

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:

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

- A. "board" means the interior design board;
- B. "interior design" means services that do not necessarily require performance by an architect, such as administering contracts for fabrication, procurement or installation in the implementation of designs, drawings and specifications for any interior design project and consultations, studies, drawings and specifications in

connection with reflected ceiling plans, space utilization, furnishings or the fabrication of nonstructural elements within and surrounding interior spaces of buildings, but specifically excluding mechanical and electrical systems, except for specifications of fixtures and their location within interior spaces; and

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

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

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

A. There is created the "interior design board". The board shall be administratively attached to the regulation and licensing department. The board shall consist of five members appointed by the governor for staggered terms of three years, appointed in a manner that the term of one member shall expire on December 31, 1990; the terms of two members shall expire on December 31, 1991; and the terms of the last two members shall expire on December 31, 1992. Thereafter, members shall be appointed for terms of three years or less in a manner that the terms of not more than two members expire on December 31 of each year. A vacancy shall be filled by appointment by the governor for the unexpired term. A board

member shall not serve consecutive terms.

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

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

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

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

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

B. shall adopt regulations to carry out the

purposes and policies of the Interior Designers Act, including regulations relating to professional conduct, standards of performance and professional examination and licensure, reasonable license, application, renewal and late fees and the establishment of ethical standards of practice for a licensed interior designer in New Mexico;

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

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

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

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

G. shall do all things reasonable and necessary to carry out the purposes of the Interior Designers Act."

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

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

A. A license shall be issued to every person who presents satisfactory evidence of possessing the qualifications of education, experience and, as appropriate,

the examination performance required by the provisions of the Interior Designers Act, provided that the applicant has reached the age of majority and pays the required fees.

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

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

D. A license may not be renewed until the licensee submits satisfactory evidence to the board that, during the last year, the licensee has participated in not less than eight hours of continuing education approved by the board. The board shall approve only continuing education that builds upon basic knowledge of interior design. The board may make exceptions from the continuing education requirement in emergency or hardship cases.

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

F. The board may promulgate policies and procedures providing for the establishment of an inactive status for licensees temporarily not engaged in the practice

of interior design.

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

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

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

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

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

(5) failed to comply with the provisions of the Interior Designers Act or regulations adopted pursuant to that act."

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

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

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

(1) use the name or title of licensed interior designer when the person is not the holder of a current, valid license issued pursuant to the Interior Designers Act;

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

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

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

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

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

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

"61-24C-12. PENALTIES LEVIED BY THE BOARD.--Upon a finding by the board of a violation of the provisions of the

Interior Designers Act, the board may:

- A. refuse to approve an application for licensure;
- B. refuse to renew an existing license;
- C. revoke or suspend a license;
- D. impose an administrative fine;
- E. issue a reprimand;
- F. assess the costs of disciplinary proceedings,
as provided in the Uniform Licensing Act; or
- G. invoke any combination of the above listed
penalties."

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

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

A. Nothing in the Interior Designers Act shall be construed as preventing or restricting the practice, services or activities of:

(1) engineers licensed pursuant to the Engineering and Surveying Practice Act;

(2) architects licensed pursuant to the Architectural Act;

(3) contractors licensed pursuant to the Construction Industries Licensing Act;

(4) any interior decorator or individual offering interior decorating services, including but not limited to selection of surface materials, window treatments,

wall coverings, paint, floor coverings and lighting fixtures;
and

(5) builders, home furnishings salespersons
and similar purveyors of goods and services relating to
homemaking.

B. Nothing contained in the Interior Designers Act
shall prevent any person from rendering or offering to render
any of the services that constitute the practice of interior
design, provided that such person shall not be permitted to
use or be identified by the title "licensed interior designer"
unless licensed in accordance with the provisions of that act
or as otherwise provided by law.

C. Nothing in the Interior Designers Act shall be
construed to permit a licensed interior designer to engage in
the practice of engineering as defined in the Engineering and
Surveying Practice Act."

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

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

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

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

C. A licensed interior designer shall not accept any form of compensation from a supplier of goods and services in cash or in kind, unless the licensed interior designer first informs the client of the compensation."

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

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

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

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

C. Payments out of the interior design board fund shall be on vouchers issued by the secretary-treasurer of the board upon warrants drawn by the department of finance and

administration in accordance with the budget approved by that department.

D. All amounts paid to the interior design board fund are subject to appropriation by the legislature and shall be used only for meeting necessary expenses incurred in executing the provisions and duties of the Interior Designers Act and for promoting interior design education and standards in the state. All money unused at the end of any fiscal year shall remain in the interior design board fund for use in accordance with the provisions of that act."