

**Representative Fred C. Cox** proposes the following substitute bill:

**DESIGN PROFESSIONALS - AMENDMENTS**

2015 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Fred C. Cox**

Senate Sponsor: \_\_\_\_\_

**LONG TITLE**

**General Description:**

This bill modifies the Division of Occupational and Professional Licensing Act.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ creates a professional license for the practice of interior design;
- ▶ describes the practice of interior design;
- ▶ creates an Interior Designer Licensing Board; and
- ▶ describes the requirements to obtain an interior design license.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

**ENACTS:**

**58-85-101**, Utah Code Annotated 1953

**58-85-102**, Utah Code Annotated 1953

**58-85-103**, Utah Code Annotated 1953



- 26 [58-85-201](#), Utah Code Annotated 1953
- 27 [58-85-301](#), Utah Code Annotated 1953
- 28 [58-85-302](#), Utah Code Annotated 1953
- 29 [58-85-303](#), Utah Code Annotated 1953
- 30 [58-85-304](#), Utah Code Annotated 1953
- 31 [58-85-305](#), Utah Code Annotated 1953
- 32 [58-85-401](#), Utah Code Annotated 1953
- 33 [58-85-501](#), Utah Code Annotated 1953
- 34 [58-85-502](#), Utah Code Annotated 1953
- 35 [58-85-601](#), Utah Code Annotated 1953



37 *Be it enacted by the Legislature of the state of Utah:*

38 Section 1. Section **58-85-101** is enacted to read:

39 **CHAPTER 85. INTERIOR DESIGNER LICENSING ACT**

40 **Part 1. General Provisions.**

41 **58-85-101. Title and scope.**

42 (1) This chapter is known as the "Interior Designer Licensing Act."

43 (2) Except for those practices specifically described in the definition of practice of  
44 interior design in Section [58-85-102](#), this chapter does not require that a person obtain an  
45 interior designer license to engage in an activity traditionally performed by an interior designer  
46 or other design professional.

47 (3) This chapter does not limit the scope of practice of a person licensed to practice:

48 (a) architecture under Title 58, Chapter 3a, Architects Licensing Act; or

49 (b) professional engineering under Title 58, Chapter 22, Professional Engineers and  
50 Professional Land Surveyors Licensing Act.

51 Section 2. Section **58-85-102** is enacted to read:

52 **58-85-102. Definitions.**

53 In addition to the definitions in Section [58-1-102](#), as used in this chapter:

54 (1) "Board" means the Interior Designer Licensing Board created in Section [58-85-201](#).

55 (2) "Building" means an enclosed structure, including the structural, mechanical, and  
56 electrical systems, utility services, and other facilities required for the structure, that has human

57 occupancy or habitation as its principal purpose and is subject to the State Construction Code  
58 or an approved code under Title 15A, State Construction and Fire Codes Act.

59 (3) (a) "Practice of interior design" means, in relation to obtaining a building permit  
60 independent of an architect licensed under Title 58, Chapter 3a, Architects Licensing Act, the  
61 preparation of a plan or specification for, or supervising the alteration of or repair to, an interior  
62 space within a new or existing building if structural elements of the building are not going to  
63 be changed, including:

64 (i) foundations, beams, and columns; and

65 (ii) structural slabs, floor and roof structures, bearing and shear walls, and trusses.

66 (b) "Practice of interior design" only includes the preparation of a plan or specification  
67 for, or supervising the alteration of or repair to, a building to be used for the following  
68 occupancy groups as described in the edition of the International Building Code, issued by the  
69 International Code Council, most recently adopted by the state in Section [15A-2-103](#):

70 (i) [A-2](#) and [A-3](#);

71 (ii) [B](#);

72 (iii) [I-1](#);

73 (iv) [M](#); and

74 (v) [R-1](#), [R-2](#), [R-3](#), and [R-4](#).

75 (c) "Practice of interior design" does not include providing commercial construction  
76 documents, independent of a licensed architect, for a space that:

77 (i) does not already have base building life-safety components installed or designed,  
78 including required exit stairs and enclosures, ramps, horizontal exit passageways, and base fire  
79 suppression systems; or

80 (ii) is undergoing a change of occupancy.

81 (4) "Unlawful conduct" means the same as that term is defined in Sections [58-1-501](#)  
82 and [58-85-501](#).

83 Section 3. Section **58-85-103** is enacted to read:

84 **58-85-103. Rulemaking.**

85 When exercising rulemaking authority under this chapter, the division shall collaborate  
86 with the board and comply with the requirements of Title 63G, Chapter 3, Utah Administrative  
87 Rulemaking Act.

88 Section 4. Section **58-85-201** is enacted to read:

89 **Part 2. Board**

90 **58-85-201. Board.**

91 (1) There is created the Interior Designer Licensing Board consisting of three licensed  
92 interior designers, one building official, and one member of the general public.

93 (2) The board shall be appointed and serve in accordance with Section [58-1-201](#).

94 (3) The duties and responsibilities of the board shall designate one of its members on a  
95 permanent or rotating basis to:

96 (a) assist the division in reviewing complaints concerning the unlawful or  
97 unprofessional conduct of a licensee; and

98 (b) advise the division in its investigation of these complaints.

99 (4) A board member who has, under Subsection (3), reviewed a complaint or advised  
100 in its investigation may be disqualified from participating with the board when the board serves  
101 as a presiding officer in an adjudicative proceeding concerning the complaint.

102 Section 5. Section **58-85-301** is enacted to read:

103 **Part 3. Licensing**

104 **58-85-301. Licensure required -- License classification.**

105 (1) A license is required to engage in the practice of interior design except as  
106 specifically provided in Section [58-85-305](#) or [58-1-307](#).

107 (2) The division shall issue a license to a person who qualifies under this chapter to  
108 engage in the practice of interior design as a licensed interior designer.

109 Section 6. Section **58-85-302** is enacted to read:

110 **58-85-302. Qualifications for licensure.**

111 Each applicant for licensure as an interior designer shall:

112 (1) submit an application in a form prescribed by the division;

113 (2) pay a fee determined by the department under Section [63J-1-504](#); and

114 (3) provide satisfactory evidence of:

115 (a) good moral character; and

116 (b) current certification in good standing from the National Council for Interior Design  
117 Qualification, or an equivalent body as determined by division rule.

118 Section 7. Section **58-85-303** is enacted to read:

119 **58-85-303. Term of license -- Expiration -- Renewal.**

120 (1) (a) The division shall issue each license under this chapter in accordance with a  
121 two-year renewal cycle established by rule.

122 (b) The division may by rule extend or shorten a renewal period by as much as one year  
123 to stagger the renewal cycles it administers.

124 (2) At the time of renewal, the licensee shall:

125 (a) submit an application in a form prescribed by the division;

126 (b) pay a fee determined by the department under Section [63J-1-504](#); and

127 (c) provide satisfactory evidence of:

128 (i) completion of continuing education as required under Section [58-53-304](#); and

129 (ii) current certification in good standing from the National Council for Interior Design  
130 Qualification, or an equivalent body as determined by division rule.

131 (3) If the certification from the National Council for Interior Design Qualification, or  
132 an equivalent body as determined by division rule, of a person licensed under this chapter is  
133 suspended, placed on probation, revoked, or expires for any reason, the person shall:

134 (a) suspend representing to others that the person is a licensed interior designer; and

135 (b) inform the division within two weeks of the suspension, probation, revocation, or  
136 expiration of the certification.

137 (4) When the division is informed that a licensed interior designer's certification has  
138 been suspended, put on probation, revoked, or expired as described in Subsection (3), that  
139 person's license shall be revoked and may not be reinstated unless the person meets the  
140 requirements and again applies for a license as described in Section [58-53-302](#).

141 (5) Each license automatically expires on the expiration date shown on the license  
142 unless the licensee renews it in accordance with Section [58-1-308](#).

143 Section 8. Section **58-85-304** is enacted to read:

144 **58-85-304. Continuing education.**

145 (1) As a condition of renewal of a license under this chapter, each licensee shall, during  
146 each two-year licensure cycle or other cycle defined by division rule, complete continuing  
147 professional education in accordance with standards defined by division rule.

148 (2) If a renewal period is extended or shortened under Section [58-53-303](#), the division  
149 shall proportionately increase or decrease the continuing education hours required for licensure

150 renewal under this section.

151 Section 9. Section **58-85-305** is enacted to read:

152 **58-85-305. Exemptions from licensure.**

153 In addition to the exemptions from licensure in Section [58-1-307](#), the following may  
154 engage in the stated acts or practices without being licensed under this chapter:

155 (1) a person licensed to practice architecture under Title 58, Chapter 3a, Architects  
156 Licensing Act, practicing architecture or performing architecture acts or interior design;

157 (2) a person providing permit drawings if allowed under Section [58-3a-304](#) or  
158 [58-22-305](#); and

159 (3) a person providing construction related documents not required for a building  
160 permit.

161 Section 10. Section **58-85-401** is enacted to read:

162 **Part 4. License Denial and Discipline**

163 **58-85-401. Grounds for denial of license -- Disciplinary proceedings.**

164 Grounds for refusing to issue a license to an applicant, for refusing to renew the license  
165 of a licensee, for revoking, suspending, restricting, or placing on probation the license of a  
166 licensee, for issuing a public or private reprimand to a licensee, and for issuing a cease and  
167 desist order shall be in accordance with Section [58-1-401](#).

168 Section 11. Section **58-85-501** is enacted to read:

169 **Part 5. Unlawful and Unprofessional Conduct -- Penalties.**

170 **58-85-501. Unlawful conduct.**

171 "Unlawful conduct" includes:

172 (1) using the title "licensed interior designer" if the person has not been licensed under  
173 this chapter; or

174 (2) engaging in the practice of interior design unless exempted from licensure under  
175 Section [58-1-307](#) or [58-85-305](#).

176 Section 12. Section **58-85-502** is enacted to read:

177 **58-85-502. Penalty for unlawful conduct.**

178 (1) (a) If upon inspection or investigation the division concludes that a person has  
179 violated Subsections [58-1-501](#)(1)(a) through (d) or Section [58-85-501](#) or a rule or order issued  
180 with respect to Section [58-85-501](#), and that disciplinary action is appropriate, the director or the

181 director's designee shall promptly issue a citation to the person according to this chapter and  
182 any pertinent rules, attempt to negotiate a stipulated settlement, or notify the person to appear  
183 before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative  
184 Procedures Act.

185 (i) A person who violates Subsections 58-1-501(1)(a) through (d) or Section 58-85-501  
186 or a rule or order issued with respect to Section 58-85-501, as evidenced by an uncontested  
187 citation, a stipulated settlement, or by a finding of violation in an adjudicative proceeding, may  
188 be assessed a fine pursuant to this Subsection (1) and may, in addition to or in lieu of the fine,  
189 be ordered to cease and desist from violating Subsections 58-1-501(1)(a) through (d) or Section  
190 58-85-501 or any rule or order issued with respect to Section 58-85-501.

191 (ii) Except for a cease and desist order, the licensure sanctions cited in Section  
192 58-85-401 may not be assessed through a citation.

193 (b) A citation shall:

194 (i) be in writing;

195 (ii) describe with particularity the nature of the violation, including a reference to the  
196 provision of the chapter, rule, or order alleged to have been violated;

197 (iii) clearly state that the recipient must notify the division in writing within 20  
198 calendar days of service of the citation if the recipient wishes to contest the citation at a hearing  
199 conducted under Title 63G, Chapter 4, Administrative Procedures Act; and

200 (iv) clearly explain the consequences of failure to timely contest the citation or to make  
201 payment of any fines assessed by the citation within the time specified in the citation.

202 (c) The division may issue a notice in lieu of a citation.

203 (d) Each citation issued under this section, or a copy of each citation, may be served  
204 upon a person upon whom a summons may be served in accordance with the Utah Rules of  
205 Civil Procedure and may be made personally or upon the person's agent by a division  
206 investigator or by a person specially designated by the director or by mail.

207 (e) (i) If within 20 calendar days from the service of the citation the person to whom  
208 the citation was issued fails to request a hearing to contest the citation, the citation becomes the  
209 final order of the division and is not subject to further agency review.

210 (ii) The period to contest a citation may be extended by the division for cause.

211 (f) The division may refuse to issue or renew, suspend, revoke, or place on probation

212 the license of a licensee who fails to comply with a citation after it becomes final.

213 (g) The failure of an applicant for licensure to comply with a citation after it becomes  
214 final is a ground for denial of a license.

215 (h) No citation may be issued under this section after the expiration of six months  
216 following the occurrence of a violation.

217 (i) The director or the director's designee shall assess fines according to the following:

218 (i) for a first offense handled pursuant to Subsection (1)(a), a fine of up to \$1,000;

219 (ii) for a second offense handled pursuant to Subsection (1)(a), a fine of up to \$2,000;

220 and

221 (iii) for any subsequent offense handled pursuant to Subsection (1)(a), a fine of up to  
222 \$2,000 for each day of continued offense.

223 (2) An action initiated for a first or second offense that has not yet resulted in a final  
224 order of the division does not preclude initiation of a subsequent action for a second or  
225 subsequent offense during the pendency of a preceding action.

226 (3) (a) A penalty that is not paid may be collected by the director by either referring the  
227 matter to a collection agency or by bringing an action in the district court of the county in  
228 which the person against whom the penalty is imposed resides or in the county where the office  
229 of the director is located.

230 (b) A county attorney or the attorney general of the state shall provide legal assistance  
231 and advice to the director in an action to collect the penalty.

232 (c) In an action brought to enforce the provisions of this section, reasonable attorney  
233 fees and costs shall be awarded to the division.

234 Section 13. Section **58-85-601** is enacted to read:

235 **Part 6. License Number and Signature**

236 **58-85-601. License number and signature.**

237 (1) The division shall provide each licensed interior designer with a license number.

238 (2) A final plan or specification for the interior of a new or existing building that is  
239 prepared by or under the supervision of a licensed interior designer shall bear the signature and  
240 the license number of the licensed interior designer when submitted to a client or when  
241 submitted to a building official for the purpose of obtaining a building permit.

242 (3) A licensed interior designer may only include the designer's signature and license



243 number on a final plan or specification that is within the scope of practice of interior design  
244 when the plan or specification:  
245 (a) was personally prepared by the licensed interior designer; or  
246 (b) was prepared by an employee, subordinate, associate, or drafter under the  
247 supervision of the licensed interior designer and the qualified interior designer assumes  
248 responsibility for the plan or specification.