**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 85 TO TITLE 40 SO AS TO ENACT THE “REGISTERED INTERIOR DESIGNER PRACTICE ACT”; TO DEFINE TERMS; TO REQUIRE A PERSON RENDERING AN INTERIOR DESIGN SERVICE TO REGISTER WITH THE DEPARTMENT OF LABOR, LICENSING AND REGULATION; TO PROVIDE REQUIREMENTS FOR REGISTRATION AND RENEWAL OF REGISTRATION; AND TO FURTHER PROVIDE FOR THE REGISTRATION AND REGULATION OF INTERIOR DESIGNERS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Title 40 of the 1976 Code is amended by adding:

“CHAPTER 85

Interior Designers

Section 40‑85‑5. This chapter may be cited as the ‘Registered Interior Designers Practice Act’.

Section 40‑85‑10. Unless otherwise provided in this chapter, Article 1, Chapter 1 applies to interior designers; however, if there is a conflict between this chapter and Article 1, Chapter 1, the provisions of this chapter control.

Section 40‑85‑20. (A) The purpose of this chapter is to safeguard life, health, and property, as consumer protection, and to promote the public welfare by improving the quality of human environmental design.

Section 40‑85‑30. In addition to the definitions set forth in Section 40‑1‑20(1):

(1) ‘CEU’ means a continuing education unit that equals one contact hour of education as approved by IDCEC. A unit must be filed with the NCIDQ if the unit is used to satisfy NCIDQ requirements to maintain a current NCIDQ certificate.

(2) ‘CIDA’ means the Council for Interior Design Accreditation.

(3) ‘Construction document’ means a working drawing that defines the work to be constructed. A construction document includes a plan for space planning, a partition, power and communications, a reflected ceiling, a material, a finish, a furniture layout, an elevation, section, or detail, or a related drawing supplied by an associated consultant.

(4) ‘Contract documents’ means a document that forms part of the legal contract for services between multiple parties. A contract document typically includes detailed instructions to the contractor, tender forms, construction documents, and specifications.

(5) ‘Department’ means the Department of Labor, Licensing and Regulation.

(6) ‘Emeritus registered interior designer’ means an interior designer who has been registered for ten consecutive years or longer and who is sixty five years of age or older and who has retired from active business.

(7) ‘Firm’ means a business entity functioning as a partnership, limited liability partnership, professional association, professional corporation, business corporation, limited liability company, or another firm association that engages in interior design services.

(8) ‘IDCEC’ means the Interior Design Continuing Education Council.

(9) ‘Interior design service’ includes, but is not limited to:

(a) providing a design, consultation, study, drawing, specification, or the administration of a design construction contract relating to a nonstructural interior element of a building or structure; and

(b) providing a space planning service, finishes, furnishings, or the design for fabrication of a nonstructural element within and surrounding an interior space of a building.

(10) An interior design service specifically excludes:

(a) designing or being responsible for architectural and engineering work except for a specification for a fixture and its location within an interior space; and

(b) constructing a structural, mechanical, plumbing, heating, air conditioning, ventilation, vertical transportation, or electrical system; a fire‑rated vertical shaft in a multi‑story structure; the fire‑related protection of a structural element; smoke evacuation and compartmentalization; an emergency sprinkler system, or an emergency alarm system.

(11) ‘NCIDQ’ means the National Council for Interior Design Qualification.

(12) ‘Nonstructural’ or ‘nonseismic’ interior element or component:

(a) means an interior element or component that employs normal and typical bracing conventions, is not load‑bearing, is not part of the structural integrity of a building, does not assist in the seismic design of a building, and does not require a design computation for the structure of a building;

(b) includes, but is not limited to, a ceiling partition system; and

(c) specifically excludes the structural frame system that supports a building.

(13) ‘Panel’ means the South Carolina Registered Interior Designers Panel.

(14) ‘Professional degree’ means the successful completion of a National CIDA Board accredited degree in interior design or an Interior Design program determined by the board to be substantially equivalent to an accredited program.

(15) ‘Reflected ceiling plan’ means a design illustrating a ceiling that appears projected downward and may include lighting or another element.

(16) ‘Registered interior designer’ means an interior designer registered pursuant to this chapter and professionally qualified by education, experience, and examination to affect the function, safety, and quality of an interior space.

(17) ‘Responsible charge’ means the direct responsibility for supervising work and the decision making process, including the review, control, and enforcement of compliance with design criteria and life safety requirements. A person in responsible charge may be physically located in a place other than the interior designer’s office if the person maintains control of the work.

(18) ‘Space planning’ means to analyze the design of a spatial or occupancy requirement including, but not limited to, a space layout or final plan.

(19) ‘Specification’ means the detailed, written description of construction, workmanship, and materials of work to be undertaken.

(20) ‘Retired from active practice’ means not engaging or offering to engage in the business of interior design services as defined in this section.

Section 40‑85‑40. (A) In order to safeguard public health, welfare, safety, and property and to promote public good, a person practicing or offering to practice interior design, privately or in public service, shall submit evidence that he or she is qualified to practice and must register as provided for in this chapter. It is unlawful for a person to practice interior design or to use the term or title ‘Registered Interior Designer’ unless registered under the provisions of this chapter or otherwise exempted from this chapter*.*

(B) A person who renders an interior design service or identifies himself as a registered interior designer must be registered pursuant to this chapter either before July 1, 2012, or two years following the establishment of the South Carolina Registered Interior Designers Panel, whichever comes later. A registration issued pursuant to this title is valid for up to two years and is renewable on dates as established by the director.

Section 40‑85‑50. (A) There is created the South Carolina Registered Interior Designers Panel under the administration of the Department of Labor, Licensing and Regulation composed of the following members to be appointed by the Governor with the advice and consent of the Senate:

(1) Two members shall represent the public at large and must not be interior designers, an agent or employee of a person engaged in the profession of interior design, or the spouse of such an individual.

(2) One member must be a professor of interior design at a university or college in this State who is a professional member of the Interior Design Educators Council or an NCIDQ certificate holder.

(3) Two members must be interior designers who hold a current NCIDQ certificate, who are engaged in the practice of interior design in this State.

(4) One member must be an interior designer, specializing in commercial interior design, who holds a current NCIDQ certificate, who is engaged in the practice of interior design in this State.

(5) One member must be an interior designer, specializing in residential interior design, who holds a current NCIDQ certificate, who is engaged in the practice of interior design in this State.

(B) Panel members serve terms of five years and until their successors are appointed and qualified. No member may serve more than two consecutive full terms, except the professor of interior design.

(C) Vacancies must be filled in the manner of the original appointment for the unexpired portion of the term.

(D) Nominations for appointment to the panel may be submitted to the Governor from the board or any individual, group, or association.

(E) The Governor may remove a member of the panel in accordance with Section 1‑3‑240.

Section 40‑85‑55. In addition to 40‑1‑70, 40‑1‑80, and 40‑1‑90, the duties of the panel are to:

(1) advise the department in the development of regulations, statutory revisions, and other matters as the department may request in regard to the administration of this chapter;

(2) conduct hearings on alleged violations of this chapter and regulations promulgated under this chapter, mediate consumer complaints, where appropriate and possible, and discipline persons registered under this chapter in the manner provided for in this chapter.

Section 40‑85‑60. (A) The Department of Labor, Licensing and Regulation shall provide all administrative, fiscal, investigative, inspectional, clerical, secretarial, and registration renewal operations and activities of the panel in accordance with Section 40‑1‑50. The panel must be appointed and operational not more than twelve months after enactment of this chapter.

(B) A registered interior designer must biennially renew registration by submitting to the department a completed renewal form provided by the department, documentation indicating satisfaction of continuing education requirements, and a fee of no more than three hundred dollars prescribed by the department in a regulation.

(C) Fees for examination, registration, renewal, and other assessments must be established in regulation by the department with the advice of the panel. Applicants must be notified of the fee amount before payment.

Section 40‑85‑70. The panel may adopt rules governing its proceedings and shall elect a chairman and vice chairman who shall serve a term of one year. The panel shall adopt a seal with which all its official documents must be sealed.

Section 40‑85‑80. The panel shall hold at least two regular meetings each year. Special meetings may be held as the bylaws of the panel provide. A quorum of the panel consists of four members.

Section 40‑85‑90. The panel has the following powers:

(1) to adopt and amend bylaws and rules of procedure for the conduct of its affairs and functions consistent with the Constitution and laws of this State and this chapter which may be reasonably necessary for the performance of its duties and the regulation of its proceedings, meetings, records, examinations and the conduct of these, and to adopt a code of ethics which is binding upon all persons registered under or subject to this chapter; and

(2) to affix its official seal to each numbered certificate or registration issued.

Section 40‑85‑100. In addition to the powers and duties provided for in this chapter, the panel has those powers and duties set forth in Section 40‑1‑70.

Section 40‑85‑110. (A) If the director of the department or a designee of the panel has reason to believe that an individual or firm has become unfit to engage in the practice of interior design or has violated a provision of this chapter or a regulation promulgated under this chapter or if an individual files a written complaint with the panel or the director of the department, charging an individual or firm with the violation of a provision of this chapter or a regulation promulgated under this chapter, the director or panel may initiate an investigation.

(B) The panel or a member of the panel may issue subpoenas to compel the attendance of witnesses and the production of documents and also may administer oaths, take testimony, and receive exhibits in evidence for all purposes required in the discharge of duties under this chapter.

Section 40‑85‑120. A hearing that is conducted as a result of an investigation must be conducted in accordance with Section 40‑1‑90.

Section 40‑85‑130. In addition to other remedies provided in this chapter or Article 1, Chapter 1, the panel in accordance with Section 40‑1‑100 also may issue a cease and desist order or may petition an administrative law judge for a temporary restraining order or other equitable relief to enjoin a violation of this chapter.

Section 40‑85‑140. The panel may cancel, fine, suspend, revoke, or restrict the authorization to practice interior design of an individual who has had a license to practice a profession or occupation regulated under Title 40 canceled, revoked, or suspended or who has otherwise been disciplined.

Section 40‑85‑150. The panel has jurisdiction over the actions of licensees and former licensees as provided in Section 40‑1‑115.

Section 40‑85‑160. (A) The panel may impose a civil fine of no more than two thousand dollars for each violation of a provision of this chapter or a regulation promulgated under this chapter; however, the total fines may not exceed ten thousand dollars.

(B) A final order of the panel finding that a registrant is guilty of any offense charged in a formal complaint becomes public knowledge except for a final order dismissing the complaint or imposing a private reprimand.

Section 40‑85‑170. As provided for in Section 40‑1‑130, the panel may deny registration to an applicant based on the same grounds for which the panel may take disciplinary action against a licensee.

Section 40‑85‑180. Registration may be denied based on a person’s prior criminal record only as provided in Section 40‑1‑140.

Section 40‑85‑190. A registrant under investigation for a violation of this chapter or a regulation promulgated under this chapter may voluntarily surrender the registration in accordance with Section 40‑1‑150.

Section 40‑85‑200. A person aggrieved by a final action of the panel may seek review of the decision in accordance with Section 40‑1‑160.

Section 40‑85‑210. A person found in violation of this chapter or regulations promulgated under this chapter may be required to pay costs associated with the investigation and prosecution of the case in accordance with Section 40‑1‑170.

Section 40‑85‑220. All costs and fines imposed pursuant to this chapter must be paid in accordance with and are subject to the collection and enforcement provisions of Section 40‑1‑180.

Section 40‑85‑230. Investigations and proceedings conducted under this chapter are confidential and all communications are privileged as provided for in Section 40‑1‑190.

Section 40‑85‑240. A person who engages in or offers to engage in the practice of interior design in this State in violation of this chapter or who knowingly submits false information for the purpose of obtaining a license is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than six months or fined not more than twenty thousand dollars.

Section 40‑85‑250. (A) The privilege of engaging in the practice of interior design is a personal privilege based upon the qualifications of the individual and evidenced by the person’s registration certificate which is not transferable.

(B) The panel shall review all applications for admission to practice interior design. The review shall consist of an inquiry into the record, education, experience, knowledge, and qualifications of the applicant.

(C) A person seeking to become a registered interior designer must:

(1) apply to the department on a form provided by the department;

(2) pay an application fee to the department; and

(3) submit documentation demonstrating current NCIDQ certification.

(D) Notwithstanding subsection (C), a person who provides interior design service as of July 1, 2008, has until June 30, 2012 or two years following the establishment of the panel, whichever occurs later, to apply to the department to become a registered interior designer. A person seeking registration pursuant to this subsection must:

(1) apply to the department on a form provided by the department;

(2) pay the application fee to the department as prescribed in regulation;

(3) submit documentation demonstrating that the applicant:

(a) possess at least ten years of combined interior design education and interior design experience, two years of which must be interior design education from a program accredited by the Council of Interior Design Accreditation (CIDA), a program that the department determines is substantially equivalent to a program accredited by CIDA, or another program that meets the education eligibility standards for the NCIDQ examination; and

(b) have passed Section One of the NCIDQ examination.

(E) Notwithstanding subsection (C), a person who provided interior design service on or before January 1, 1999, who seeks registration as an interior designer must:

(1) apply to the department on a form provided by the department;

(2) pay an application fee to the department as prescribed in regulation;

(3) have previously passed the NCIDQ examination; or

(4) in lieu of the requirement for an accredited baccalaureate degree, diploma, or certificate from a program with a minimum number of credit hours in interior design coursework, provide documented proof of diversified experience in the practice of interior design for ten years or more by:

(a) having successfully passed Section One of the NCIDQ or its successor section; or

(b) documentation of three or more completed interior design projects; and

(c) at least three letters of reference from an NCIDQ registered designer, a licensed architect, or interior design client attesting to the successful practice and implementation of interior design by the applicant.

Section 40‑85‑260. (A) The department shall:

(1) issue a registration certificate and registration number to an applicant who satisfies the requirements of Section 40‑85‑250(C), (D), or (E); and

(2) maintain a public roster of registrants and make the roster available for public inspection.

(B) Notwithstanding subsection (A), an applicant may not be registered as an interior designer if the individual has misstated or misrepresented any fact in connection with the application, violated any of the rules of registrant conduct set forth in the law or regulations, or practiced interior design without being registered. Further, the department may refuse to issue a registration if, based upon consideration of all information available, including, but not limited to, a prior record of felony criminal convictions, the department finds that the applicant is unfit or unsuited to engage in the profession or occupation. However, if an applicant has committed any of these acts, the department may register the applicant on the basis of suitable evidence of reform.

Section 40‑85‑270. (A) A registered interior designer shall comply with all requirements of this chapter, all applicable building codes, all applicable fire codes, and all applicable local regulations.

Section 40‑85‑280. (A) a registered interior designer must biennially renew registration by submitting to the department a completed renewal form provided by the department, documentation indicating satisfaction of continuing education requirements, and a fee prescribed by the department.

(B) An individual registered under this chapter shall satisfy registration renewal requirements, as established by the department in regulation, which must include continuing education requirements consisting of ten continuing education hours every two years. The continuing education hours must include topics related to safeguarding health, safety, welfare and practice related topics. Emeritus interior designers are not required to complete continuing education requirements. The continuing education must be approved by the IDCEC and reported to the NCIDQ.

(C) Individual certificates may be renewed at any time within one year from the date of expiration upon payment of the established fee and a penalty of fifty dollars during the first thirty days and an additional one hundred dollars thereafter during the year.

(D) If an individual fails to renew within one year from the date of expiration, the certificate only may be reissued upon submission of a new application, accompanied by a fee as prescribed in regulation and approval by the department.

(E) Emeritus interior designers who wish to return to active practice shall pay a fee as prescribed in regulation and complete continuing education requirements for each exempted year not to exceed four years.

Section 40‑85‑290. (A) A document such as a plan, report, drawing, or specification related to an interior design service and prepared or approved by a registered interior designer may not be filed as a public record unless the document bears the interior designer’s signature, the date of the signature, the registration number issued by the department, and, if applicable, the interior designer’s NCIDQ certificate number.

(B) A county or municipal building department shall accept and file as a public record a document such as a plan, report, drawing, or specification related to an interior design service and prepared or approved by a registered interior designer if the document otherwise meets the county or municipality’s requirements for filing.

Section 40‑85‑300. A registered interior designer shall provide his or her registration number provided by the department and, if applicable, their NCIDQ certificate number on a written communication with the public, in a business communication, and in a paid advertisement.

Section 40‑85‑310. (A) The provisions of this chapter do not apply to:

(1) an architect or engineer licensed under the law of this State who is not a registered interior designer and does not refer to himself as an interior designer;

(2) a person who provides a decorating service or assists in selecting surface materials, window treatments, wall coverings, paint, floor coverings, surface‑mounted fixtures, or loose furnishings not subject to an applicable provision of a building code, fire code, or local ordinance;

(3) an employee of a retail establishment that provides consultation regarding interior decoration or furnishings during a retail sale or prospective retail sale;

(4) an employee of a retail establishment providing design services on the premises of a retail establishment or in the home in the furtherance of a retail sale, so long as he or she does not advertise, or represent himself or herself, as a registered interior designer.

(5) a person providing design services on:

(a) a detached single family or two family dwelling, as defined in the International Building Code, regardless of size, with each unit having a grade level exit and sheds, storage buildings, and garages incidental to the dwelling;

(b) a building that is to be used for farm purposes only;

(c) a building less than three stories high and containing fewer than five thousand square feet of total floor area except buildings of assembly, institutional, educational, or commercial buildings that require a permit and hazardous occupancies as defined by the Standard Building Code, regardless of area;

(d) alterations to a building to which this chapter does not apply, if the alterations do not increase the area and capacity beyond the limits of this chapter or affect the structural safety of the building.

(B) Nothing in this chapter prohibits a general contractor or a home builder from the preparation and use of details and shop drawings, assembly or erection drawings, or graphic descriptions used to detail or illustrate a portion of the work required to construct the project in accordance with the plans and specifications prepared or to be prepared under the requirements of this chapter.

(C) Nothing in this chapter prevents or affects the practice of any other legally recognized profession.

(D) Notwithstanding any other contractual, regulatory, or statutory requirement or local ordinance, nothing in this chapter prevents a homeowner, business owner, property owner, or other legal occupant of a residential or commercial domain from undertaking renovations, upgrades, or design modifications that are otherwise permitted within the premises without entering into a contractual agreement with a registered interior designer.

(E) Nothing in this chapter prevents or affects the practice of engineering, as defined in Chapter 22, or architectural work incidental to the practice of engineering.

Section 40‑85‑320. Persons providing evidence of registration or licensure in another state, whose requirements are substantially equivalent to the requirements of this chapter and regulations promulgated under this chapter and who extend the same privilege to those registered as interior designers in this State, may become registered by the department upon payment of the initial registration fee and any other applicable fees.

Section 40‑85‑330. (A) Every registered interior designer practicing in this State must have a seal, the impression of which shall contain the interior designer’s name, registration number, and the words ‘Registered Interior Designer, State of South Carolina’ with which they shall stamp all drawings, prints, and specifications for use in their profession.

(B) The seal of the individual registered interior designer in responsible charge must appear as an original on each print of the drawings and the index sheet, or sheets, of each set of specifications offered to secure a building permit and one record set for use on the construction site. The required seal identification may be a rubber stamp impression placed on original drawings and specification copy. The registered interior designer in responsible charge shall affix his signature over his seal.

Section 40‑85‑340. (A) Service of a notice provided for by law upon a nonresident registered interior designer or upon a resident registered interior designer, who, having been admitted, subsequently becomes a nonresident or after due diligence cannot be found at his usual abode or place of business in this State, may be made by leaving with the administrator of the panel a copy of the notice and any accompanying documents and by sending to the registered interior designer by certified mail an attested copy, with an endorsement on the copy of the service upon the administrator, addressed to the registered interior designer at his last known address.

(B) The return receipt for the certified mail must be attached to and made a part of the return of service of the notice by the panel. The chairman of the panel before which there was pending a proceeding in which notice has been given, as provided in this section, may order a continuance as may be necessary to afford the registered interior designer reasonable opportunity to appear and be heard. The administrator shall keep a record of the day of the service of the notice and any accompanying documents.

Section 40‑85‑350. If a set of plans and specifications, for which the seal of an authorized professional is required, have been submitted in accordance with the provisions of this chapter by a registered interior designer then before issuing the permit, the building official or other authority charged with the responsibility of issuing building or other similar permits of any county, municipality, or other subdivision, must verify that the registered interior designer who sealed the interior design plans and specifications is an interior designer registered in South Carolina.”

SECTION 2. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 3. This act takes effect on July 1, 2010.

‑‑‑‑XX‑‑‑‑