SENATE DOCKET, NO. 240 FILED ON: 1/15/2013

SENATE . . . . . No. 1464

The Commonwealth of Massachusetts

PRESENTED BY:

Cynthia S. Creem

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying:

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

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Cynthia S. Creem	*First Middlesex and Norfolk*
Louis L. Kafka	*8th Norfolk*

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SENATE . . . . . No. 1464

By Ms. Creem, a petition (accompanied by bill, Senate, No. 1464) of Cynthia S. Creem and Louis L. Kafka for legislation to recognize the profession of interior designers to bid on state contracts. State Administration and Regulatory Oversight.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
SENATE
, NO. *2465* OF 2011-2012.]

The Commonwealth of Massachusetts

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:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

48 SECTION 12. Said clause (iii) of said subsection (d) of said section 46 of said chapter
49 7C, as so inserted, is hereby further amended by inserting after the words “any designer” the
50 following words:- or interior designer.

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

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

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

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

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

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

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

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

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

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

(g) The division of capital asset management and maintenance, in consultation with the board, shall develop a standard designer and interior designer evaluation form that shall be completed by every public agency, as defined in section 44A of chapter 149, upon completion of the work under a design contract under its control. The evaluation form shall be submitted to the division and the board for the designer’s or interior designer’s qualification file. The official from the public agency or the owner’s representative shall certify that the information contained

85 on the designer's or interior designer's evaluation form represents, to the best of the official's or
86 representative's knowledge, a true and accurate analysis of the designer's or interior designer's
87 performance record on the contract. The public agency shall mail a copy of the designer's or
88 interior designer's evaluation form to the designer or interior designer who may, within 30 days,
89 submit a written response to the division and board disputing any information contained in the
90 form and setting forth any additional information concerning the building project or the oversight
91 of the building construction contract by the public agency as may be relevant to the evaluation of
92 the designer's or interior designer's performance. The division and board shall attach such a
93 response to the evaluation form for inclusion in the designer's or interior designer's qualification
94 file. No public employee or public employer, as defined in section 1 of chapter 258, and no
95 person shall be liable for an injury or loss to a designer or interior designer as a result of the
96 completion of a designer or interior designer evaluation form as required by this section, unless
97 the individual completing the evaluation form has been found by a superior court of competent
98 jurisdiction to have acted in a willful, wanton or reckless manner. If a designer or interior
99 designer, seeking to recover damages resulting from injury caused by such an evaluation,
100 commences a suit against a person who has completed a designer or interior designer evaluation
101 form as required by this section, the public agency for whom the evaluation form was completed
102 or the commonwealth, if the evaluation was completed for a state agency, shall provide for the
103 legal representation of that person. The public agency or the commonwealth, where an
104 evaluation was completed for a state agency, shall indemnify the person who completed the
105 evaluation from all personal financial losses and expenses including, but not limited to, legal fees
106 and filing costs, if any, in an amount not to exceed $1,000,000; provided, however, that no such
107 person shall be indemnified for losses other than legal fees and filing costs under this section if
108 that person is found by a court or a jury to have acted in a willful, wanton or reckless manner.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

153 SECTION 35. Subsection (e) of said section 51 of said chapter 7C, as so inserted, is
154 hereby amended by striking out the third sentence and inserting in place thereof the following
155 sentence:- A designer or interior designer required by the public agency to obtain all or a portion

156 of such insurance coverage at the designer's or interior designer's own expense shall furnish a
157 certificate of insurance coverage to the public agency prior to the award of the contract.

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

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

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

166 SECTION 39. Said subsection (h) of said section 51 of said chapter 7C, as so inserted, is
167 hereby further amended by inserting after the word "designer's" the following words:- or interior
168 designer's.

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

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

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

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

180 SECTION 44. Subsection (b) of said section 54 of said chapter 7C, as so inserted, is
181 hereby amended by inserting after the word "designer's " the following words:- or interior
182 designer's.

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