

Representative Brian M. Greene 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 state certification for the practice of interior design;
- ▶ describes the practice of interior design;
- ▶ describes the requirements to obtain state certification as a state certified interior designer; and
- ▶ provides a sunset date.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-258, as last amended by Laws of Utah 2014, Chapters 25, 72, and 181

ENACTS:



- 26 [58-85-101](#), Utah Code Annotated 1953
- 27 [58-85-102](#), Utah Code Annotated 1953
- 28 [58-85-103](#), Utah Code Annotated 1953
- 29 [58-85-201](#), Utah Code Annotated 1953
- 30 [58-85-202](#), Utah Code Annotated 1953
- 31 [58-85-203](#), Utah Code Annotated 1953
- 32 [58-85-204](#), Utah Code Annotated 1953
- 33 [58-85-205](#), Utah Code Annotated 1953
- 34 [58-85-206](#), Utah Code Annotated 1953
- 35 [58-85-301](#), Utah Code Annotated 1953
- 36 [58-85-302](#), Utah Code Annotated 1953
- 37 [58-85-401](#), Utah Code Annotated 1953

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

40 Section 1. Section [58-85-101](#) is enacted to read:

41 **CHAPTER 85. STATE CERTIFICATION OF INTERIOR DESIGNERS ACT**

42 **Part 1. General Provisions**

43 **58-85-101. Title and scope.**

44 (1) This chapter is known as the "State Certification of Interior Designers Act."

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

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

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

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

53 Section 2. Section [58-85-102](#) is enacted to read:

54 **58-85-102. Definitions.**

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

56 (1) "Building" means an enclosed structure, including the structural, mechanical, and

57 electrical systems, utility services, and other facilities required for the structure, that has human
58 occupancy or habitation as its principal purpose and is subject to the State Construction Code
59 or an approved code under Title 15A, State Construction and Fire Codes Act.

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

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

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

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

71 (i) A-2 and A-3;

72 (ii) B;

73 (iii) I-1;

74 (iv) M; and

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

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

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

81 (ii) is undergoing a change of occupancy.

82 (3) "State certification" means a designation granted by the division on behalf of the
83 state to an individual who has met the requirements for state certification related to an
84 occupation or profession described in this chapter.

85 (4) "State certified" means, when used in conjunction with an occupation or profession
86 described in this chapter, a title that:

87 (a) may be used by a person who has met the state certification requirements related to

88 that occupation or profession described in this chapter; and

89 (b) may not be used by a person who has not met the state certification requirements
90 related to that occupation or profession described in this chapter.

91 (5) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501
92 and 58-85-301.

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

94 **58-85-103. Rulemaking.**

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

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

98 **Part 2. State Certification**

99 **58-85-201. State certification required -- Classification.**

100 (1) State certification is required to engage in the practice of interior design except as
101 specifically provided in Section 58-1-307 or 58-85-206.

102 (2) The division shall grant state certification to a person who qualifies under this
103 chapter to engage in the practice of interior design as a state certified interior designer.

104 Section 5. Section 58-85-202 is enacted to read:

105 **58-85-202. Qualifications for state certification.**

106 Each applicant for state certification as a state certified interior designer shall:

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

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

109 (3) provide satisfactory evidence of:

110 (a) good moral character; and

111 (b) having qualified to take and having passed the examination of the National Council
112 for Interior Design Qualification, or an equivalent body as determined by division rule.

113 Section 6. Section 58-85-203 is enacted to read:

114 **58-85-203. Term of state certification -- Expiration -- Renewal.**

115 (1) (a) The division shall grant state certification under this chapter in accordance with
116 a two-year renewal cycle established by rule.

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

119 (2) At the time of renewal, an applicant for renewal shall:
120 (a) submit an application in a form prescribed by the division;
121 (b) pay a fee determined by the department under Section [63J-1-504](#); and
122 (c) provide satisfactory evidence of having completed the continuing education
123 requirements described in Section [58-85-204](#).

124 Section 7. Section **58-85-204** is enacted to read:

125 **58-85-204. Continuing Education.**

126 (1) As a condition for the renewal of state certification under this chapter, a state
127 certified interior designer, during each two-year state certification cycle, shall complete 20
128 hours of continuing education that is offered or approved by the Interior Design Continuing
129 Education Council, or another entity as determined by division rule.

130 (2) At least 10 of the continuing education hours described in Subsection (1) shall
131 primarily emphasize health and safety.

132 (3) If a renewal cycle is extended or shortened under Section [58-85-203](#), the continuing
133 education hours required for renewal under this section shall be increased or decreased
134 proportionally.

135 Section 8. Section **58-85-205** is enacted to read:

136 **58-85-205. Grounds for denial of state certification -- Disciplinary proceedings.**

137 Grounds for refusing to issue state certification to an applicant, for refusing to renew
138 state certification to an applicant, for revoking, suspending, restricting, or placing on probation
139 the state certification of an individual certified under this chapter, for issuing a public or private
140 reprimand to an individual certified under this chapter, and for issuing a cease and desist order
141 shall be in accordance with Section [58-1-401](#).

142 Section 9. Section **58-85-206** is enacted to read:

143 **58-85-206. Exemptions from state certification.**

144 In addition to the exemptions from licensure in Section [58-1-307](#), the following may
145 engage in the stated acts or practices without being a state certified interior designer under this
146 chapter:

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

149 (2) a person providing permit drawings if allowed under Section [58-3a-304](#) or

150 58-22-305; and

151 (3) a person providing construction related documents not required for a building
152 permit.

153 Section 10. Section **58-85-301** is enacted to read:

154 **Part 3. Unlawful Conduct**

155 **58-85-301. Unlawful conduct.**

156 "Unlawful conduct" includes:

157 (1) using the title "state certified interior designer" if the person is not a state certified
158 interior designer in good standing under this chapter; or

159 (2) engaging in the practice of interior design unless exempted from licensure or state
160 certification under Section 58-1-307 or 58-85-206.

161 Section 11. Section **58-85-302** is enacted to read:

162 **58-85-302. Penalty for unlawful conduct.**

163 (1) If upon inspection or investigation the division concludes that a person has violated
164 Subsections 58-1-501(1)(a) through (d), Section 58-85-301, or a rule or order issued with
165 respect to Section 58-85-301, and that disciplinary action is appropriate, the director or the
166 director's designee may:

167 (a) issue a citation to the person according to this chapter and any pertinent rules;

168 (b) attempt to negotiate a stipulated settlement; or

169 (c) notify the person to appear before an adjudicative proceeding conducted under Title
170 63G, Chapter 4, Administrative Procedures Act.

171 (2) A person who violates Subsections 58-1-501(1)(a) through (d), Section 58-85-301,
172 or a rule or order issued with respect to Section 58-85-301, as evidenced by an uncontested
173 citation, a stipulated settlement, or by a finding of violation in an adjudicative proceeding, may
174 be assessed a fine pursuant to this chapter and may, in addition to or in lieu of the fine, be
175 ordered to cease and desist from violating Subsections 58-1-501(1)(a) through (d), Section
176 58-85-301, or any rule or order issued with respect to Section 58-85-301.

177 (3) A citation issued under this chapter shall:

178 (a) be in writing;

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

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

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

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

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

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

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

195 (7) The division may refuse to issue or renew or may suspend, revoke, or place on
196 probation the state certification of a state certified interior designer who fails to comply with a
197 citation after it becomes final.

198 (8) The failure of an applicant for state certification to comply with a citation after it
199 becomes final is a ground for denial of state certification.

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

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

204 (a) for a first offense handled pursuant to this section, a fine of up to \$1,000;

205 (b) for a second offense handled pursuant to this section, a fine of up to \$2,000; and

206 (c) for any subsequent offense handled pursuant to this section, a fine of up to \$2,000
207 for each day of continued offense.

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

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

212 the matter to a collection agency or by bringing an action in the district court of the county in
213 which the person against whom the penalty is imposed resides or in the county where the office
214 of the director is located.

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

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

219 Section 12. Section **58-85-401** is enacted to read:

220 **Part 4. State Certification Number and Signature**

221 **58-85-401. State certification number and signature.**

222 (1) The division shall provide each state certified interior designer with a state
223 certification number.

224 (2) A final plan or specification for the interior of a new or existing building that is
225 prepared by or under the supervision of a state certified interior designer shall bear the
226 signature and the state certification number of the state certified interior designer when
227 submitted to a client or when submitted to a building official for the purpose of obtaining a
228 building permit.

229 (3) A state certified interior designer may only include the designer's signature and
230 state certification number on a final plan or specification that is within the scope of practice of
231 interior design and when the plan or specification:

232 (a) is personally prepared by the state certified interior designer; or

233 (b) is prepared by an employee, subordinate, associate, or drafter under the supervision
234 of the state certified interior designer and the state certified interior designer assumes
235 responsibility for the plan or specification.

236 Section 13. Section **63I-1-258** is amended to read:

237 **63I-1-258. Repeal dates, Title 58.**

238 (1) Title 58, Chapter 13, Health Care Providers Immunity from Liability Act, is
239 repealed July 1, 2016.

240 (2) Title 58, Chapter 15, Health Facility Administrator Act, is repealed July 1, 2015.

241 (3) Title 58, Chapter 20a, Environmental Health Scientist Act, is repealed July 1, 2018.

242 (4) Section [58-37-4.3](#) is repealed July 1, 2016.

- 243 (5) Title 58, Chapter 40, Recreational Therapy Practice Act, is repealed July 1, 2023.
- 244 (6) Title 58, Chapter 41, Speech-language Pathology and Audiology Licensing Act, is
245 repealed July 1, 2019.
- 246 (7) Title 58, Chapter 42a, Occupational Therapy Practice Act, is repealed July 1, 2015.
- 247 (8) Title 58, Chapter 46a, Hearing Instrument Specialist Licensing Act, is repealed July
248 1, 2023.
- 249 (9) Title 58, Chapter 47b, Massage Therapy Practice Act, is repealed July 1, 2024.
- 250 (10) Section [58-69-302.5](#) is repealed on July 1, 2015.
- 251 (11) Title 58, Chapter 72, Acupuncture Licensing Act, is repealed July 1, 2017.
- 252 (12) Title 58, Chapter 85, State Certification of Interior Designers Act, is repealed July
253 1, 2020.