

SENATE No. 2465

The Commonwealth of Massachusetts

SENATE, December 03, 2012

The committee on Ways and Means, to whom was referred the Senate bill recognizing the profession of interior designers to bid on state contracts (Senate, No. 1634); reports, recommending that the same ought to pass with an amendment substituting a new draft with the same title (Senate, No. 2465).

For the committee,

STEPHEN M. BREWER.

SENATE No. 2465

The Commonwealth of Massachusetts

In the Year Two Thousand Twelve

An Act recognizing the profession of interior designers to bid on state contracts.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Subsection (b) of section 44 of chapter 7C of the General Laws, inserted by section
2 82 of chapter 165 of the acts of 2012, is hereby amended by striking out the definition of
3 “Continued services”.

4 SECTION 2. Said subsection (b) of said section 44 of said chapter 7C, as so inserted, is hereby
5 further amended by inserting after the definition of “Construction manager” the following
6 definition:-

7 “Continued services”, authorization for a designer or interior designer who has been appointed
8 for 1 stage of a project to act as the designer or interior designer for a succeeding stage or stages
9 of the same project.

10 SECTION 3. The definition of “Design services” in said subsection (b) of said section 44 of said
11 chapter 7C, as so inserted, is hereby amended by inserting after the word “designer” the
12 following words:- , interior designer.

13 SECTION 4. Said subsection (b) of said section 44 of said chapter 7C, as so inserted, is hereby
14 further amended by striking out the definition of “Extended services” and inserting in place
15 thereof the following 2 definitions:-

16 “Extended services”, authorization for a designer or interior designer who has been appointed to
17 provide design services for a project to act as designer or interior designer for work to be done on
18 another project not originally included in that designer’s or interior designer’s contract.

19 “Interior Designer”, an individual, corporation, partnership, sole proprietorship, joint stock
20 company, joint venture or other entity engaged in the practice of interior design, who may serve
21 as the prime consultant for projects that primarily involve construction or other work relating to
22 the nonstructural interior elements of a building or structure and provides services that do not
23 require a registered architect, landscape architect or engineer; provided, however, that an interior
24 designer shall demonstrate competence by completion of a nationally-recognized certification.

25 SECTION 5. Subsection (a) of section 46 of said chapter 7C, as so inserted, is hereby amended
26 by inserting after the word “designers”, the following words:- , interior designers.

27 SECTION 6. Subsection (b) of said section 46 of said chapter 7C, as so inserted, is hereby
28 amended by striking out the word “selection”, each time it appears, and inserting in place thereof
29 the following words:- or interior designer selection.

30 SECTION 7. Said subsection (b) of said section 46 of said chapter 7C, as so inserted, is hereby
31 further amended by striking out the words “advertise for designers, select any designers” and
32 inserting in place thereof the following words:- advertise for designers or interior designers,
33 select any designers or interior designers.

34 SECTION 8. Said subsection (b) of said section 46 of said chapter 7C, as so inserted, is hereby
35 further amended by inserting after the words “services of any designers” the following words:- or
36 interior designers.

37 SECTION 9. Subsection (c) of said section 46 of said chapter 7C, as so inserted, is hereby
38 amended by striking out the word “selection”, each time it appears, and inserting in place thereof
39 the following words:- or interior designer selection.

40 SECTION 10. Clause (ii) of subsection (d) of said section 46 of said chapter 7C, as so inserted,
41 is hereby amended by striking out the word “selection” and inserting in place thereof the
42 following words:- or interior designer selection.

43 SECTION 11. Clause (iii) of said subsection (d) of said section 46 of said chapter 7C, as so
44 inserted, is hereby amended by striking out the words “designer services” and inserting in place
45 thereof the following words:- design services.

46 SECTION 12. Said clause (iii) of said subsection (d) of said section 46 of said chapter 7C, as so
47 inserted, is hereby further amended by inserting after the words “any designer” the following
48 words:- or interior designer.

49 SECTION 13. Said clause (iii) of said subsection (d) of said section 46 of said chapter 7C, as so
50 inserted, is hereby further amended by inserting after the words “paid to the designer” the
51 following words:- or interior designer.

52 SECTION 14. Subsection (a) of section 47 of said chapter 7C, as so inserted, is hereby amended
53 by striking out the word “designer”, each time it appears, and inserting in place thereof the
54 following word:- design.

55 SECTION 15. Clause (i) of subsection (b) of said section 47 of said chapter 7C, as so inserted, is
56 hereby amended by striking out the word “designer” and inserting in place thereof the following
57 word:- design.

58 SECTION 16. Subsection (b) of said section 47 of said chapter 7C, as so inserted, is hereby
59 amended by striking out clause (iii) and inserting in place thereof the following clause:- (iii) the
60 qualification required of applicants for the projects, including whether interior designers are
61 eligible to apply, as determined by subsection (h) of section 48;

62 SECTION 17. Clause (iv) of said subsection (b) of said section 47 of said chapter 7C, as so
63 inserted, is hereby amended by inserting after the word “designers” the following words:- and
64 interior designers’.

65 SECTION 18. Subsection (a) of section 48 of said chapter 7C, as so inserted, is hereby amended
66 by inserting after the words “No designer”, the following words:- , interior designer.

67 SECTION 19. Clause (i) of said subsection (a) of said section 48 of said chapter 7C, as so
68 inserted, is hereby amended by inserting after the word “designer” the following words:- ,
69 interior designer.

70 SECTION 20. Subsection (e) of said section 48 of said chapter 7C, as so inserted, is hereby
71 amended by inserting after the word “designer” the following words:-, interior designer.

72 SECTION 21. Subsection (f) of said section 48 of said chapter 7C, as so inserted, is
73 hereby amended by inserting after the word “designers”, the following words:- and interior
74 designers.

75 SECTION 22. Said section 48 of said chapter 7C, as so inserted, is hereby further amended by
76 striking out subsection (g) and inserting in place thereof the following subsection:-

77 (g) The division of capital asset management and maintenance, in consultation with the board,
78 shall develop a standard designer and interior designer evaluation form that shall be completed
79 by every public agency, as defined in section 44A of chapter 149, upon completion of the work
80 under a design contract under its control. The evaluation form shall be submitted to the division
81 and the board for the designer's or interior designer's qualification file. The official from the
82 public agency or the owner's representative shall certify that the information contained on the
83 designer's or interior designer's evaluation form represents, to the best of the official's or
84 representative's knowledge, a true and accurate analysis of the designer's or interior designer's
85 performance record on the contract. The public agency shall mail a copy of the designer's or
86 interior designer's evaluation form to the designer or interior designer who may, within 30 days,
87 submit a written response to the division and board disputing any information contained in the
88 form and setting forth any additional information concerning the building project or the oversight
89 of the building construction contract by the public agency as may be relevant to the evaluation of
90 the designer's or interior designer's performance. The division and board shall attach such a
91 response to the evaluation form for inclusion in the designer's or interior designer's qualification
92 file. No public employee or public employer, as defined in section 1 of chapter 258, and no
93 person shall be liable for an injury or loss to a designer or interior designer as a result of the
94 completion of a designer or interior designer evaluation form as required by this section, unless
95 the individual completing the evaluation form has been found by a superior court of competent
96 jurisdiction to have acted in a willful, wanton or reckless manner. If a designer or interior
97 designer, seeking to recover damages resulting from injury caused by such an evaluation,

98 commences a suit against a person who has completed a designer or interior designer evaluation
99 form as required by this section, the public agency for whom the evaluation form was completed
100 or the commonwealth, if the evaluation was completed for a state agency, shall provide for the
101 legal representation of that person. The public agency or the commonwealth, where an
102 evaluation was completed for a state agency, shall indemnify the person who completed the
103 evaluation from all personal financial losses and expenses including, but not limited to, legal fees
104 and filing costs, if any, in an amount not to exceed \$1,000,000; provided, however, that no such
105 person shall be indemnified for losses other than legal fees and filing costs under this section if
106 that person is found by a court or a jury to have acted in a willful, wanton or reckless manner.

107 The awarding authority shall provide the designer or interior designer with a written preliminary
108 evaluation at the completion of the schematic phase of the project for informational purposes.

109 A public agency that fails to complete and submit the designer or interior designer evaluation
110 form, together with any written response by the designer or interior designer, to the division
111 within 70 days of the completion of a project shall be ineligible for receipt of public funds
112 disbursed by the commonwealth for the purposes of public building or public works projects.

113 SECTION 23. Said section 48 of said chapter 7C, as so inserted, is hereby further amended by
114 adding the following subsection:-

115 (h) Interior designers shall be eligible to compete as the prime consultant only for projects that
116 primarily involve construction or other work related to nonstructural interior elements of a
117 building or structure.

118 SECTION 24. Subsection (d) of section 49 of said chapter 7C, as so inserted, is hereby amended
119 by inserting after the word “designers”, the following words:- and interior designers.

120 SECTION 25. Subsection (e) of said section 49 of said chapter 7C, as so inserted, is hereby
121 further amended by inserting after the word “designer”, the following words:- or interior
122 designer.

123 SECTION 26. Section 50 of said chapter 7C, as so inserted, is hereby amended by inserting after
124 the word “designer”, each time it appears, the following words:- or interior designer.

125 SECTION 27. Said section 50 of said chapter 7C, as so inserted, is hereby further amended by
126 inserting after the word “designers”, the following words:- or interior designers.

127 SECTION 28. Said section 50 of said chapter 7C, as so inserted, is hereby further amended by
128 inserting after the word “designer’s”, each time it appears, the following words:- or interior
129 designer’s.

130 SECTION 29. Section 51 of said chapter 7C, as so inserted, is hereby amended by striking out
131 the words “designer or construction manager”, each time they appear, and inserting in place
132 thereof the following words:- designer, interior designer or construction manager.

133 SECTION 30. Subsection (b) of said section 51 of said chapter 7C, as so inserted, is hereby
134 amended by inserting after the words “If the designer’s” the following words:-, interior
135 designer’s.

136 SECTION 31. Clause (i) of said subsection (b) of said section 51 of said chapter 7C, as so
137 inserted, is hereby amended by inserting after the word “designer's” the following words:- or
138 interior designer’s.

139 SECTION 32. Clause (iii) of subsection (d) of said section 51 of said chapter 7C, as so inserted,
140 is hereby amended by inserting after the word “designer” the following words:- or interior
141 designer.

142 SECTION 33. Clause (iv) of said subsection (d) of said section 51 of said chapter 7C, as so
143 inserted, is hereby amended by inserting after the word “designer”, each time it appears, the
144 following words:- or interior designer.

145 SECTION 34. Subsection (e) of said section 51 of said chapter 7C, as so inserted, is hereby
146 amended by inserting after the word “designer”, each time it appears, the following words:- or
147 interior designer.

148 SECTION 35. Subsection (e) of said section 51 of said chapter 7C, as so inserted, is hereby
149 amended by striking out the third sentence and inserting in place thereof the following sentence:-
150 A designer or interior designer required by the public agency to obtain all or a portion of such
151 insurance coverage at the designer’s or interior designer’s own expense shall furnish a certificate
152 of insurance coverage to the public agency prior to the award of the contract.

153 SECTION 36. Subsection (f) of said section 51 of said chapter 7C, as so inserted, is hereby
154 amended by inserting after the word “ designer” the following words:-, interior designer.

155 SECTION 37. Subsection (g) of said section 51 of said chapter 7C, as so inserted, is hereby
156 amended by inserting after the word “designer” the following words:- or interior designer.

157 SECTION 38. Subsection (h) of said section 51 of said chapter 7C, as so inserted, is hereby
158 amended by inserting after the word “designer” the following words:- or interior designer.

159 SECTION 39. Said subsection (h) of said section 51 of said chapter 7C, as so inserted, is hereby
160 further amended by inserting after the word “designer's” the following words:- or interior
161 designer’s.

162 SECTION 40. Subsection (i) of said section 51 of said chapter 7C, as so inserted, is hereby
163 amended by striking out the words " or his consultants" and inserting in place thereof the
164 following words:-, interior designer or consultants hired by the designer or interior designer.

165 SECTION 41. Section 52 of said chapter 7C, as so inserted, is hereby amended by inserting after
166 the word “designer” each time it appears, the following words:- or interior designer.

167 SECTION 42. Subsection (a) of section 53 of said chapter 7C, as so inserted, is hereby amended
168 by inserting after the word “designer” the following words:-, interior designer.

169 SECTION 43. Section 54 of said chapter 7C, as so inserted, is hereby amended by striking out
170 the words “designer selection”, each time they appear, and inserting in place thereof the
171 following words:- designer and interior designer selection.

172 SECTION 44. Subsection (b) of said section 54 of said chapter 7C, as so inserted, is hereby
173 amended by inserting after the word “designer’s ” the following words:- or interior designer’s.

174 SECTION 45. Clause (iii) of section 55 of said chapter 7C, as so inserted, is hereby amended by
175 inserting after the word “designer” the following words:- or interior designer.