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SENATE BILL 535

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

Mary Kay Papen

AN ACT

RELATING TO PROFESSIONAL AND OCCUPATIONAL LICENSES; CHANGING
INTERIOR DESIGN BOARD MEMBER REQUIREMENTS; PROVIDING FOR THE
LICENSURE OF INTERIOR DESIGNERS; AMENDING CERTAIN SECTIONS OF
THE NMSA 1978.

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

Section 1. Section 61-24C-2 NMSA 1978 (being Laws 1989,
Chapter 53, Section 2) is amended to read:

"61-24C-2. FINDINGS.--The legislature finds that it will
benefit and protect the citizens of the state to require the
licensing of interior designers and prohibit the use of the
designation licensed "interior designer" by unlicensed
persons."

Section 2. Section 61-24C-3 NMSA 1978 (being Laws 1989,
Chapter 53, Section 3) is amended to read:

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1 "61-24C-3. DEFINITIONS.--As used in the Interior

2 Designers Act:

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

4 B. "interior design" means services that do not
5 necessarily require performance by an architect, such as
6 administering contracts for fabrication, procurement or
7 installation in the implementation of designs, drawings and
8 specifications for any interior design project and
9 consultations, studies, drawings and specifications in
10 connection with reflected ceiling plans, space utilization,
11 furnishings or the fabrication of nonstructural elements within
12 and surrounding interior spaces of buildings, but specifically
13 excluding mechanical and electrical systems, except for
14 specifications of fixtures and their location within interior
15 spaces; and

16 C. "licensed interior designer" or "licensed
17 designer" means a person licensed pursuant to the Interior
18 Designers Act."

19 Section 3. Section 61-24C-4 NMSA 1978 (being Laws 1989,
20 Chapter 53, Section 4, as amended) is amended to read:

21 "61-24C-4. INTERIOR DESIGN BOARD CREATED--MEMBERS--
22 TERMS--COMPENSATION.--

23 A. There is created the "interior design board".
24 The board shall be administratively attached to the regulation
25 and licensing department. The board shall consist of five

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

11 B. [~~Two~~] Three members of the board shall be
12 licensed interior designers and [~~three~~] 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 4. Section 61-24C-5 NMSA 1978 (being Laws 1989,

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

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

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

21 E. shall conduct hearings and keep records and
22 minutes necessary to carry out its functions;

23 F. may adopt a common seal for use by licensed
24 interior designers; and

25 G. shall do all things reasonable and necessary to

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1 carry out the purposes of the Interior Designers Act."

2 Section 5. Section 61-24C-10 NMSA 1978 (being Laws 1989,
3 Chapter 53, Section 10) is amended to read:

4 "61-24C-10. LICENSE--ISSUANCE--RENEWAL--DENIAL,
5 SUSPENSION OR REVOCATION.--

6 A. A license shall be issued to every person who
7 presents satisfactory evidence of possessing the qualifications
8 of education, experience and, as appropriate, the examination
9 performance required by the provisions of the Interior
10 Designers Act, provided that the applicant has reached the age
11 of majority and pays the required fees.

12 B. Each original license shall authorize the holder
13 to use the title of and be known as ~~[an]~~ a licensed interior
14 designer from the date of issuance to the next ~~[succeeding~~
15 ~~December 31]~~ renewal date unless the license is suspended or
16 revoked.

17 C. ~~[On or before December 1 of each year, each~~
18 ~~licensee shall apply for renewal and pay the required fees,~~
19 ~~after which the license shall be renewed for a period of one~~
20 ~~year beginning January 1]~~ All licenses shall expire annually
21 and shall be renewed by submitting a completed renewal
22 application, accompanied by the required fees.

23 D. A license may not be renewed until the licensee
24 submits satisfactory evidence to the board that, during the
25 last year, the licensee has participated in not less than eight

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1 hours of continuing education approved by the board. The board
2 shall approve only continuing education that builds upon basic
3 knowledge of interior design. The board may make exceptions
4 from the continuing education requirement in emergency or
5 hardship cases.

6 E. The holder of ~~[any]~~ a license that has expired
7 through failure to renew may renew the license at any time
8 within two years from the date on which the license expired,
9 upon approval of the board.

10 F. The board may promulgate policies and procedures
11 providing for the establishment of an inactive status for
12 licensees temporarily not engaged in the practice of interior
13 design.

14 G. In accordance with the provisions of the Uniform
15 Licensing Act, the board may deny, refuse to renew, suspend or
16 revoke a license or impose probationary conditions when the
17 licensee has:

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

20 (2) committed ~~[any]~~ an act of fraud or deceit
21 in ~~[his]~~ professional conduct or been convicted of a felony;

22 (3) ~~[represented himself as an]~~ made any
23 representation as being a licensed interior designer prior to
24 being issued a license, except as authorized under the
25 provisions of the Interior Designers Act;

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1 (4) been found by the board to have aided or
2 abetted ~~[any]~~ an unlicensed person in violating ~~[any of]~~ the
3 provisions of the Interior Designers Act; or

4 (5) failed to comply with ~~[any of]~~ the
5 provisions of the Interior Designers Act or ~~[any]~~ regulations
6 adopted pursuant to that act."

7 Section 6. Section 61-24C-11 NMSA 1978 (being Laws 1989,
8 Chapter 53, Section 11) is amended to read:

9 "61-24C-11. LICENSE REQUIRED--PENALTY.--

10 A. After the results of the first examination held
11 pursuant to the Interior Designers Act are announced, no person
12 shall knowingly:

13 (1) use the name or title of licensed interior
14 designer ~~[or interior design]~~ when the person is not the holder
15 of a current, valid license issued pursuant to the Interior
16 Designers Act;

17 (2) use or present as ~~[his]~~ the person's own
18 the license of another;

19 (3) give false or forged evidence to the board
20 or a board member for the purpose of obtaining a license;

21 (4) use or attempt to use an interior design
22 license ~~[which]~~ that has been suspended, revoked or placed on
23 inactive status; or

24 (5) conceal information relative to violations
25 of the Interior Designers Act.

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1 B. ~~[Any]~~ A person who violates ~~[any]~~ a provision of
2 this section is guilty of a misdemeanor and shall be sentenced
3 under the provisions of the Criminal Sentencing Act to
4 imprisonment in the county jail for a definite term of less
5 than one year or to the payment of a fine of not more than one
6 thousand dollars (\$1,000) or to both ~~[such]~~ imprisonment or
7 fine, in the discretion of the judge."

8 Section 7. Section 61-24C-12 NMSA 1978 (being Laws 1989,
9 Chapter 53, Section 12) is amended to read:

10 "61-24C-12. PENALTIES LEVIED BY THE BOARD.--Upon a
11 finding by the board of a violation of the provisions of the
12 Interior Designers Act, the board may:

13 A. refuse to approve an application for licensure;

14 B. refuse to renew an existing license;

15 C. revoke or suspend a license;

16 D. impose an administrative fine;

17 E. issue a reprimand; ~~[or]~~

18 F. assess the costs of disciplinary proceedings, as
19 provided in the Uniform Licensing Act; or

20 ~~[F.]~~ G. invoke any combination of the above listed
21 penalties."

22 Section 8. Section 61-24C-13 NMSA 1978 (being Laws 1989,
23 Chapter 53, Section 13) is amended to read:

24 "61-24C-13. EXEMPTIONS.--

25 A. Nothing in the Interior Designers Act shall be

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1 construed as preventing or restricting the practice, services
2 or activities of:

3 [A.] (1) engineers licensed pursuant to the
4 Engineering and Surveying Practice Act;

5 [B.] (2) architects licensed pursuant to the
6 Architectural Act;

7 [C.] (3) contractors licensed pursuant to the
8 Construction Industries Licensing Act;

9 [D.] (4) any interior decorator or individual
10 offering interior decorating services, including but not
11 limited to selection of surface materials, window treatments,
12 wall coverings, paint, floor coverings and lighting fixtures;
13 and

14 [E.] (5) builders, home furnishings
15 salespersons and similar purveyors of goods and services
16 relating to homemaking.

17 B. Nothing contained in the Interior Designers Act
18 shall prevent any person from rendering or offering to render
19 any of the services [~~which~~] that constitute the practice of
20 interior design, provided that such person shall not be
21 permitted to use or be identified by the title "licensed
22 interior designer" [~~or "interior design"~~] unless licensed in
23 accordance with the provisions of that act or as otherwise
24 provided by law. [~~Nothing contained in the Interior Designers~~
25 ~~Act shall prevent any person from using any words or~~

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1 ~~combination of words other than the combination of words~~
2 ~~"interior designer" or "interior design", no matter how similar~~
3 ~~those words or combination of words may be.]~~

4 C. Nothing in [~~that~~] the Interior Designers Act
5 shall be construed to permit a licensed interior designer to
6 engage in the practice of engineering as defined in the
7 Engineering and Surveying Practice Act."

8 Section 9. Section 61-24C-15 NMSA 1978 (being Laws 1989,
9 Chapter 53, Section 15) is amended to read:

10 "61-24C-15. DISCLOSURE REQUIREMENTS.--

11 A. Interior design documents prepared by [~~an~~] a
12 licensed interior designer shall contain a statement that the
13 document is not an architectural or engineering study, drawing,
14 specification or design and is not to be used as the basis for
15 construction of any load-bearing framing, wall or structure
16 construction.

17 B. Before entering into a contract, [~~an~~] a licensed
18 interior designer shall clearly determine the scope and nature
19 of the project and the methods of compensation. The licensed
20 interior designer may offer professional services to the client
21 as a consultant, specifier or supplier on the basis of a fee,
22 percentage or mark-up. The licensed interior designer shall
23 have the responsibility of fully disclosing to the client the
24 manner in which all compensation is to be paid.

25 C. [~~An~~] A licensed interior designer shall not

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1 accept any form of compensation from a supplier of goods and
2 services in cash or in kind, unless the licensed interior
3 designer first informs the client of the compensation."

4 Section 10. Section 61-24C-16 NMSA 1978 (being Laws 1989,
5 Chapter 53, Section 16) is amended to read:

6 "61-24C-16. FUND ESTABLISHED--DISPOSITION--METHOD OF
7 PAYMENT.--

8 A. There is created the "interior design board
9 fund".

10 B. All funds received by the board and money
11 collected under the Interior Designers Act shall be deposited
12 with the state treasurer. The state treasurer shall credit the
13 money to the interior design board fund.

14 C. Payments out of the interior design board fund
15 shall be on vouchers issued by the secretary-treasurer of the
16 board upon warrants drawn by the department of finance and
17 administration in accordance with the budget approved by that
18 department.

19 D. All amounts paid to the interior design board
20 fund are subject to ~~[the order of the board and are to]~~
21 appropriation by the legislature and shall be used only for
22 meeting necessary expenses incurred in executing the provisions
23 and duties of the Interior Designers Act and for promoting
24 interior design education and standards in the state. All
25 money unused at the end of any fiscal year shall remain in the

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1 interior design board fund for use in accordance with the
2 provisions of that act."

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