

BILL ANALYSIS

C.S.H.B. 1985
By: Thompson
Licensing & Administrative Procedures
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Under current statute, a person must register with the Texas Board of Architectural Examiners and meet eligibility requirements in order to use the title “interior designer”. Current law does not prohibit a person who does not meet the eligibility requirements from performing such services. All occupations under the direction of the Board of Architectural Examiners, except interior designers, are currently under a practice act.

CSHB 1985 aims to legally define the scope of practice to ensure that consumers will be able to differentiate the responsibilities and services of each of the design professionals and informed consumers can choose the appropriate design professional to meet their needs.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the Texas Board of Architectural Examiners is modified in SECTION 6 of this bill and it is the committee's opinion that rulemaking authority is expressly granted to the Texas Board of Architectural Examiners in SECTION 13 of this bill.

ANALYSIS

SECTION 1. Amends Section 1051.001, Occupations Code, by adding Subdivision (1-a) as follows:

(1-a) Defines “Architectural interior construction”.

SECTION 2. Amends Subchapter G, Chapter 1051, Occupations Code by adding new section 1051.3515. RENEWAL OF INTERIOR DESIGNER CERTIFICATE OF REGISTRATION to provide that an existing registrant who has not passed the National Council for Interior Design Qualification (NCIDQ) or a similar exam recognized by the board must (1) complete, in addition to the continuing education requirements required for renewal of the certificate of registration, fifteen hours of board-approved continuing education classes relating to building and barrier-free codes and regulation; and pass section one of the NCIDQ exam or a comparable section of an exam recognized by the board or demonstrate twenty years of board-approved interior design experience; or (2) have passed the examination required for registration as an architect.

SECTION 3. Amends Section 1053.002, Occupations Code by amending Subsection (a) and adding Subsections (c) and (d) as follows:

(a) Provides that except as provided by Subsection (d), this chapter does not apply to (1) a person who is an licensed interior designer or registered in another state or country who does not open or maintain a business in this state and complies with the requirements of Subsection (b); (2) a person who is registered to practice architecture in this state; or (3) an individual who is a member of a state or national organization whose members are building designers and that requires its members to complete at least eight hours of continuing education each year on topics relating to building design, codes, compliance, and building material in order to maintain certification as a professional building designer.

(c) Provides several exceptions to the Act. Provides an exception for retail stores providing consultations on interior decoration or furnishings for a single-family or dual-family dwelling on the premises of the retail establishment; or in furtherance of a retail sale or prospective retail sale. Provides an exception for decorators operating in buildings that are not for public accommodation as defined by 42 U.S.C. Section 12181 and for goods not subject to fire code

regulation. Provides that this Act does not prevent or restrict a registrant or licensee of various state agencies from engaging in the practice or occupation for which they are registered or licensed.

(d) Provides that a person may not represent that the person is an interior designer by using any form of the title “interior designer” unless registered under this chapter or Chapter 1051, Occupations Code.

SECTION 4. Amends Section 1053.151, Occupations Code, to prohibit a person, other than a registered interior designer, to engage in, or offer or attempt to engage in the practice of interior design for direct or indirect compensation or represent that the person is engaged in interior design unless all interior design services are provided by the person are rendered or supervised by a person registered under this chapter or Chapter 1051, Occupations Code.

SECTION 5. Amends Section 1053.152(b), Occupations Code to require an applicant for a certificate of registration to pass the examination of the NCIDQ or a similar national organization recognized by the board; pay the required fees; hold a professional degree in interior design from a Council for Interior Design Accreditation accredited program or by a substantially equivalent accreditation program as determined by the board; and complete the Interior Design Experience Program administered by the NCIDQ or a substantially equivalent program as determined by the board.

SECTION 6. Amends Section 1053.154(b), Occupations Code to require, rather than authorizes, the board, by rule, to adopt the exam of the NCIDQ or of a similar national organization recognized by the board.

SECTION 7. Amends Subchapter D, Chapter 1053, Occupations Code by adding Section 1053.161. **WAIVER OF REGISTRATION REQUIREMENTS FOR CERTAIN OUT-OF-STATE APPLICANTS** to authorize the board to waive registration requirements to certain out-of-state applicants.

SECTION 8. Amends Chapter 1053, Occupations Code by adding Subchapter E to read as follows:

Sec. 1053.201. **RESPONSIBILITY OF AND SUPERVISION BY INTERIOR DESIGNER.** (a) Requires each interior design office to have an interior designer who is responsible for design work performed at that location.

(b) Requires the responsibilities of an interior designer to supervise each nonregistered person working in the interior design office. The supervision is not required to be continuous and uninterrupted.

Sec. 1053.202. **DUTIES TO CLIENT.** Requires an interior designer to clearly determine the scope and nature of the project and the method of compensation to a client before entering into a contract with a client.

Sec. 1053.203. **COMPLIANCE WITH CERTAIN REQUIREMENTS.** Requires each interior designer to practice in compliance with all applicable building codes, fire codes, local regulations, and other safety requirements adopted by the board or another regulatory entity implemented to prohibit practice by persons who (1) fail to practice within the bounds of minimum competency requirements; or (2) otherwise present a danger to the public.

SECTION 9. Amends Section 1053.351, Occupations Code to provide that a person who knowingly violates this chapter or a rule adopted under this chapter, rather than Section 1053.151 or a standard of conduct adopted, commits an offense punishable by a fine of not less than \$250 or more than \$5,000. Each day of violation constitutes a separate offense.

SECTION 10. Repeals Section 1053.158, Occupations Code.

SECTION 11. Requires the Texas Board of Architectural Examiners to issue a certificate of registration as an interior designer to a person who applies for registration as an interior designer with the board and pay the required fees before the second anniversary of the effective date of this Act if the person presents evidence satisfactory to the board that the person passed the

National Council for Interior Design Qualification exam or a similar national exam recognized by the board.

SECTION 12. (a) Provides that the change made in law by this Act applies only to the punishment for an offense committed on or after the effective date of this Act. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before the effective date. (b) Provides that an offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed.

SECTION 13. Requires the Texas Board of Architectural Examiners to adopt rules as required by Chapter 1053, Occupations Code, as amended by this Act, no later than February 1, 2008.

SECTION 14. Provides that, except for Section 1051.3515, Occupations Code, this Act only applies to an application for an initial or renewal interior designer certificate of registration that is filed with the Texas Board of Architectural Examiners on or after March 1, 2008. An application filed before March 1, 2008 is governed by the law in effect immediately before the effective date of this Act.

SECTION 15. Effective date: Except for Section 1051.3515, Occupations Code, this Act takes effect September 1, 2007. Section 1051.3515, Occupations Code takes effect September 1, 2011.

EFFECTIVE DATE

September 1, 2007, except Section 1051.3515, Occupations Code, takes effect September 1, 2011.

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.H.B. 1985 modifies the original in the following ways:

- C.S.H.B. adds the definition of "Architectural interior construction" in SECTION 1.
- In SECTION 2, the "grandfather" provisions was altered to provide three options for existing registrants who do not meet the heightened standards. An registrant may pass section one of the NCIDQ exam, or a similar exam recognized by the Board and take an additional fifteen hours of continuing education regarding building or barrier-free codes. Alternatively, an existing registrant may take the fifteen hours of continuing education and demonstrate twenty years of board-approved interior design experience. C.S.H.B. 1985 removes the three year experience requirement for a registrant that passes the architect exam.
- In SECTION 3, a new exemption is added and some existing exemptions and exceptions to the Act were modified. C.S.H.B. 1985 adds a new exemption for building designers that meet certain requirements. C.S.H.B. 1985 clarifies that the exception for retail stores applies to decorative consultations regarding single-family or dual-family dwellings. C.S.H.B. 1985 clarifies that the exception for decorators applies to buildings not for "public accommodation". C.S.H.B. 1985 specifically lists the state agencies whose registrants and licensees are excepted from this Act's application. C.S.H.B. 1985 provides that a person that qualifies for an exemption or exception to this Act may not use any form of the title "interior designer" unless registered under Chapters 1051 or 1053, Occupations Code.
- In SECTION 4, C.S.H.B. 1985 strikes Subsection (2) (A) and (B) in the original related to the use of the title or term "Registered Interior Design" or "interior design".
- In SECTION 5, C.S.H.B. 1985 corrects the name of the interior design accreditation body. C.S.H.B. 1985 alters the experience requirement to insure that applicants for registration have the proper diversified experience.