

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 699 CS Architecture, Landscape Architecture, and Interior Design
SPONSOR(S): Altman and others
TIED BILLS: IDEN./SIM. BILLS: SB 1608

Table with 4 columns: REFERENCE, ACTION, ANALYST, STAFF DIRECTOR. Row 1: Business Regulation Committee, 16 Y, 0 N, w/CS, Livingston, Liepshutz. Row 2: Commerce Council, 10 Y, 0 N, w/CS, Livingston, Bohannon. Rows 3-5 are empty.

SUMMARY ANALYSIS

Architects and interior designers are regulated by the Board of Architecture and Interior Design under the Department of Business and Professional Regulation (DBPR). Landscape architects are regulated by the Board of Landscape Architecture under the DBPR. The regulatory scheme for the three groups is similar. Practitioners must meet licensure requirements in order to legally practice their profession.

The bill expands the authority to practice architecture or interior design by licensees through a corporation or partnership to include limited liability companies. The bill corrects cross-references to include limited liability companies throughout this part.

The bill requires the qualifier of a corporation, partnership, or limited liability company to assure responsible supervising control of projects by specifying that

“Any registered architect or interior designer who qualifies the corporation, limited liability company, or partnership as provided in subsection (7) shall be responsible for ensuring responsible supervising control of projects of the entity.... “

The bill authorizes the Board of Architecture and Interior Design and the Board of Landscape Architecture to adopt rules to allow respective practitioners to electronically sign and seal plans and documents. The changes track current authorization language for engineers, surveyors, and mappers.

The bill authorizes the Board of Architecture and Interior Design to adopt rules to specify that an architect commits an act subject to disciplinary proceedings if the architect:

allows “the preparation of any architectural studies, plans, or other instruments of service in an office that does not have a full-time Florida registered architect assigned to such office” or

fails “to ensure the responsible supervising control of services or projects ...”

The bill does not appear to have a fiscal impact on state or local governments.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the House Principles.

#### B. EFFECT OF PROPOSED CHANGES:

##### Current situation

Current regulation of professions is carried out, in part, by licensing practitioners by the DBPR. Each profession is administered either directly by the DBPR or through a separately appointed board, council, or a commission. Regulation is intended to protect the public by ensuring that licensed professionals meet prescribed standards of education, competency, and practice. Chapter 455, F.S., provides general powers for the regulation of the areas of jurisdiction under the DBPR.

Part I of chapter 481, F.S., regulates architects and interior designers. Both professions are regulated by the Board of Architecture and Interior Design under the DBPR. Part II of chapter 481, F.S., regulates landscape architects by the Board of Landscape Architecture under the DBPR. Practitioners must meet licensure requirements in order to legally practice their profession. Architecture is performing services in connection with the design and construction of a structure having the principal purpose of human habitation or use. "Architect" or "registered architect" means a natural person who is licensed under this part to engage in the practice of architecture.

Interior design is defined to mean

designs, consultations, studies, drawings, specifications, and administration of design construction contracts relating to nonstructural interior elements of a building or structure. "Interior design" includes, but is not limited to, reflected ceiling plans, space planning, furnishings, and the fabrication of nonstructural elements within and surrounding interior spaces of buildings. "Interior design" specifically excludes the design of or the responsibility for architectural and engineering work, except for specification of fixtures and their location within interior spaces. As used in this subsection, "architectural and engineering interior construction relating to the building systems" includes, but is not limited to, construction of structural, mechanical, plumbing, heating, air-conditioning, ventilating, electrical, or vertical transportation systems, or construction which materially affects lifesafety systems pertaining to firesafety protection such as fire-rated separations between interior spaces, fire-rated vertical shafts in multistory structures, fire-rated protection of structural elements, smoke evacuation and compartmentalization, emergency ingress or egress systems, and emergency alarm systems.

"Registered interior designer" or "interior designer" means a natural person who is licensed under this part.

"Landscape architecture" means professional services, including, but not limited to, the following:

(a) Consultation, investigation, research, planning, design, preparation of drawings, specifications, contract documents and reports, responsible construction supervision, or landscape management in connection with the planning and development of land and incidental water areas, including the use of Xeriscape as defined in s. 373.185, where, and to the extent that, the dominant purpose of such services or creative works is the preservation, conservation, enhancement, or determination of proper land uses, natural land features, ground cover and plantings, or naturalistic and aesthetic values;

(b) The determination of settings, grounds, and approaches for and the siting of buildings and structures, outdoor areas, or other improvements;

(c) The setting of grades, shaping and contouring of land and water forms, determination of drainage, and provision for storm drainage and irrigation systems where such systems are necessary to the purposes outlined herein; and

(d) The design of such tangible objects and features as are necessary to the purpose outlined herein.

Section 481. 219, F.S., provides in part “The practice of or the offer to practice architecture or interior design by licensees through a corporation or partnership offering architectural or interior design services to the public, or by a corporation or partnership offering architectural or interior design services to the public through licensees under this part as agents, employees, officers, or partners, is permitted, subject to the provisions of this section.”

Currently, chapter 471, F.S. regulates the practice of engineering and chapter 472, F.S., regulates the practice of land surveying and mapping. For both professions, the statutes state that the boards shall prescribe, by rule, a form of seal to be used by practitioners. The use of electronic seals is specifically authorized. Seals for architects and landscape architects are required to be “an impression type metal seal” thus prohibiting the use of electronic seals for authenticating work products. Interior designers may use a seal as prescribed by the Board of Architecture and Interior Design. It would appear that the Board of Architecture and Interior Design could authorize the use of an electronic seal.

When the Board of Architecture and Interior Design finds any registered architect guilty of specified acts, it may enter an order imposing one or more of the following penalties:

(a) Denial of an application for licensure; (b) Revocation or suspension of a license; (c) Imposition of an administrative fine not to exceed \$1,000 for each count or separate offense and a fine of up to \$5,000 for matters pertaining to a material violation of the Florida Building Code as reported by a local jurisdiction; (d) Issuance of a reprimand.; (e) Placement of the registered architect on probation for a period of time and subject to such conditions as the board may specify, including requiring the registered architect to attend continuing education courses or to work under the supervision of another registered architect; or (f) Restriction of the authorized scope of practice by the registered architect.

#### Effect of proposed changes

The bill expands the authority to practice architecture or interior design by licensees through a corporation or partnership to include limited liability companies. The bill corrects cross-references to include limited liability companies throughout this part.

The bill requires the **qualifier** of a corporation, partnership, or limited liability company to assure responsible supervising control of projects by specifying that

“Any registered architect or interior designer who **qualifies** the corporation, limited liability company, or partnership as provided in subsection (7) shall be responsible for ensuring responsible supervising control of projects of the entity...”

The bill amends ss. 481.221 and 481.321, F.S., pertaining to the seals which are affixed to official documents, to allow for the use of electronic seals in addition to the traditional physical metal seals. The bill authorizes the Board of Architecture and Interior Design and the Board of Landscape Architecture to adopt rules to allow respective practitioners to electronically sign and seal plans and documents. The bill also specifies that after a certificate of registration has expired, the practitioner cannot legally use electronic seals. Once a seal has expired or been revoked or suspended, the

practitioner must surrender the seal to the executive director of the appropriate board and confirm to the executive director the cancellation of the electronic seal. The changes track current authorization language for engineers, surveyors, and mappers.

The bill authorizes the Board of Architecture and Interior Design to adopt rules to specify that an architect commits an act subject to disciplinary proceedings if the architect:

allows "the preparation of any architectural studies, plans, or other instruments of service in an office that does not have a full-time Florida registered architect assigned to such office" or

fails "to ensure the responsible supervising control of services or projects ..."

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fails "to ensure the responsible supervising control of services or projects"

#### C. SECTION DIRECTORY:

Section 1. Amends 481.219, F.S. to add limited liability companies to the list of entities that may be certified.

Section 2. Amends s.481.221, F.S., to authorize the Board of Architecture and Interior Design to adopt rules to allow respective practitioners to electronically sign and seal plans and documents.

Section 3. Amends 481.225, F.S. to impose sanctions against an architect for failing to properly supervise office operations.

Section 4. Amends 481.219, F.S. to add a reference to limited liability company.

Section 5. Amends s. 481.321, F.S., to authorize the Board of Landscape Architecture to adopt rules to allow landscape architects to electronically sign and seal plans and documents.

Section 6. Reenacts s. 481.325, F.S., to incorporate a reference thereto.

Section 7. Effective date - upon becoming a law.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:  
None anticipated.
2. Expenditures:  
None anticipated.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:  
None anticipated.

2. Expenditures:  
None anticipated.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Economic impact on the private sector is not anticipated to be significant.

D. FISCAL COMMENTS:

None.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, does not appear to reduce the authority that counties or municipalities have to raise revenue in the aggregate, and does not appear to reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill authorizes the Board of Architecture and Interior Design and the Board of Landscape Architecture to adopt rules to allow respective practitioners to electronically sign and seal plans and documents. The changes track current authorization language for engineers, surveyors, and mappers.

The bill authorizes the Board of Architecture and Interior Design to adopt rules to specify that an architect commits an act subject to disciplinary proceedings if the architect:

allows "the preparation of any architectural studies, plans, or other instruments of service in an office that does not have a full-time Florida registered architect assigned to such office" or

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C. DRAFTING ISSUES OR OTHER COMMENTS:

NA

### IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

The CS by Business Regulation Committee differs from the original bill as follows.

The CS revises the electronic seal language to provide certain guidelines under the rule authority of the board. The changes conform seal language in HB 213, as it relates to architects and Interior designers.

On April 6, 2005 the Commerce Council adopted three amendments and passed the bill as a CS.

Amendment 1 - allows landscape architects to use electronic seals, as is provided in the bill for architects and Interior designers.

Amendment 2 - is an amendment to amendment #1. It amends the title to reflect the addition of landscape architects to the provisions of the bill by way of amendment #1.

Amendment 3 - imposes disciplinary sanctions against an interior designer for failing to properly supervise office operations. Similar to language in the bill for architects.