

Year-End Report



Exclusively for IDPC Clients

December 31, 2012

Patti Morrow, President
IDPC, 502 March Court, Greer SC 29651
pmorrow.idpc@gmail.com 603.7240135

TABLE OF CONTENTS

| | |
|--------------------------------------|----|
| Table of Contents | 2 |
| Executive Summary | 3 |
| Legislative Details | |
| Arizona | 4 |
| California | 4 |
| Colorado | 5 |
| Connecticut | 5 |
| Illinois | 5 |
| Louisiana | 6 |
| Maryland | 6 |
| Massachusetts | 6 |
| Michigan | 7 |
| Minnesota | 7 |
| Mississippi | 7 |
| New York | 8 |
| Oregon | 8 |
| Pennsylvania | 8 |
| South Carolina | 9 |
| Texas | 9 |
| Virginia | 10 |
| Washington | 10 |
| Canada | 10 |
| 2012 Legislative Summary Spreadsheet | 11 |
| Forecast | 12 |

EXECUTIVE SUMMARY

Successes

21 bills, drafts, and other efforts which would have in some way impacted the design community crossed my desk. As of December 31, 2012, 14 were defeated, derailed, or stalled in Committee.

Since I became involved in protecting the right to work of designers, dealers, suppliers and manufacturers in the design industry in 2007, nearly 150 efforts to expand or enact new regulations have been defeated. In the 35 years prior, bills were incrementally being enacted. One of the reasons for my success is that unlike my lobbying colleagues, I am not an attorney; I came into this issue from a design background and thus legislators are more eager to hear a first-hand account of how regulation would destroy jobs and add further burdens to an already struggling economy.

Defeats

No new practice acts or title acts passed in 2012.

A “minor” amendment passed in Connecticut (see Legislative Details), While this will have little or no impact on IDPC’s clients, these types of incremental bills still expand existing laws, providing a larger “camel’s nose under the tent” for the cartel to continue to increase their efforts to monopolize the entire industry.

Two bills to Sunset the Maryland title act were not successful.

Two bills to repeal the Virginia title act were not successful.

The Texas Sunset Advisory Commission staff proposed eliminating the Texas Interior Design Registration program. In the end the Commission amended the law but did not sunset it.

Opportunities

2012 saw three opportunities to repeal and/or sunset existing interior design laws in Virginia, Texas and Maryland. As we saw in Florida last year, it is very difficult to remove a law from the books once it’s been enacted. IDPC coalition letters are not enough in this venue – it takes a huge grassroots outcry to persuade politicians to take a stand.

More of these will come up in 2013; it is my opinion that a concentrated effort should be made to support any of these bills. If we succeed in removing even one law in this manner, it would

- (1) demoralize the pro-regulation cartel, and
- (2) create a model and motivation for other states to initiate similar actions.

LEGISLATIVE DETAILS

Arizona

In October of 2011, I was the guest speaker at two of the Institute for Justice's grassroots meetings to educate the interior design community about the impending interior design bill being drafted by IDCA (Interior Design Coalition of Arizona), one in Phoenix and one in Tucson. The meetings were very successful, and a new grassroots organization was formed, "AZ Design Freedom." IDCA had representatives at the Phoenix meeting; they were allowed to stay during the education portion and Q&A but were asked to leave before the grassroots strategy.

After attending our meeting, IDCA decided not to introduce their bill in 2012 as originally planned, but to hold their bill over until 2013 in order to try and gain more support from the design community and legislature. I am working with the Institute for Justice AZ Chapter monitoring any movement with the draft bill which is posted on the IDCA website.

California

California was the "new Florida" this year. A tremendous amount of effort was expended coordinating with my colleagues from the NKBA and AIA in that state to defeat AB2482, a practice act bill which would have established a new state board to license "registered interior designers" for commercial work. California is an important state to keep regulation-free as it has the largest number of individuals who offer interior design services.

In addition to keeping IDPC clients informed and providing materials for their members' participation in contacting the legislature and attend the hearings, I made several trips to California to:

- Speak at grassroots mobilization meetings
- Lobby Assembly Chair and Members on the licensing committee
- Lobby governor's cabinet secretary in charge of consumer affairs and protection
- Meet with NKBA and AIA lobbyists
- Meet with board members of the California Legislation for Interior Designers (CLCID)
- Meet with director of California Council for Interior Design Certification (CCIDC)
- Speak to interior design students at Santa Barbara Community College
- Testify at the hearing

After the first hearing in March, AB 2482 was amended twice due to the huge amount of opposition raised by IDPC, AIA, and NKBA, as well as the Building Inspectors and the Community College League.

In April, AB 2482 was withdrawn from Committee on the morning of the second hearing, right before it was to be heard by the Committee due to continued pressure.

In October, the pro-licensing coalition indicated they wanted to have a meeting with the stakeholders, but it never transpired. Few stakeholders expressed any interest in meeting because compromise legislation is not wanted.

Colorado

IDPC actively opposed Senate Bill 120, Interior Designers Plan Submission Bill, which would require construction code officials to receive and review construction plans from “interior designers” (defined as those who have passed the NCIDQ exam, completed 2-4 years of design education from an approved interior design program and have 2-4 years of full-time interior design experience). The bill died in Committee.

The Colorado Sunset Review was released on October 15th. They recommended no change in the Department of Regulatory Agencies (DORA) position that interior design licensing is unnecessary, which we supported.

I was notified in December that the Department of Regulatory Agencies (DORA) is currently seeking sponsors for new architects’ legislation. Unfortunately, the new architects’ legislation does not include an amendment to remove the interior design exemption, as had previously been discussed. The interior design licensing proponent’s lobbyists have been busy talking with new legislators and attending events so we suspect they will try to place their language in the bill again. DORA should be somewhat helpful in resisting that.

Connecticut

A bill was introduced to amend of Section 20-7771 of the General Statutes for the addition of “sign and seal” to existing definition for advertising of “registered interior designer” in spite of the fact that registered interior designers in CT do not have exclusive sign and seal privileges. At the request of AIA-CT, IDPC sent an opposition letter to Governor; AIA indicated that the bill would not move out of the legislature, but we were subsequently informed that the Governor signed the bill over objections of AIA, NKBA and IDPC.

Illinois

The Illinois Interior Design Coalition (IIDC) introduced a practice act during the 2011 legislative term. IDPC and NKBA put together a coalition of 13 other allied organizations to oppose the bill, and the bill was subsequently withdrawn from Committee. In 2012, IIDC contacted the opposition to discuss introduction of another bill in the state legislature. IDPC refused to attend their meeting and made it clear that there is no interest in crafting a bill that interferes with the right of IDPC’s clients to offer design services in Illinois, or which grants an unfair competitive advantage to the members of the IIDC. We requested a copy of what they were proposing, but never head back from them with either documentation or meeting requests.

Louisiana

A nice op-ed piece declaring that the interior licensing board is unneeded was published in The Advocate in July and received some attention. I forwarded the article to my colleague Clark Neily, Senior Attorney at the Institute for Justice to keep on file for any consideration of additional lawsuits.

In November I was contacted by the author of the above article who is working with a state senator to mount an effort to repeal the Louisiana practice act. They asked if I would testify if they could move it forward and I told them I would. I also gave them a lot of information regarding logistics and the type of work they would need to do for a successful repeal, which is difficult to do.

Maryland

H 74 and S 96 were introduced to sunset the existing interior design title law. After intense lobbying from the ASID proponents of the law, funding for the board passed and the title law was not sunset.

In an attempt to raise revenue to offset a projected \$1.1B budget deficit, the state introduced a sweeping overhaul of its sales and use tax law which would extend the state's 6% sales tax to the services of 29 additional businesses and professions, including interior design services. IDPC sent a letter opposing this bill. The proposal failed in Committee.

Massachusetts

Two bills were again been introduced: (1) SB 93 to establish the title of "Registered Interior Designer" and (2) SB 1634 to authorize "registered interior designers" to bid on state projects. IDPC objected to passage of these laws and met with legislators to ensure that the bills were not granted a hearing. The registration bill was sent for a "study" which is where it goes when a legislator doesn't want to take action on it. The bidding bill stalled in Committee.

In July, Senators Creem and Timilty filed an amendment to an existing economic development bill which added a requirement that would allow only designers with a "national certification" to bid on state contracts.

One problem with the bill is the definition of a "nationally recognized certification." More importantly though, no certification is currently needed to bid on state contracts, and to impose one would tie the hands of the bidding authority in selecting the most qualified designer for a project.

Secondly, it would not be a stretch to claim that the interior design cartel would then try to assert that the only "nationally" recognized state law for interior designers is the NCIDQ, which of course is not true. The NCIDQ has been adopted for practice regulation in only three states.

Also, not to be forgotten is the bait-and-switch scenario which happened in Massachusetts last year, where the bill sponsor waited until right before midnight

on the last day of session and added the NCIDQ requirement by voice on the Senate floor.

We worked the Senate hard and got the interior design amendment removed from the bill.

On December 3, MA S 1634, a new bidding bill was introduced. It would allow interior designers to bid and be prime contractors only if they have a “nationally recognized certification”. Same old, same old. I will continue to work with NKBA, NFIB, the Architects and the Retail Association to oppose it.

Michigan

A practice act (total of three separate bills) was introduced in September. Michigan is on a two-year legislative cycle, and any bills for the 2011-2012 session that are not signed by the governor by December 31, 2012 are dead. When the two-year cycle starts again on January 1 for the 2013-2014 session, a bill that was introduced in the previous cycle will get first draft priority. This was a smart move because they will get the maximum time (2 full years) to get the bill passed.

The two senators that sponsored the bills have been contacted and the objection points of IDPC/AIA/NKBA made. They were receptive to our arguments. It seemed clear that they sponsored these bills for a constituent and not because they felt strongly about the issue. There is a possibility that when the proponents contact them in January to reintroduce the bills they will tell them thanks, but no thanks.

I am working closely with my AIA lobbyist colleagues in Michigan to coordinate and mount our defense, should the bills be reintroduced.

Minnesota

The political upheaval of 2010 put Minnesota republicans in control of the Minnesota House and Senate for the first time in 40 years. As of the 2013 elections, and for the first time in 23 years, all three branches of government in Minnesota will be controlled by one party, in this case, the democrats again.

Representative Atkins, the incoming chair of the Commerce Committee, informed us on December 19th that that licensure advocates will be coming forward with a bill in 2013. They have the same lobbyist, Julie Perrus, who is drafting a bill and will be forwarding it to us as soon as it is ready. Senator Dibble, as in the past, will be carrying the bill in the Senate but the House author is still in question.

Mississippi

HB 330, a bill which would have provided a tax exemption only to “certified interior designers” was introduced. While IDPC supports the concept of a tax exemption, it should be given to everyone providing design services, not just the handful who would qualify under the title certification law enacted in 2011, and a letter was sent to the Committee members. The bill died in Committee.

New York

A 9132 was introduced which would allow NCIDQ-certified designers to form partnerships or joint enterprises with other licensed professionals such as architects and engineers. IDPC expressed its concern about limiting the applicability of the amendment to a small group of individuals – only 240 according to the Office of the Professions – while precluding more than 94% of the design community from the benefits of the bill. We supported the general goal of the bill, but opposed the limitation to only those who passed the NCIDQ. The bill stalled in Committee.

IDLNY held a town hall meeting on November 13th to garner support for another potential bill for 2013. They will likely try to add sign and seal to their current title law. I am monitoring the situation.

Oregon

The Interior Design Coalition of Oregon introduced SB 1521 to license the practice of interior design and prohibit “non-registered” designers from working in commercial spaces. IDPC worked with AIA and NKBA to oppose the bill.

I travelled to Oregon to:

- Meet with AIA lobbyist
- Lobby legislators
- Testify at the hearing
- Meet with members of FEDA and FCSI

IDPC client members from FEDA and FCSI were particularly active and effective in writing, calling and testifying. The bill died in Committee.

I received notice in December that bill OR D 1802 has been filed in draft. It's from the Senate Committee on Business and Transportation. It's a very restrictive practice act, just like the one we defeated this year.

Pennsylvania

A practice act was drafted and a sponsor found, but the bill was not introduced. This is likely due to our work behind the scenes (tip of the hat to AIA-PA) with the Committee Chair to convince her not to place the bill on the agenda.

In September, ASID and the Interior Design Coalition of Pennsylvania (IDLCPA) conducted joint town hall meetings in Philadelphia. In the past, here's what they objected to in the architect's law:

“Current PA laws (403.42a Permit Application) prohibit interior designers from practicing “licensed architect or licensed professional engineer shall prepare the construction documents under the Architects Licensure Law (63 P.S. § § 34.1—34.22), or the Engineer, Land Surveyor and Geologist Registration Law (63 P. S. § § 148— 158.2). An unlicensed person may prepare design documents for the remodeling or alteration of a building **if**

there is no compensation and the remodeling or alteration does not relate to additions to the building or changes to the building's structure or means of egress."

I have written an amendment to the law that would allow compensation therefore taking ASID/IDLCPA's argument away and am currently working to get support from the other stakeholders.

However, there is also some indication that IDLCPA may use the old IBC argument either instead of the above, or in conjunction with it. The IBC argument has been thoroughly debunked in the past, summarized in my short white paper several years ago.

South Carolina

HB 4073, a very restrictive practice act which would prohibit providing both residential and commercial design services in structures greater than 2 stories high or more than 5,000 sq. ft, unless you are licensed was prepared and presented by bill sponsor for introduction.

I made two trips to South Carolina to:

- Lobby legislators and/or staff
- Meet with lobbyists from NKBA and AIA to strategize
- Conduct education and mobilization meetings with designers

In addition to the meetings, IDPC clients' members were encouraged to contact the committee in opposition to the bill. Due to our opposition, the sponsor was considering amending the bill to a less-restrictive title act and shifting it to go under Consumer Protection. The session ended and neither version of the bill was introduced

In July, the pro-regulation group, the South Carolina Interior Design Coalition, sent an email to the entire legislature, requesting that they "join" their social media. I expect their reworked legislation to be reintroduced next year.

Texas

The Texas Sunset Advisory Commission held a public hearing on Monday, November 19th to consider the Staff recommendation to repeal the existing interior designer registration law and deregulate the profession. The Commission decided to allow the title act to continue, but amended the law so that those who were grandfathered instead of passing the NCIDQ will now have to take the exam.

It will be interesting to see how this impacts the state registration which brings in \$1 million in fees, since 84% of the registered designers were grandfathered. Many will not have the criteria necessary to sit for the exam, and others may not want to spend the \$2,000 to take the exam.

Virginia

The Governor sought legislation through HB 49 and SB 66 to streamline red tape and eliminate unnecessary licenses, including interior design regulations. IDPC submitted a letter in support of the Governor's initiative, and requested that the design community also send letters, but the existing registered interior designers were active earlier and more vocal, and the interior design deregulation provision was stripped out of the bill by the House Committee.

However, a new initiative was being formulated in late November for another push in 2013 to deregulate interior design.

Washington

Practice act bill HB 1788 was carried over from 2011 for the 2-year session. In 2011, I travelled to Washington to conduct a very large town hall meeting, and to lobby several members of the committee, including the chair, vice chair, and bill sponsor. We were very successful in persuading the most influential committee members that a practice act would harm designers and the economy, and subsequently the bill stalled in Committee in 2011 and was it able to re-ignite 2013 and died in Committee.

Canada

The Association of Registered Interior Designers of Ontario (ARIDO) is seeking the introduction of a Government sponsored Interior Design Practice Act to regulate the practice of interior design in Ontario. ARIDO is using the same bogus ASID arguments. Unfortunately, I don't lobby or work in Canada, but I will pass on information as it comes to me for benefit of your Canadian members and franchisees.

LEGISLATIVE SUMMARY

| INTERIOR DESIGN PROTECTION CONSULTING | | | |
|--|------------------------|--|--|
| <u>2012 Interior Design Legislation</u> | | | |
| Revised: 12.31.12 | | | |
| <u>State Bill</u> | <u>Type</u> | <u>Description</u> | <u>Introduced Status</u> |
| AZ | Title | Establish title regulation with sign and seal practice | Decided not to introduce until 2013 |
| CA | SB 2482 Practice | Establish practice restrictions | 02/24/12 Died in committee |
| CO | SB 120 Title | Amend architects law for "qualified" interior designers | 01/31/12 Died in committee |
| CT | HB 5307 Title | Amend definition to include "sign&seal" for advertising | Signed into law by Governor |
| IL | Practice | Licensure of Interior Designers | Proponents seeking "compromise" with opposition |
| MA | SB 93 Title | Certification of Interior Designers | 01/21/11 Sent to "study" -- stalled in Committee |
| MA | SB 1634 Bidding | Designates certified designers to bid on state contracts | 01/24/11 Stalled in Ways and Means |
| MA | Bidding | Attached to bill for economic development | Stripped out of bill |
| MD | H 74 Sunset | Sunset review to continue or remove law | 01/16/12 Board will be re-funded and not sunset |
| MD | S 96 Extension | Sunset review to continue or remove law | 01/16/12 Board and title law will be extended |
| MI | SB 1325 Practice | Establishes licensure for interior designers | 09/25/12 Stalled in Committee |
| MI | SB 1326 Practice | Amends construction code for licensed interior designers | 09/25/12 Stalled in Committee |
| MI | SB 1327 Practice | Enacts licensing fee for interior designers | 09/25/12 Stalled in Committee |
| NY | A 9132 Partnerships | Allows only licensed designers to form partnerships | 01/27/12 Stalled in Corporations, Authorities & Commissions Committee |
| MS | HB 330 Sales Tax | Exemption for Certified Interior Designers | 02/13/12 Died in committee |
| OK | H 2509 Amendment | Unauthorized practices | 01/20/12 Passed House, sent to Senate |
| OR | SB 1521 Practice | Licensure of Interior Designers | 02/01/12 Died in committee |
| PA | Practice | Licensure of Interior Designers | Rep. Maher to introduce |
| SC | HB 4073 Practice | Licensure of Interior Designers | 02/17/12 Died in committee |
| WA | HB 1768 Practice | Licensure of Interior Designers | 01/03/12 Died in committee |
| VA | HB 49 Repeal | Deregulates interior design | 01/10/12 Interior design stripped out of the bill |
| VA | SB 66 Repeal | Deregulates interior design | 01/10/12 Interior design stripped out of the bill |

Forecast

The recent elections have emboldened the proponents of licensing to reintroduce previous bills and are busy drafting new ones. I'm monitoring their meetings, as well as coordinating with my lobbyist colleagues.

Bills anticipated for 2013

- Arizona
- Colorado
- Illinois
- Massachusetts
- Michigan
- Minnesota
- New York
- Pennsylvania
- South Carolina
- Tennessee

2013 Lobbying

With decreased travel funds for 2013, my lobbying and testifying will likely be restricted to defeating practice acts/licensing bills.

Other actions

California

I'm also working closely with CCIDC (California Council for Interior Design Certification). California has a private, voluntary non-state funded, certification program that does not have a state board. IDPC supports this program because it does not require passage of the NCIDQ exam whose requirements are burdensome and unnecessary. Instead, CCIDC incorporates the IDEX, a state codes exam that anyone can study for and take, regardless of their education or other certifications. I worked with the Director of CCIDC on language changes which would strengthen the law against a future practice act challenge, and several of my suggested edits were written into their proposal to the legislature. Depending on travel budget, I may travel to California to testify at the Sunset hearing in March 2013.

Louisiana

There may be an effort to repeal the practice act. If the movement takes hold, I will assist in whatever they need, including testifying and meeting with Governor Jindal.