

**DESIGN PROFESSIONALS - AMENDMENTS**

2015 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Fred C. Cox**

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

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**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
- 58-85-201**, Utah Code Annotated 1953
- 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

*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.

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 a 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.



90 interior designers and one member of the general public.

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

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

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

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

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

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

101 **Part 3. Licensing**

102 **58-85-301. Licensure required -- License classification.**

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

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

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

108 **58-85-302. Qualifications for licensure.**

109 Each applicant for licensure as an interior designer shall:

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

111 (2) pay a fee determined by the department under Section 63J-1-504; and

112 (3) provide satisfactory evidence of:

113 (a) good moral character; and

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

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

117 **58-85-303. Term of license -- Expiration -- Renewal.**

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

120 (b) The division may by rule extend or shorten a renewal period by as much as one year

121 to stagger the renewal cycles it administers.

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

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

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

125 (c) provide satisfactory evidence of:

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

127 (ii) current certification in good standing from the National Council for Interior Design

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

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

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

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

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

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

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

142 **58-85-304. Continuing education.**

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

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

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

150 **58-85-305. Exemptions from licensure.**

151 In addition to the exemptions from licensure in Section [58-1-307](#), the following may

152 engage in the stated acts or practices without being licensed under this chapter:

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

157 (2) a person providing permit drawings or other construction related documents not  
158 required for a building permit if allowed under Section [58-3a-304](#) or [58-22-305](#).

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

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

161 **58-85-401. Grounds for denial of license -- Disciplinary proceedings.**

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

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

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

168 **58-85-501. Unlawful conduct.**

169 "Unlawful conduct" includes:

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

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

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

175 **58-85-502. Penalty for unlawful conduct.**

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

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

189 (ii) Except for a cease and desist order, the licensure sanctions cited in Section  
190 58-85-401 may not be assessed through a citation.

191 (b) A citation shall:

192 (i) be in writing;

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

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

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

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

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

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

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

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

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

213 (h) No citation may be issued under this section after the expiration of six months

214 following the occurrence of a violation.

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

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

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

218 and

219 (iii) for any subsequent offense handled pursuant to Subsection (1)(a), a fine of up to

220 \$2,000 for each day of continued offense.

221 (2) An action initiated for a first or second offense that has not yet resulted in a final

222 order of the division does not preclude initiation of a subsequent action for a second or

223 subsequent offense during the pendency of a preceding action.

224 (3) (a) A penalty that is not paid may be collected by the director by either referring the

225 matter to a collection agency or by bringing an action in the district court of the county in

226 which the person against whom the penalty is imposed resides or in the county where the office

227 of the director is located.

228 (b) A county attorney or the attorney general of the state shall provide legal assistance

229 and advice to the director in an action to collect the penalty.

230 (c) In an action brought to enforce the provisions of this section, reasonable attorney

231 fees and costs shall be awarded to the division.

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

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

234 **58-85-601. License number and signature.**

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

236 (2) A final plan or specification for the interior of a new or existing building that is

237 prepared by or under the supervision of a licensed interior designer shall bear the signature and

238 the license number of the licensed interior designer when submitted to a client or when

239 submitted to a building official for the purpose of obtaining a building permit.

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

241 number on a final plan or specification that is within the scope of practice of interior design

242 when the plan or specification:

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

244 (b) was prepared by an employee, subordinate, associate, or drafter under the



245 supervision of the licensed interior designer and the qualified interior designer assumes  
246 responsibility for the plan or specification.

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**Legislative Review Note**  
as of 1-13-15 8:40 AM

**Office of Legislative Research and General Counsel**