

HB0126S02 compared with HB0126

~~{deleted text}~~ shows text that was in HB0126 but was deleted in HB0126S02.

inserted text shows text that was not in HB0126 but was inserted into HB0126S02.

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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 ~~{professional license}~~state certification 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}~~state certification as a state certified interior ~~{design license}~~designer; and

▶ provides a sunset date.

Money Appropriated in this Bill:

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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:

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

58-85-202, Utah Code Annotated 1953

58-85-203, Utah Code Annotated 1953

58-85-204, Utah Code Annotated 1953

58-85-205, Utah Code Annotated 1953

58-85-206, 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. STATE CERTIFICATION OF INTERIOR {DESIGNER

LICENSING} DESIGNERS ACT

Part 1. General Provisions{}

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58-85-101. Title and scope.

(1) This chapter is known as the "State Certification of Interior ~~Designer~~ Licensing ~~Designers~~ 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~~ state certification as a state certified 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) (1) "Building" means ~~a~~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) (2) (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, ~~joists~~ 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

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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.

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

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

(a) may be used by a person who has met the state certification requirements related to that occupation or profession described in this chapter; and

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

~~{4}~~5) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501 and ~~{58-85-501}~~58-85-301.

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}~~State Certification

58-85-201. ~~{ Board.~~

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~~(1) There is created the Interior Designer Licensing Board consisting of four licensed interior designers 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} State certification required -- Classification.~~

(1) ~~{A license}~~State certification is required to engage in the practice of interior design except as specifically provided in Section ~~{58-85-305}~~58-1-307 or ~~{58-1-307}~~58-85-206.

(2) The division shall ~~{issue a license}~~grant state certification to a person who qualifies under this chapter to engage in the practice of interior design as a ~~{licensed}~~state certified interior designer.

Section ~~{6}~~5. Section ~~{58-85-302}~~58-85-202 is enacted to read:

~~{58-85-302}~~58-85-202. Qualifications for {licensure}state certification.

Each applicant for ~~{licensure}~~state certification as ~~{an}~~a state certified interior designer shall:

(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}~~having qualified to take and having passed the examination of the National Council for Interior Design Qualification, or an

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equivalent body as determined by division rule.

Section ~~{7}~~6. Section ~~{58-85-303}~~58-85-203 is enacted to read:

~~{58-85-303}~~58-85-203. **Term of ~~{license}~~state certification -- Expiration --**

Renewal.

(1) (a) The division shall ~~{issue each license}~~grant state certification 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}~~an applicant for renewal 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}~~ having completed the 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.~~

~~Section 8}~~58-85-204.

Section 7. Section ~~{58-85-304}~~58-85-204 is enacted to read:

~~{58-85-304}~~58-85-204. **Continuing ~~{education}~~Education.**

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(1) ~~As a condition of~~ for the renewal of ~~the license~~ state certification under this chapter, ~~each licensee shall~~ a state certified interior designer, during each two-year ~~licensure cycle or other cycle defined by division rule, complete continuing professional education in accordance with standards defined~~ state certification cycle, shall complete 20 hours of continuing education that is offered or approved by the Interior Design Continuing Education Council, or another entity as determined by division rule.

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

(3) If a renewal ~~period~~ cycle is extended or shortened under Section ~~58-53-303~~ 58-85-203, ~~the division shall proportionately increase or decrease~~ the continuing education hours required for ~~licensure~~ renewal under this section shall be increased or decreased proportionally.

Section ~~9~~ 8. Section ~~58-85-305~~ 58-85-205 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 or other 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~~ 58-85-205. **Grounds for denial of ~~license~~ state certification --
Disciplinary proceedings.**

Grounds for refusing to issue ~~the license of a licensee~~ state certification to an applicant, for refusing to renew ~~the license of a licensee~~ state certification to an applicant, for revoking, suspending, restricting, or placing on probation the ~~license~~ state certification of ~~a licensee~~ an individual certified under this chapter, for issuing a public or private reprimand to ~~a licensee~~ an individual certified under this chapter, and for issuing a cease and desist order shall be in

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accordance with Section 58-1-401.

Section ~~{11}~~9. Section ~~{58-85-501}~~58-85-206 is enacted to read:

~~{Part 5. Unlawful and Unprofessional Conduct -- Penalties.~~

~~58-85-501}~~ 58-85-206. Exemptions from state certification.

In addition to the exemptions from licensure in Section 58-1-307, the following may engage in the stated acts or practices without being a state certified interior designer 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;
- (2) a person providing permit drawings if allowed under Section 58-3a-304 or 58-22-305; and
- (3) a person providing construction related documents not required for a building permit.

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

Part 3. Unlawful Conduct

58-85-301. Unlawful conduct.

"Unlawful conduct" includes:

- (1) using the title "~~{licensed}~~state certified interior designer" if the person ~~{has}~~is not ~~{been licensed}~~a state certified interior designer in good standing under this chapter; or
- (2) engaging in the practice of interior design unless exempted from licensure or state certification under Section 58-1-307 or ~~{58-85-305}~~58-85-206.

Section ~~{12}~~11. Section ~~{58-85-502}~~58-85-302 is enacted to read:

~~58-85-502}~~58-85-302. 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}~~58-85-301, or a rule or order issued with respect to Section ~~{58-85-501}~~58-85-301, and that disciplinary action is appropriate, the director or the director's designee ~~{shall promptly}~~may:

- (a) issue a citation to the person according to this chapter and any pertinent rules ~~{,}~~;
- (b) attempt to negotiate a stipulated settlement ~~{,}~~; or
- (c) notify the person to appear before an adjudicative proceeding conducted under Title

63G, Chapter 4, Administrative Procedures Act.

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~~(f)2~~ A person who violates Subsections 58-1-501(1)(a) through (d) ~~or~~, Section ~~58-85-501~~58-85-301, or a rule or order issued with respect to Section ~~58-85-501~~58-85-301, 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)~~chapter 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~~58-85-301, 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) 58-85-301.~~

(3) A citation issued under this chapter shall:

(a) be in writing;

(~~ii~~)~~b~~ 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~~)~~c~~ 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~~)~~d~~ 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.

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

(~~5~~) ~~Each~~A citation issued under this section, or a copy of ~~each~~the 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 by mail or 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~~.

(~~6~~) (~~ii~~)~~a~~ 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.

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

(~~7~~) The division may refuse to issue or renew ~~or may~~ suspend, revoke, or place

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on probation the ~~{license}~~state certification of a ~~{licensee}~~state certified interior designer who fails to comply with a citation after it becomes final.

~~{g}8~~) The failure of an applicant for ~~{licensure}~~state certification to comply with a citation after it becomes final is a ground for denial of ~~{a license}~~state certification.

~~{h}9~~) No citation may be issued under this section after the expiration of six months following the occurrence of a violation.

~~{i}10~~) The director or the director's designee shall assess fines according to the following:

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

~~{i}b~~) for a second offense handled pursuant to ~~{Subsection (1)(a)}~~this section, a fine of up to \$2,000; and

~~{i}c~~) for any subsequent offense handled pursuant to ~~{Subsection (1)(a)}~~this section, a fine of up to \$2,000 for each day of continued offense.

~~{2}11~~) 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}12~~) (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.

Section ~~{13}12~~. Section ~~{58-85-601}~~58-85-401 is enacted to read:

Part ~~{6}4~~. ~~{License}~~State Certification Number and Signature

~~{58-85-601}~~58-85-401. ~~{License}~~State certification number and signature.

(1) The division shall provide each ~~{licensed}~~state certified interior designer with a ~~{license}~~state certification number.

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

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prepared by or under the supervision of a ~~licensed~~state certified interior designer shall bear the signature and the ~~license~~state certification number of the ~~licensed~~state certified 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~~state certified interior designer may only include the designer's signature and ~~license~~state certification number on a final plan or specification that is within the scope of practice of interior design and when the plan or specification:

(a) ~~was~~is personally prepared by the ~~licensed~~state certified interior designer; or

(b) ~~was~~is prepared by an employee, subordinate, associate, or drafter under the supervision of the ~~licensed~~state certified interior designer and the ~~qualified~~state certified 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~~ Section 13. Section **63I-1-258** is amended to read:

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

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

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

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

(4) Section 58-37-4.3 is repealed July 1, 2016.

(5) Title 58, Chapter 40, Recreational Therapy Practice Act, is repealed July 1, 2023.

(6) Title 58, Chapter 41, Speech-language Pathology and Audiology Licensing Act, is repealed July 1, 2019.

(7) Title 58, Chapter 42a, Occupational Therapy Practice Act, is repealed July 1, 2015.

(8) Title 58, Chapter 46a, Hearing Instrument Specialist Licensing Act, is repealed July

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1, 2023.

(9) Title 58, Chapter 47b, Massage Therapy Practice Act, is repealed July 1, 2024.

(10) Section 58-69-302.5 is repealed on July 1, 2015.

(11) Title 58, Chapter 72, Acupuncture Licensing Act, is repealed July 1, 2017.

(12) Title 58, Chapter 85, State Certification of Interior Designers Act, is repealed July

1, 2020.