LEGISLATIVE BILL 1068

Introduced by Hunt, 8.

Read first time January 21, 2020

Committee: Government, Military and Veterans Affairs

A BILL FOR AN ACT relating to interior designers; to amend section 84-617, Reissue Revised Statutes of Nebraska; to adopt the Interior Design Voluntary Registration Act; to provide penalties; to harmonize provisions; and to repeal the original section.

Be it enacted by the people of the State of Nebraska,
Section 1. Sections 1 to 11 of this act shall be known and may be cited as the Interior Design Voluntary Registration Act.

Sec. 2. In order to safeguard life, health, and property, to promote the public welfare, and to recognize the need for design professionals to obtain government-issued permits or approval that may only be obtained with a construction document stamp, the profession of interior design is declared to be subject to regulation in the public interest. It shall be unlawful for any person to hold oneself out to be a registered interior designer unless the person is registered under the Interior Design Voluntary Registration Act.

Sec. 3. For purposes of the Interior Design Voluntary Registration Act:

(1) Building equipment means any mechanical, plumbing, electrical, or structural components, including a conveyance, designed for or located in a building or structure;

(2) Conveyance means any elevator, dumbwaiter, vertical reciprocating conveyor, escalator, or other motorized vertical transportation system;

(3)(a) Interior design practice includes the:

(i) Programming, planning, predesign analysis, and conceptual design of interior nonstructural elements, including, but not limited to, the selection of materials, furniture, and fixtures;

(ii) Alteration or construction of interior nonstructural elements and any interior technical submissions related to such alteration or construction; and

(iii) Preparation of a physical plan of space, within a proposed or existing building or structure, including (A) determinations of internal circulation systems or patterns, (B) determinations of the location of internal exit requirements based on occupancy loads, and (C) assessment and analysis of all factors to comply with building codes and design standards related to interior nonstructural elements; and
(b) Interior design practice does not include designing, constructing, or making additions to (i) foundations, beams, trusses, columns, or other primary structural framing members, or seismic systems, (ii) structural concrete slabs, roof-framing structures, or load-bearing and shear walls, (iii) openings in roofs, exterior walls, or load-bearing and shear walls, (iv) exterior penetrations, such as windows and doors, or (v) the engineering of heating, ventilating, or air conditioning equipment or distribution systems, building management systems, high-voltage or medium-voltage electrical distribution systems, standby or emergency power or distribution systems, plumbing or plumbing monitoring systems, or related building systems;

(4) Interior nonstructural element means an interior design element that does not require structural bracing and that is not a load-bearing element of a structure that is essential to structural or seismic integrity;

(5) Interior technical submission means a design, drawing, specification, or study provided to a client, employer, or project coordinator to convey the intended design requested of an interior designer; and

(6) Registered interior designer means an individual who is listed on the interior designer registry operated by the State Treasurer. Registration is not required for the practice of interior design except as provided in the Interior Design Voluntary Registration Act.

Sec. 4. (1) To be a registered interior designer, an individual shall:

(a) Make application to the State Treasurer in a form prescribed by the State Treasurer;

(b) Pay an application fee determined by the State Treasurer;

(c) Have passed a competency examination approved by the State Treasurer; and

(d) Declare in the application, under penalty of refusal,
suspension, or revocation of registration, that:

(i) The applicant is not attempting to obtain registration as a registered interior designer by fraudulent misrepresentation;

(ii) The applicant has not committed any violation of professional ethical standards as determined by the department;

(iii) The applicant has not been convicted of, including a conviction based on a plea of guilty or nolo contendere, a crime that indicates the applicant is unfit or incompetent to practice interior design, including a crime that indicates the applicant has deceived or defrauded the public; and

(iv) The statements made in the application are true, correct, and complete to the best of the individual's knowledge and belief.

(2) The State Treasurer shall develop an application for listing an applicant on the interior designer registry. The application shall include the following information about the applicant:

(a) Name;

(b) Date of birth;

(c) Contact information;

(d) State and county of residence;

(e) Employer's name and contact information, if the applicant is employed at the time of application;

(f) Any other jurisdiction in which the applicant has been licensed, certified, or registered to practice interior design, including any denial, revocation, or suspension of or restriction imposed on such practice;

(g) Proof of professional liability insurance for the practice of interior design; and

(h) Proof that the applicant has successfully passed an interior design competency examination approved by the State Treasurer.

(3) Registration as an interior designer shall expire two years after the date the registration becomes effective. Registration as an
interior designer shall be renewed biennially in a manner determined by
the State Treasurer.

(4) A registered interior designer renewing such registration shall:

(a) Make a renewal application to the State Treasurer in a form
prescribed by the State Treasurer;

(b) Provide proof of professional liability insurance for the
practice of interior design;

(c) Provide proof of completion, during the two-year period prior to
such renewal, of at least twenty-four continuing education units approved
by the State Treasurer, of which twelve continuing education units shall
include subject matter on public health, safety, and welfare;

(d) Declare in the application, under penalty of refusal, suspension, or revocation of registration, that the:

(i) Applicant is not attempting to obtain registration as a
registered interior designer by fraudulent misrepresentation;

(ii) Applicant has not committed any violation of professional
ethical standards as determined by the department;

(iii) Applicant has not been convicted of, including a conviction
based on a plea of guilty or nolo contendere, a crime that indicates the
applicant is unfit or incompetent to practice interior design, including
a crime that indicates the applicant has deceived or defrauded the
public; and

(iv) Statements made in the application are true, correct, and
complete to the best of the applicant's knowledge and belief; and

(e) Pay an application fee determined by the State Treasurer.

Sec. 5. The State Treasurer may list on the interior designer
registry an applicant who is an interior designer licensed, certified, or
registered under the laws of another state or jurisdiction if the
requirements for an interior design license, certificate, or registration
in such other state or jurisdiction are substantially equal to or
stricter than the requirements for registration under the Interior Design
Voluntary Registration Act. An applicant under this section shall submit an application developed under subsection (2) of section 4 of this act and shall pay a fee of fifty dollars and shall pass a jurisprudence examination approved by the State Treasurer to demonstrate familiarity with building and construction codes applicable in this state.

Sec. 6. (1) No person shall:
(a) Affix a registered interior designer's signature or seal to any interior technical submission without the permission of the registrant;
(b) Use or attempt to use the interior design registration or seal of another;
(c) Impersonate a registered interior designer;
(d) Obtain or attempt to obtain registration under the Interior Design Voluntary Registration Act by fraud; or
(e) Make any willfully false oath or affirmation under the Interior Design Voluntary Registration Act.
(2) Any person who intentionally violates subsection (1) of this section is guilty of a Class II misdemeanor.

Sec. 7. (1) A registered interior designer shall avoid conflicts of interest. If an unavoidable conflict of interest arises, the registrant shall:
(a) Immediately inform the client or employer of all circumstances that may interfere with or impair the registrant's obligation to provide professional services;
(b) Notify the client or employer and withdraw from employment at any time that it is not possible to faithfully discharge the responsibilities and duties owed to the client or employer;
(c) Not agree to perform professional interior design services for a client or employer if the registrant has a significant financial or other interest that would impair or interfere with the registrant's responsibility to faithfully discharge professional interior design services on behalf of the client or employer;
(d) Not accept payment from any party other than a client or employer for a particular project and not have any direct or indirect financial interest in a service or phase of a service to be provided as part of a project unless the client or employer approves of the conflict;

(e) Not solicit or accept anything of value from material or equipment suppliers in return for specifying or endorsing a product;

(f) Not violate the confidences of a client or employer except as otherwise required by law; and

(g) Not perform services for a client or employer while a full-time employee of another employer without notifying all parties concerned.

(2) Nothing in the Interior Design Voluntary Registration Act shall limit a registered interior designer's professional responsibility to an owner of a project when the registered interior designer is employed by a person under contract to practice interior design for such project.

Sec. 8. (1) A registered interior designer shall possess the authority to sign and seal any interior technical submission covering the scope of the practice of interior design and shall have the authority to submit such interior technical submission to a state or local governmental entity for the purpose of obtaining any requisite permit for an interior alteration or construction project.

(2) A registered interior designer shall have a reproducible seal or facsimile, the print of which shall contain the full name and registration number of the registered interior designer on file with the State Treasurer, the registrant's business city and state, and the words Registered Interior Designer, Nebraska. The registered interior designer shall use such seal to stamp all interior technical submissions. A registered interior designer may only sign and seal an interior technical submission within the scope of interior design practice.

(3) The placement of the registered interior designer's signature and seal shall indicate the document or part thereof for which the seal applies. The seal and date may be affixed electronically. The registrant
may provide, at the registrant's sole discretion, an original signature in the registrant's handwriting, a scanned copy of the document bearing an original signature, or a computer-generated signature.

(4) No registered interior designer shall affix, or permit to be affixed, the registered interior designer's registration number, seal, or signature to any interior technical submission that the registrant is not competent to perform.

(5)(a) A registered interior designer shall not sign and seal technical submissions unless the technical submissions were:

(i) Prepared entirely by the registered interior designer; or

(ii) Prepared entirely under the direct supervision of the registered interior designer.

(b) A registered interior designer may affix such registered interior designer's seal to technical submissions if the registered interior designer has reviewed or adapted in whole or in part such submissions and integrated them into such registered interior designer's work. The technical submissions not within the scope of interior design as defined under the Interior Design Voluntary Registration Act, shall individually be signed and sealed by the competent professional's own seal before being integrated into such registered interior designer's work as a set.

(c) A partner or corporate officer of a business registered in this state, who is a registered interior designer and who has professional knowledge of the content of the interior technical submission and intends to be responsible for the adequacy of the interior technical submission, may sign and seal an interior technical submission that was prepared by or under the supervision and control of a registered interior designer who is in the regular employment of such business.

Sec. 9. (1) The State Treasurer shall:

(a) Operate an interior designer registry listing registered interior designers; and
(b) Remit fees collected under the Interior Design Voluntary Registration Act for credit to the State Treasurer Administrative Fund.

(2) The Secretary of State may:

(a) List on the registry individuals meeting the qualifications established under section 4 of this act and update such registry as needed; and

(b) Adopt and promulgate rules and regulations necessary for the administration of the Interior Design Voluntary Registration Act;

(c) Prescribe individually identifiable seals to be used by registered interior designers.

Sec. 10. Nothing in the Interior Design Voluntary Registration Act shall be construed to:

(1) Require a person to be a registered interior designer in order to engage in an activity traditionally performed by an interior designer, including any professional service limited to the planning, design, and implementation of kitchen and bathroom spaces or the specification of products for kitchen and bathroom areas; or

(2) Prevent or restrict the practice, service, or activity of any person licensed to practice a profession or an occupation in this state from engaging in such profession or occupation.

Sec. 11. Section 84-617, Reissue Revised Statutes of Nebraska, is amended to read:

84-617 (1) There is hereby created the State Treasurer Administrative Fund. Funds received by the State Treasurer pursuant to his or her administrative duties shall be credited to the fund. Such funds shall include:

(a) Payments for returned check charges or for electronic payments not accepted;

(b) Payments for wire transfers initiated by the State Treasurer at the request of state agencies;

(c) Payments for copies of cashed state warrants;
(d) Payments for copies, including microfilm, computer disk, or magnetic tape, of listings relating to outstanding state warrants; and

(e) Payments for copies, including microfilm, computer disk, or magnetic tape, of listings of owners of unclaimed property held by the State Treasurer pursuant to the Uniform Disposition of Unclaimed Property Act; and

(f) Payments under the Interior Design Voluntary Registration Act.

Money in the fund received pursuant to subdivisions (1)(a) through (d) of this section shall be credited to the General Fund quarterly. Money in the State Treasurer Administrative Fund received pursuant to subdivision (1)(e) of this section shall be credited to the Unclaimed Property Cash Fund. The State Treasurer may retain such amount as he or she deems appropriate in the State Treasurer Administrative Fund for purposes of making change for cash payments. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(2) The State Treasurer may establish a fee schedule for any of the services listed in subdivisions (a) through (e) of subsection (1) of this section. The fees shall approximate the cost of providing the service.

Sec. 12. Original section 84-617, Reissue Revised Statutes of Nebraska, is repealed.