

HB0126S01 compared with HB0126

~~deleted text~~ shows text that was in HB0126 but was deleted in HB0126S01.

inserted text shows text that was not in HB0126 but was inserted into HB0126S01.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

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:

HB0126S01 compared with HB0126

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

58-85-201, Utah Code Annotated 1953

58-85-301, Utah Code Annotated 1953

58-85-302, Utah Code Annotated 1953

58-85-303, Utah Code Annotated 1953

58-85-304, Utah Code Annotated 1953

58-85-305, Utah Code Annotated 1953

58-85-401, Utah Code Annotated 1953

58-85-501, Utah Code Annotated 1953

58-85-502, Utah Code Annotated 1953

58-85-601, Utah Code Annotated 1953

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

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

CHAPTER 85. INTERIOR DESIGNER LICENSING ACT

Part 1. General Provisions.

58-85-101. Title and scope.

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

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

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

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

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

HB0126S01 compared with HB0126

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

58-85-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

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

(2) "Building" means ~~fa~~~~an enclosed~~ structure, including the structural, mechanical, and electrical systems, utility services, and other facilities required for the structure, that has human occupancy or habitation as its principal purpose and is subject to the State Construction Code or an approved code under Title 15A, State Construction and Fire Codes Act.

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

(i) foundations, beams, and columns; and

(ii) structural slabs, ~~fjoists~~~~;~~floor and roof structures, bearing and shear walls, and trusses.

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

(i) A-2 and A-3;

(ii) B;

(iii) I-1;

(iv) M; and

(v) R-1, R-2, R-3, and R-4.

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

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

(ii) is undergoing a change of occupancy.

HB0126S01 compared with HB0126

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

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

58-85-103. Rulemaking.

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

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

Part 2. Board

58-85-201. Board.

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

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

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

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

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

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

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

Part 3. Licensing

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

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

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

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

58-85-302. Qualifications for licensure.

Each applicant for licensure as an interior designer shall:

HB0126S01 compared with HB0126

- (1) submit an application in a form prescribed by the division;
- (2) pay a fee determined by the department under Section 63J-1-504; and
- (3) provide satisfactory evidence of:
 - (a) good moral character; and
 - (b) current certification in good standing from the National Council for Interior Design

Qualification, or an equivalent body as determined by division rule.

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

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

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

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

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

- (a) submit an application in a form prescribed by the division;
- (b) pay a fee determined by the department under Section 63J-1-504; and
- (c) provide satisfactory evidence of:
 - (i) completion of continuing education as required under Section 58-53-304; and
 - (ii) current certification in good standing from the National Council for Interior Design

Qualification, or an equivalent body as determined by division rule.

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

- (a) suspend representing to others that the person is a licensed interior designer; and
- (b) inform the division within two weeks of the suspension, probation, revocation, or expiration of the certification.

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

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

HB0126S01 compared with HB0126

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

58-85-304. Continuing education.

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

(2) If a renewal period is extended or shortened under Section 58-53-303, the division shall proportionately increase or decrease the continuing education hours required for licensure renewal under this section.

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

58-85-305. Exemptions from licensure.

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

(1) a person licensed to practice architecture under Title 58, Chapter 3a, Architects Licensing Act, practicing architecture or performing architecture acts or interior design~~{ that does not exceed the scope of the education and training of the person performing interior design}; { and}~~

(2) a person providing permit drawings ~~if allowed under Section 58-3a-304 or {other} 58-22-305; and~~

(3) a person providing ~~construction related documents not required for a building permit~~~~{ if allowed under Section 58-3a-304 or 58-22-305}.~~

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

Part 4. License Denial and Discipline

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

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

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

Part 5. Unlawful and Unprofessional Conduct -- Penalties.

58-85-501. Unlawful conduct.

"Unlawful conduct" includes:

HB0126S01 compared with HB0126

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

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

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

58-85-502. Penalty for unlawful conduct.

(1) (a) If upon inspection or investigation the division concludes that a person has violated Subsections 58-1-501(1)(a) through (d) or Section 58-85-501 or a rule or order issued with respect to Section 58-85-501, and that disciplinary action is appropriate, the director or the director's designee shall promptly issue a citation to the person according to this chapter and any pertinent rules, attempt to negotiate a stipulated settlement, or notify the person to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

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

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

(b) A citation shall:

(i) be in writing;

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

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

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

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

HB0126S01 compared with HB0126

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

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

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

(f) The division may refuse to issue or renew, suspend, revoke, or place on probation the license of a licensee who fails to comply with a citation after it becomes final.

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

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

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

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

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

and

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

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

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

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

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

HB0126S01 compared with HB0126

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

Part 6. License Number and Signature

58-85-601. License number and signature.

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

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

(3) A licensed interior designer may only include the designer's signature and license number on a final plan or specification that is within the scope of practice of interior design when the plan or specification:

(a) was personally prepared by the licensed interior designer; or

(b) was prepared by an employee, subordinate, associate, or drafter under the supervision of the licensed interior designer and the qualified interior designer assumes responsibility for the plan or specification.

†

Legislative Review Note

~~as of 1-13-15 8:40 AM~~

~~Office of Legislative Research and General Counsel}~~