 the federal Americans with Disabilities Act of 1990, or other
25 federal, state or local regulations, codes and standards;

.210121.1

underscored material = new
[bracketed material] = delete

1 [~~G.~~] G. "licensed interior designer" [~~or "licensed~~
2 ~~designer"~~] means a person licensed pursuant to the Interior
3 Designers Act;

4 H. "nonengineered" means not pertaining to
5 engineering;

6 I. "nonstructural interior construction" means the
7 construction of elements that do not include a load-bearing
8 wall, a load-bearing column or other load-bearing element of a
9 building essential for the structural integrity of the
10 building; and

11 J. "responsible charge" means the amount of control
12 over and detailed knowledge of the content of technical
13 submissions during their preparation as is ordinarily exercised
14 by registered or licensed professionals applying the required
15 professional standard of care, as defined by the rules adopted
16 by the respective boards governing the professionals."

17 SECTION 2. Section 61-24C-4 NMSA 1978 (being Laws 1989,
18 Chapter 53, Section 4, as amended) is amended to read:

19 "61-24C-4. INTERIOR DESIGN BOARD CREATED--MEMBERS--
20 TERMS--COMPENSATION.--

21 A. There is created the "interior design board".
22 The board shall be administratively attached to the regulation
23 and licensing department. The board shall consist of five
24 members appointed by the governor for staggered terms of three
25 years. [~~appointed in a manner that the term of one member~~

underscored material = new
[bracketed material] = delete

1 ~~shall expire on December 31, 1990; the terms of two members~~
2 ~~shall expire on December 31, 1991; and the terms of the last~~
3 ~~two members shall expire on December 31, 1992. Thereafter]~~
4 Members shall be appointed [~~for terms of three years or less~~]
5 in a manner that the terms of not more than two members expire
6 on December 31 of each year. A vacancy shall be filled by
7 appointment by the governor for the unexpired term. A board
8 member shall not serve consecutive terms.

9 B. All members of the board shall be residents of
10 New Mexico. No more than two members shall be appointed from
11 the same congressional district. Three members of the board
12 shall be licensed interior designers and two members shall be
13 chosen to represent the public and shall not have been licensed
14 as interior designers or have a significant financial interest,
15 direct or indirect, in the occupation regulated. [~~For purposes~~
16 ~~of this section, the interior designer members of the initial~~
17 ~~board shall have offered interior design services for at least~~
18 ~~five years, shall have passed the national council for interior~~
19 ~~design qualification examination and shall have become~~
20 ~~registered by November 1, 1989.]~~

21 C. Three members of the board shall constitute a
22 quorum for the transaction of business, but no final action
23 shall be taken unless at least three members vote in favor of a
24 proposal."

25 SECTION 3. Section 61-24C-5 NMSA 1978 (being Laws 1989,

.210121.1

underscored material = new
[bracketed material] = delete

1 Chapter 53, Section 5, as amended) is amended to read:

2 "61-24C-5. POWERS AND DUTIES OF THE BOARD.--The board:

3 A. shall administer, coordinate and enforce the
4 provisions of the Interior Designers Act. The board may
5 investigate allegations of violations of the provisions of the
6 Interior Designers Act;

7 B. shall adopt [~~regulations~~] rules to carry out the
8 purposes and policies of the Interior Designers Act, including
9 [~~regulations~~] rules relating to professional conduct, standards
10 of performance and professional examination and licensure,
11 reasonable license, application, renewal and late fees and the
12 establishment of ethical standards of practice for a licensed
13 interior designer in New Mexico;

14 C. shall require a licensee, as a condition of the
15 renewal of the license, to undergo continuing education
16 requirements as set forth in the Interior Designers Act;

17 D. shall maintain an official roster showing the
18 name, address and license number of each interior designer
19 licensed pursuant to the Interior Designers Act;

20 E. shall conduct hearings and keep records and
21 minutes necessary to carry out its functions in administering
22 the Interior Designers Act;

23 F. [~~may~~] shall adopt a common seal or stamp for use
24 by licensed interior designers; [~~and~~]

25 G. shall prescribe the form of a certificate of

underscored material = new
[bracketed material] = delete

1 registration for a licensed interior designer; and

2 ~~[G.]~~ H. shall do all things reasonable and
3 necessary to carry out the purposes of the Interior Designers
4 Act."

5 SECTION 4. Section 61-24C-8 NMSA 1978 (being Laws 1989,
6 Chapter 53, Section 8) is amended to read:

7 "61-24C-8. REQUIREMENTS FOR LICENSURE--RECIPROCITY.--

8 A. Each applicant for licensure shall ~~[apply to the~~
9 ~~board. Except as otherwise provided in the Interior Designers~~
10 ~~Act, each applicant shall take and pass a nationally~~
11 ~~standardized examination. The board may adopt substantially~~
12 ~~all or part of the examination and grading procedures of the~~
13 ~~national council for interior design qualifications. Prior to~~
14 ~~examination, the applicant shall provide substantial evidence~~
15 ~~to the board that the applicant:~~

16 ~~A. is a graduate of a five-year interior design~~
17 ~~program from an accredited institution and has completed at~~
18 ~~least one year of diversified interior design experiences;~~

19 ~~B. is a graduate of a four-year interior design~~
20 ~~program from an accredited institution and has completed at~~
21 ~~least two years of diversified interior design experience;~~

22 ~~C. has completed at least three years of an~~
23 ~~interior design curriculum from an accredited institution and~~
24 ~~has completed three years of diversified interior design~~
25 ~~experience;~~

.210121.1

underscored material = new
[bracketed material] = delete

1 ~~D. is a graduate of a two-year interior design~~
2 ~~program from an accredited institution and has completed four~~
3 ~~years of diversified interior design experience; or~~

4 ~~E. has apprenticed under a designer who has passed~~
5 ~~the national council for interior design qualification~~
6 ~~examination or a licensed designer for a minimum of eight~~
7 ~~years] submit to the board:~~

8 (1) proof of having reached twenty-one years
9 of age;

10 (2) a completed application, as required by
11 the board;

12 (3) the fees for licensure, as required by the
13 board;

14 (4) proof of having passed the examination
15 administered by the national council for interior design
16 qualification or its successor entity; and

17 (5) proof of having acquired a minimum degree
18 from a college or university in a program of study of:

19 (a) architecture accredited by the
20 national architectural accrediting board or another national
21 accrediting organization recognized by the board; or

22 (b) interior design approved by the
23 council for interior design accreditation or a substantially
24 equivalent program of study approved by the board.

25 B. The board may issue a license to an applicant

underscored material = new
[bracketed material] = delete

1 who holds a valid license, certificate or registration as an
2 interior designer issued by another state, political territory
3 or jurisdiction if, in the board's determination, the
4 requirements for the license, certificate or registration equal
5 or exceed the requirements for licensure pursuant to the
6 Interior Designers Act."

7 SECTION 5. Section 61-24C-10 NMSA 1978 (being Laws 1989,
8 Chapter 53, Section 10, as amended) is amended to read:

9 "61-24C-10. LICENSE--ISSUANCE--RENEWAL--DENIAL,
10 SUSPENSION OR REVOCATION.--

11 A. A license shall be issued to every person who
12 presents satisfactory evidence of possessing the
13 ~~[qualifications of education, experience and, as appropriate,~~
14 ~~the examination performance required by the provisions of the~~
15 ~~Interior Designers Act, provided that the applicant has reached~~
16 ~~the age of majority and pays the required fees]~~ requirements
17 for licensure.

18 B. Each original license shall authorize the holder
19 to use the title of and be known as a licensed interior
20 designer from the date of issuance to the next renewal date
21 unless the license is suspended or revoked.

22 C. All licenses shall expire annually and shall be
23 renewed by submitting a completed renewal application,
24 accompanied by the required fees.

25 D. A license ~~[may]~~ shall not be renewed until the

.210121.1

underscored material = new
[bracketed material] = delete

1 licensee submits satisfactory evidence to the board that,
2 during the last year, the licensee has participated in not less
3 than ~~[eight]~~ twelve hours of continuing education approved by
4 the board. The board shall approve only continuing education
5 that ~~[builds upon basic knowledge of interior design. The~~
6 ~~board may make exceptions from the continuing education~~
7 ~~requirement in emergency or hardship cases]~~ focuses on:

8 (1) the health and wellness of building
9 occupants;

10 (2) public safety, including the application
11 of fire codes and building codes;

12 (3) resiliency;

13 (4) sustainability; or

14 (5) the application of federal, state and
15 local laws pertaining to accessibility standards, including the
16 federal Americans with Disabilities Act of 1990.

17 E. The holder of a license that has expired through
18 failure to renew may renew the license at any time within two
19 years from the date on which the license expired, upon approval
20 of the board.

21 F. The board may promulgate policies and procedures
22 providing for the establishment of an inactive status for
23 licensees temporarily not engaged in the practice of interior
24 design.

25 G. In accordance with the provisions of the Uniform

.210121.1

underscored material = new
[bracketed material] = delete

1 Licensing Act, the board may deny, refuse to renew, suspend or
2 revoke a license or impose probationary conditions when the
3 licensee has:

4 (1) obtained the license by means of fraud,
5 misrepresentation or concealment of material facts;

6 (2) committed an act of fraud or deceit in
7 professional conduct or been convicted of a felony;

8 (3) made any representation as being a
9 licensed interior designer prior to being issued a license,
10 except as authorized under the provisions of the Interior
11 Designers Act;

12 (4) been found by the board to have aided or
13 abetted an unlicensed person in violating the provisions of the
14 Interior Designers Act; or

15 (5) failed to comply with the provisions of
16 the Interior Designers Act or [~~regulations~~] rules adopted
17 pursuant to that act."

18 SECTION 6. Section 61-24C-11 NMSA 1978 (being Laws 1989,
19 Chapter 53, Section 11, as amended) is amended to read:

20 "61-24C-11. LICENSE REQUIRED--PENALTY.--

21 A. [~~After the results of the first examination held~~
22 ~~pursuant to the Interior Designers Act are announced~~] No person
23 shall knowingly:

24 (1) use the name or title of licensed interior
25 designer when the person is not the holder of a current, valid

.210121.1

underscored material = new
[bracketed material] = delete

1 license issued pursuant to the Interior Designers Act;

2 (2) use or present as the person's own the
3 license of another;

4 (3) give false or forged evidence to the board
5 [~~or a board member~~] for the purpose of obtaining a license;

6 (4) use or attempt to use an interior design
7 license that has been suspended, revoked or placed on inactive
8 status; or

9 (5) conceal information relative to violations
10 of the Interior Designers Act.

11 B. A person who violates a provision of this
12 section is guilty of a misdemeanor and shall be sentenced under
13 the provisions of the Criminal Sentencing Act to imprisonment
14 in the county jail for a definite term of less than one year or
15 to the payment of a fine of not more than one thousand dollars
16 (\$1,000) or to both imprisonment or fine, in the discretion of
17 the judge."

18 SECTION 7. A new section of the Interior Designers Act is
19 enacted to read:

20 "[NEW MATERIAL] SEAL OR STAMP.--

21 A. The board shall authorize the use of a seal or
22 stamp by licensed interior designers. Use of the seal or stamp
23 shall attest that all interior construction documents were
24 prepared and reviewed by a licensed interior designer.

25 B. A licensed interior designer shall place the

.210121.1

underscoring material = new
[bracketed material] = delete

1 licensed interior designer's stamp or seal on all interior
2 construction documents prepared by or under the responsible
3 charge of the licensed interior designer and shall place the
4 licensed interior designer's signature across the seal or
5 stamp; provided that this subsection shall not prohibit any
6 licensed architect who has reviewed or supervised the
7 preparation of drawings or other documents prepared by a
8 licensed interior designer from applying the licensed
9 architect's seal to the drawings or other documents.

10 C. The seal or stamp shall bear the licensed
11 interior designer's name and license number and the words
12 "Licensed Interior Designer - State of New Mexico". The seal
13 or stamp shall be embossed, be two inches in diameter and
14 consist of two concentric circles. The annular space between
15 the two circles shall contain the great seal of the state of
16 New Mexico."

17 SECTION 8. A new section of the Interior Designers Act is
18 enacted to read:

19 "[NEW MATERIAL] PERMIT AUTHORITY.--A licensed interior
20 designer who signs, stamps or seals interior construction
21 documents may submit the interior construction documents to a
22 county, municipal or state authority for the purpose of
23 obtaining a requisite permit for an interior design project."

24 SECTION 9. A new section of the Interior Designers Act is
25 enacted to read:

.210121.1

underscored material = new
[bracketed material] = delete

1 "[NEW MATERIAL] SCOPE OF PRACTICE--EFFECT ON PRACTICE OF
2 ARCHITECTURE AND INTERIOR DECORATION.--

3 A. Nothing in the Interior Designers Act shall be
4 construed as:

5 (1) amending or in any manner affecting the
6 definition of the practice of architecture;

7 (2) prohibiting an architect from practicing
8 interior design; provided that an architect does not use the
9 title "licensed interior designer" unless the architect has
10 been issued a license for interior design pursuant to the
11 Interior Designers Act; or

12 (3) prohibiting or restricting the practice or
13 activities of an interior decorator or individual offering
14 interior decorating services, including selection of surface
15 materials, window treatments, wall coverings, paint, floor
16 coverings or lighting fixtures.

17 B. Licensed interior designers shall collaborate
18 and coordinate with licensed architects or engineers for work
19 that is excluded from interior design, including:

20 (1) the design of or responsibility for the
21 building shell or any building shell systems; or

22 (2) construction that materially affects
23 building life safety systems pertaining to fire safety
24 protection, such as fire-rated vertical shafts in multistory
25 structures and fire-rated protection of structural elements

.210121.1

underscoring material = new
~~[bracketed material] = delete~~

1 with the exception of incidental restoration of fire protection
2 to elements, affected by nonstructural elements of
3 construction, smoke evacuation, emergency sprinkler systems and
4 emergency alarm systems."

5 SECTION 10. REPEAL.--Sections 61-24C-2 and 61-24C-9 NMSA
6 1978 (being Laws 1989, Chapter 53, Sections 2 and 9, as
7 amended) are repealed.