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Chapter No. 360
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HOUSE BILL NO. 1096

Originated in House Dori Richardson Clerk

HOUSE BILL NO. 1096

AN ACT TO CREATE THE MISSISSIPPI CERTIFIED INTERIOR DESIGNER ACT; TO DEFINE CERTAIN TERMS; TO PROVIDE THAT THE MISSISSIPPI CERTIFIED INTERIOR DESIGNERS SHALL BE UNDER THE MISSISSIPPI BOARD OF ARCHITECTURE; TO PROVIDE FOR QUALIFICATIONS OF APPLICANTS; TO PROVIDE FOR EXAMINATION OF APPLICANTS; TO REQUIRE CONTINUING EDUCATION; TO PROVIDE FOR THE BIENNIAL RENEWAL OF CERTIFICATES; TO REQUIRE FEES; TO PROVIDE FOR THE REGULATION OF CONDUCT OF INTERIOR DESIGNERS; TO REQUIRE THE POSTING OF CERTIFICATES; TO PROVIDE FOR THE INTERIOR DESIGN ADVISORY COMMITTEE (IDAC) AND PRESCRIBE ITS DUTIES AND POWERS; TO PROVIDE FOR THE DEPOSIT OF FUNDS; TO PROVIDE COMPENSATION FOR MEMBERS OF THE INTERIOR DESIGN ADVISORY COMMITTEE; TO PROVIDE FOR DISCIPLINARY PROCEDURES; TO PROVIDE FOR APPEALS; TO PROHIBIT CERTAIN ACTIONS; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. This act shall be known and may be cited as the "Mississippi Certified Interior Designer Act."

SECTION 2. The purpose of this act is to establish the title of "Mississippi Certified Interior Designer" and to restrict the use of this title to those persons having specific interior design education, experience and examination, as defined in this act, and to require continuing education and adherence to a professional code of conduct by Mississippi Certified Interior Designers.

SECTION 3. The following words and phrases have the meanings ascribed in this section unless the context clearly indicates otherwise:

(a) "Board" means the State Board of Architecture as defined in Section 73-1-3.

(b) "Interior Design Advisory Committee" or "IDAC" means the jurisdictional committee responsible for making recommendations to the board for implementing interior design legislation and making rules and regulations. IDAC is comprised

of Mississippi Certified Interior Designers and reports to the board. Decisions and actions of IDAC are subject to ratification by the board through review and approval of IDAC's minutes.

(c) "Mississippi Certified Interior Designer" means an interior design professional who holds a certification issued by the board. A certified interior designer shall not be considered to be a registered design professional as defined within the International Building Code or by building permit requirements.

(d) "Certificate" means the certificate issued by the board authorizing the holder of the certificate to use the title Mississippi Certified Interior Designer.

(e) "NCIDQ" means the National Council for Interior Design Qualification.

(f) "IDQE" means the Interior Design Qualification Examination as prepared and administered by NCIDQ or its successor.

(g) "CIDA" means Council for Interior Design Accreditation (formerly known as "FIDER" or the "Foundation for Interior Design Education Research").

(h) "MCID" means Mississippi Coalition for Interior Design or its successor.

SECTION 4. (1) Beginning on July 1, 2012, the board and Interior Design Advisory Committee shall receive applications for certification as a Mississippi Certified Interior Designer on forms prescribed and furnished by the board and IDAC.

(2) Upon receipt of an application, the board, upon the recommendation of IDAC, may approve the application, provided the applicant meets one (1) of the following requirements:

(a) The applicant passed the IDQE as administered by NCIDQ before January 1, 2012;

(b) The applicant has a degree in interior design from a program accredited by the CIDA, a degree in architecture from a program accredited by the National Architectural Accreditation

Board (NAAB), or a four-year degree in interior design from a college or university approved by the regulatory board. Additionally, the applicant must have passed the IDQE as administered by NCIDQ or its approved successor;

(c) The applicant is a licensed architect in the State of Mississippi who has passed the IDQE as administered by NCIDQ or its approved successor; or

(d) The applicant is a licensed engineer in the State of Mississippi who has passed the IDQE as administered by NCIDQ or its approved successor.

(3) The applicant must exhibit to the regulatory board and IDAC the applicant's good standing in the profession and the applicant's moral character. Except as otherwise provided in this subsection, any of the following acts shall preclude an applicant's eligibility as a candidate for certification:

(a) Conviction by any court for commission of any felony or any crime involving moral turpitude.

(b) Conviction by any court of a misdemeanor involving fraud, deceit or misrepresentation.

(c) Misstatement or misrepresentation of fact by the applicant in connection with the applicant's application for certification in this state or another jurisdiction.

(d) Violation of any of the rules of conduct required of applicants or interior designers as adopted by the board.

If the board determines that the applicant has shown clear and convincing evidence of rehabilitation and reform, the board may certify an applicant otherwise precluded from consideration because of an act prohibited under this subsection. A decision to certify an applicant notwithstanding the applicant's violation of an act prohibited under this subsection is in the sole discretion of the board and upon such terms, conditions and evidence as the board may require.

(4) The board and IDAC may require that the applicant appear before the board for a personal interview.

(5) The board, upon the recommendation of IDAC, may adopt or develop alternate routes of eligibility and examination requirements based on standards as set forth by NCIDQ or its approved successor.

(6) Any application submitted to the board and IDAC may be denied for any violation of the provisions of this chapter.

SECTION 5. (1) Any applicant who files an application with and remits initial fees to the board and IDAC before July 1, 2013, may be considered for alternate eligibility. Applications for licensure through the alternate eligibility method shall be accepted beginning on July 1, 2012. Any applicant submitting an application under this section shall be subject to the requirements of subsection (3) of Section 4 of this act.

(2) Alternate qualifications for eligibility are:

(a) Possession of a four-year degree in interior design from a nonaccredited program or another degree approved by the board and having passed all sections of the IDQE, or its successor; or

(b) Possession of ten (10) years of experience practicing in the profession of interior design and having passed all sections of the IDQE, or its successor.

(3) Any applicant who files with the board and IDAC an application and letter of intent to qualify under this section who has not taken and passed the IDQE shall have until July 1, 2013, to take and pass all code sections of the IDQE. The board and IDAC shall require verification of passage of the code sections of the IDQE as prepared and administered by the NCIDQ or its successor.

(4) Any application submitted to the board may be denied for any violation of this act.

(5) The board and IDAC may require that the applicant appear before the board or IDAC for a personal interview.

SECTION 6. The board and IDAC may accept applications for Mississippi certification from an interior designer in another jurisdiction pursuant to Section 4 or 5 of this act.

SECTION 7. Each Mississippi Certified Interior Designer shall be required to meet the continuing education requirements established by the board and IDAC. The board and IDAC shall set a minimum requirement of continuing education for the biennial reporting period.

SECTION 8. (1) Each Mississippi Certified Interior Designer who desires to renew a certificate pursuant to this act must submit to the board and IDAC: (a) the biennial certification renewal fee as set by rules and regulations; and (b) the certification renewal application, which shall require certification of compliance with continuing education requirements. The renewal fee shall be due and payable on the first day of January of each year in which the fee is required to be paid and shall become delinquent after January 31 of that year. If the renewal fee is not paid before it becomes delinquent, a penalty shall be assessed in an amount per month as set by the board and IDAC. Upon failure to renew a certificate during the month of January of the renewal year, the certificate shall be rendered inactive at midnight on January 31 of the renewal year. A person with an inactive status certification is not allowed to use the title of Certified Interior Designer.

(2) If the renewal fee and penalty are not paid before June 1 of the year in which they become due, the Mississippi Certified Interior Designer's certificate shall no longer be eligible for renewal. A certificate rendered nonrenewable due to delinquency may be considered for reinstatement upon: (a) the payment of the reinstatement fee, as set by the board and IDAC; (b) receipt of the completed certificate reinstatement application; and (c) such

other proof of the applicant's qualifications as may be required in the discretion of the board and IDAC.

(3) The board shall make available an acknowledgement of certification renewal or reinstatement to each Mississippi Certified Interior Designer promptly upon payment of the renewal fee or upon payment for and approval of the application for reinstatement.

SECTION 9. The board shall not issue a temporary certificate.

SECTION 10. (1) The board and IDAC shall set forth and regulate the conduct and professional ethics of those certified under this act.

(2) Conflict of Interest:

(a) A Mississippi Certified Interior Designer may not accept compensation for interior design services from more than one (1) party on a project unless the circumstances are fully disclosed to and accepted by all parties involved in the project. Any disclosure and agreement must be in writing.

(b) A Mississippi Certified Interior Designer may not solicit or accept compensation or gratuities from contractors, material or furniture suppliers, or manufacturer's sales representatives from endorsing their companies or specifying their products.

(3) Compliance with laws:

(a) A Mississippi Certified Interior Designer may not offer or make payment or gifts of value to elected or appointed government officials with the intent of influencing the decision or recommendation of that official in connection with a project in which the Mississippi Certified Interior Designer may be interested.

(b) A Mississippi Certified Interior Designer must comply with the certification laws and regulations governing the state recognition of interior design in other states and

jurisdictions where the Mississippi Certified Interior Designer is certified or otherwise recognized as an interior designer.

(4) Full disclosure:

(a) A Mississippi Certified Interior Designer may not falsify or misrepresent his professional qualifications. A Mississippi Certified Interior Designer may not exaggerate his degree of responsibility in or for prior assignments. Presentations for the solicitation of employment or future projects may not misrepresent the work of a Mississippi Certified Interior Designer with the intent of enhancing the Mississippi Certified Interior Designer's qualifications.

(b) If, in the course of work on a project, the Mississippi Certified Interior Designer becomes aware of a decision or condition that may materially and adversely affect the safety and welfare of any member of the project team, owner or the public, the Mississippi Certified Interior Designer shall report the condition to the design professional of record or a public building official.

SECTION 11. Each person holding a certificate as a Mississippi Certified Interior Designer in this state shall post the certificate in a prominent place in the interior designer's place of business.

SECTION 12. (1) IDAC shall be comprised of five (5) members, each being a Mississippi Certified Interior Designer residing in this state who has been engaged in interior design not less than seven (7) years. It is the duty of IDAC to carry out the purposes of this chapter as herein provided.

(2) The Governor shall appoint the members of IDAC from a list of names supplied by MCID, or its successor. Each member of IDAC shall serve for a term of five (5) years. Each interior designer initially appointed must be qualified to become a Mississippi Certified Interior Designer. Thereafter, each new appointee must be a Mississippi Certified Interior Designer. The

terms of the members of IDAC shall be staggered so that the term of not more than one (1) member expires each year on June 1.

(3) Each member shall hold over the expiration of his term until his successor is duly appointed and qualified. The Governor, in like manner, shall fill any vacancy occurring in the membership of IDAC for the unexpired term of such membership. The Governor may remove any of the members of IDAC for inefficiency, neglect of duty or dishonorable conduct.

(4) At the first meeting of every calendar year, IDAC shall elect from among its members a chairman and a secretary to hold office for one (1) year.

(5) The executive director of the board shall keep a true and correct record of all proceedings of IDAC.

SECTION 13. (1) IDAC, subject to the approval of the board, may adopt only rules or regulations that are consistent with law as may be necessary to carry out the duties and authorities conferred upon the committee.

(2) The rules and regulations may address, but need not be limited to, the following matters:

(a) Administration and enforcement of provisions of this act.

(b) Regulations to carry out the policies of this act.

(c) Setting certification fees.

(d) Reviewing, approving or disapproving, and making recommendations on all applications for certification.

(e) Establishing continuing education requirements for certificate renewal.

(f) Maintaining the official roster of Mississippi Certified Interior Designers.

(g) Adopting requirements for monitored internship.

(h) Adopting rules of conduct that are clear, quantifiable and enforceable by rules and regulations.

(i) Exercising the authority to assess monetary administrative penalties for violations of the laws, rules and regulations that IDAC regulates.

(j) Providing access to persons with physical, mental or developmental disability to IDAC's programs and activities.

(k) At the direction of the board, IDAC also shall review and investigate any charges brought against any Mississippi Certified Interior Designer as provided for in Section 10 of this act and make findings of fact and recommendations to the board concerning any disciplinary action which IDAC deems necessary and proper pursuant to Section 16 of this act.

(3) Before entering upon the discharge of their duties, each member of IDAC shall take a subscribed oath of office.

(4) The board and IDAC shall adopt all necessary rules, regulations and bylaws to govern its proceedings not inconsistent with this chapter or the laws of this state.

(5) The executive director of the board shall keep a record of all proceedings of IDAC, which shall be open to the public. These records shall be maintained at the office of the board.

(6) Three (3) members of IDAC shall constitute a quorum.

SECTION 14. All funds received from interior designer certification, renewal fees and fines shall be deposited into the account of the board and utilized in part for expenses of IDAC at the direction of the board. A complete statement of the transactions shall be included in the board's annual report.

SECTION 15. (1) The board may pay, from certification and other fees authorized under this act, the expenses of IDAC and the board. In no case may any of the fees or expenses be paid by the State of Mississippi or be charged against the state.

(2) Each member of IDAC shall receive a per diem in an amount set by the board but not to exceed the amount provided for in Section 25-3-69. Members of IDAC shall be reimbursed for their traveling expenses incurred in the pursuance of their duties.

SECTION 16. (1) The board may revoke, suspend or annul the certificate of a Mississippi Certified Interior Designer or reprimand, censure or otherwise discipline a Mississippi Certified Interior Designer.

(2) The board and IDAC, upon satisfactory proof and in accordance with the provisions of this act, may take any necessary disciplinary actions against any Mississippi Certified Interior Designer for any of the following reasons:

(a) Violating any of the provisions of this act, or the bylaws, rules, regulations or standards of ethics or conduct duly adopted and promulgated by IDAC pertaining to using the title Mississippi Certified Interior Designer;

(b) Obtaining or attempting to obtain a certificate as a Mississippi Certified Interior Designer by fraud, deceit or misrepresentation;

(c) Gross negligence, malpractice, incompetence or misconduct by a Mississippi Certified Interior Designer;

(d) Any professional misconduct, as defined by IDAC through bylaws, rules and regulations and standards of conduct and ethics;

(e) Use of the term Mississippi Certified Interior Designer on an expired certificate or while under suspension or revocation of a certificate unless such suspension or revocation is abated through probation, as provided for in this act;

(f) Use of the term Mississippi Certified Interior Designer under an assumed or fictitious name;

(g) Being convicted by any court of a felony, except conviction of culpable negligent manslaughter, in which case the record of conviction shall be conclusive evidence;

(h) Willfully misleading or defrauding any person employing him or her as a Mississippi Certified Interior Designer by any artifice or false statement; or

(i) Having any undisclosed financial or personal interest which compromises his obligation to his client.

(3) Any person may prefer charges against any other person for committing any of the acts set forth in this section. The charges, which need not be sworn to, may be made upon actual knowledge, or upon information and belief, and must be filed with the board. If any person certified under this act is expelled from membership in any Mississippi or national professional interior design society or association, the board and IDAC shall thereafter cite such person to appear at a hearing before the board and IDAC to show cause why disciplinary action should not be taken against that person.

The board and IDAC shall investigate all charges filed with it and, upon finding reasonable cause to believe that the charges are not frivolous, unfounded or filed in bad faith, may cause, in its discretion, a hearing to be held at a time and place fixed by the board regarding the charges. The board may compel, by subpoena, the accused to appear before the board to respond to the charges.

No disciplinary action may be taken until the accused has been furnished with both a statement of the charges against him and notice of the time and place of the hearing on those charges, which must be served personally on the accused or mailed by registered or certified mail, return receipt requested, to the last known business or residence address of the accused not less than thirty (30) days before the date fixed for the hearing.

(4) At a hearing held under this section, the board may subpoena witnesses and compel their attendance and require the production of any books, papers or documents. The hearing must be conducted before the full board and IDAC with the president of the board serving as the presiding officer. Counsel for the board shall present all evidence relating to the charges. All evidence must be presented under oath, which may be administered by any

member of the board. The proceedings, if necessary, may be transcribed in full by a court reporter and filed as part of the record in the case. Copies of the transcription may be provided to any party to the proceedings at a cost to be fixed by the board.

All witnesses who are subpoenaed and who appear in any proceeding before the board shall receive the same fee and mileage as allowed by law in judicial civil proceedings, and all such fees shall be taxed as part of the costs of the case.

In any proceedings before the board in which any witness fails or refuses to attend upon a subpoena issued by the board or refuses to testify or to produce any books and papers, the production of which is called for by the subpoena, the attendance of the witness and the giving of his testimony and the production of the books and papers shall be enforced by any court of competent jurisdiction of this state in the manner provided for the enforcement of attendance and testimony of witnesses in civil cases in the courts of this state.

The accused shall have the right to be present at the hearing in person, by counsel or other representative, or both. The accused shall have the right to present evidence and to examine and cross-examine all witnesses. The board may continue or recess the hearing as may be necessary.

(5) At the conclusion of the hearing, the board may either decide the issue at the time or take the case under advisement for further deliberation. The board must render its decision not more than forty-five (45) days after the close of the hearing and shall forward to the last known business or residence address of the accused by certified or registered mail, return receipt requested, a written statement of the decision of the board.

If a majority of the board finds the accused guilty of the charges filed, the board may:

(a) Issue a public or private reprimand;

(b) Suspend or revoke the certificate of the accused, if the accused is a Mississippi Certified Interior Designer; or

(c) In lieu of or in addition to such reprimand, suspension or revocation, assess and levy upon the guilty party a monetary penalty of not less than One Hundred Dollars ($100.00) nor more than Five Thousand Dollars ($5,000.00) for each violation.

(6) A monetary penalty assessed and levied under this section must be paid to the board within thirty (30) days. Money collected by the board under this section and all fines shall be deposited into the account of the board.

When payment of a monetary penalty assessed and levied by the board under this section is not paid when due, the board may institute and maintain proceedings in its name for enforcement of payment in the chancery court of the county of the residence of the guilty party. If the guilty party is a nonresident of the State of Mississippi, the proceedings must be instituted in the Chancery Court of the First Judicial District of Hinds County, Mississippi.

(7) When the board has taken a disciplinary action under this section, the board, in its discretion, may stay the action and place the guilty party on probation for a period not to exceed one (1) year, upon the condition that the guilty party shall not further violate either the law of the State of Mississippi pertaining to the use of the term Mississippi Certified Interior Designer or the rules and regulations or standards of conduct and ethics promulgated by IDAC and the board.

(8) The board, in its discretion, may assess and tax any part of all costs of any disciplinary proceedings conducted under this section against the accused if the accused is found guilty of the charges.

(9) The power and authority of the board to assess and levy the monetary penalties provided for in this section shall not be

affected or diminished by any other proceedings, civil or criminal, concerning the same violation or violations except as provided in this section.

(10) The board, on the recommendation of IDAC, for sufficient cause, may reissue a revoked certificate by an affirmative vote of a majority of the board members; however, a revoked certificate may not be issued within two (2) years of the revocation under any circumstances. A new certificate required to replace a revoked certificate may be issued, subject to the rules of the board, for a charge established by the rules and regulations set forth by IDAC.

(11) In addition to the reasons specified in this section, the board may suspend the certificate of any person for being out of compliance with an order for support, as defined in Section 93-11-153. The procedure for suspension of a certificate for being out of compliance with an order for support, and the procedure for the reissuance or reinstatement of a certificate suspended for that purpose, and the payment of any fees for the reissuance or reinstatement of a certificate suspended for that purpose, shall be governed by Section 93-11-157 or 93-11-163, as the case may be. If there is any conflict between any provision of Section 93-11-157 or 93-11-163 and any provision of this chapter, the provisions of Section 93-11-157 or 93-11-163, as the case may be, shall control.

The board, for reasons it may deem sufficient, may reissue a certificate to any person whose certificate has been suspended or revoked if three (3) or more members of the board vote in favor of the reissuance. The procedure for the reissuance of a certificate that is suspended for being out of compliance with an order for support, as defined in Section 93-11-153, shall be governed by Section 93-11-157 or 93-11-163, as the case may be.

SECTION 17. Within thirty (30) days after any order, judgment or action of the board, any person aggrieved may appeal

the order, judgment or action either to the chancery court of the county in which the appellant resides or to the Chancery Court of the First Judicial District of Hinds County, Mississippi, upon giving bond with sufficient security in the amount of Five Hundred Dollars ($500.00), approved by the clerk of the chancery court and conditioned to pay any costs which may be adjudged against the person.

Notice of appeal shall be filed in the office of the clerk of the chancery court, who shall issue a writ of certiorari directed to the board commanding it, within ten (10) days after service, to certify to the court its entire record in the matter in which the appeal has been taken. The appeal shall be heard in due course by the court, and the court shall review the record and make its determination of the cause between the parties.

Any order, judgment or decision of the board shall not take effect until after the time for appeal to the court shall have expired. All appeals perfected under this section shall act as a supersedeas of the order, judgment or action appealed from.

SECTION 18. It is a misdemeanor for any person to:

(a) Offer to hold himself out as a Mississippi Certified Registered Interior Designer, unless duly certified under this act.

(b) Present as his own the certificate of another.

(c) Give false or forged evidence to the board or any member of the board in obtaining a certificate.

(d) Falsely impersonate any other practitioner of like or different name.

(e) Use or attempt to use a certificate that has been revoked.

(f) Otherwise violate any provision of this act.

A misdemeanor under this section is punishable by a fine of not less than Five Hundred Dollars ($500.00) and not more than One

Thousand Dollars ($1,000.00), or imprisonment for not more than one (1) year in the county jail, or both.

If any person, firm or corporation violates any provision of this act, the secretary of the board, upon direction of a majority of the board and in the name of the State of Mississippi, shall apply, through an attorney employed by the board, in any chancery court of competent jurisdiction for an order enjoining that violation or for an order enforcing compliance with the provisions of this chapter. Upon the filing of a verified petition in the proper court, the court or any judge of that court, if satisfied by the sworn petition, affidavit or otherwise, that the person has violated this act may issue a temporary injunction of five (5) days' notice to the defendant enjoining the continued violation, and the injunction shall remain in force and effect until final hearing. If it is established at the hearing that the person has violated, or is violating this act, the court may enter a decree permanently enjoining the violation or enforcing compliance with this act and awarding all costs and expenses, including reasonable attorney's fees, to the board. In case of violation of any decree issued in compliance with this section, the court may try and punish the offender for contempt of court and shall fine the offender a sum of not less than Two Hundred Fifty Dollars ($250.00) per offense. Each day of the violation is a separate offense, and the court shall proceed as in other cases in chancery.

The proceedings in this section shall be in addition to and not in lieu of the other remedies and penalties provided in this act.

SECTION 19. This act shall take effect and be in force from and after July 1, 2011.

PASSED BY THE HOUSE OF REPRESENTATIVES
February 8, 2011

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PASSED BY THE SENATE
March 2, 2011

PRESIDENT OF THE SENATE

APPROVED BY THE GOVERNOR

GOVERNOR

3/11/11 2:51 pm