

29 ▶ makes technical changes.

30 **Money Appropriated in this Bill:**

31 None

32 **Other Special Clauses:**

33 This bill takes effect on August 1, 2011.

34 This bill coordinates with H.B. 203, Codification of State Construction and Fire Codes, to
35 technically merge substantive amendments.

36 This bill coordinates with H.B. 115, Mechanics' Liens Amendments, by technically merging
37 substantive amendments.

38 **Utah Code Sections Affected:**

39 **AMENDS:**

40 **14-1-20**, as last amended by Laws of Utah 2010, Chapter 378

41 **14-2-5**, as last amended by Laws of Utah 2010, Chapter 378

42 **38-1-1**, Utah Code Annotated 1953

43 **38-1-5**, Utah Code Annotated 1953

44 **38-1-27**, as last amended by Laws of Utah 2009, Chapters 183 and 239

45 **38-1-30**, as last amended by Laws of Utah 2008, Chapter 382

46 **38-1-31**, as last amended by Laws of Utah 2009, Chapter 50

47 **38-1-32**, as last amended by Laws of Utah 2009, Chapter 50

48 **38-1-33**, as last amended by Laws of Utah 2010, Chapter 76

49 **58-56-20**, as last amended by Laws of Utah 2010, Chapter 310

50 **63G-6-506**, as renumbered and amended by Laws of Utah 2008, Chapter 382

51 **ENACTS:**

52 **38-1-30.5**, Utah Code Annotated 1953

53 **38-1-31.5**, Utah Code Annotated 1953

54 **38-1-32.5**, Utah Code Annotated 1953

55 **38-1-32.7**, Utah Code Annotated 1953

56 REPEALS:

57 **38-1-37**, as last amended by Laws of Utah 2005, Chapter 64

58 **Utah Code Sections Affected by Coordination Clause:**

59 **15A-1-209**, Utah Code Annotated 1953

60 **30-1-30.5**, Utah Code Annotated 1953

61 **38-1-2**, as last amended by Laws of Utah 2006, Chapter 297

62 **38-1-5**, Utah Code Annotated 1953

63 **38-1-19**, Utah Code Annotated 1953

64 **38-1-27**, as last amended by Laws of Utah 2009, Chapters 183 and 239

65 **38-1-32**, as last amended by Laws of Utah 2009, Chapter 50

66 **Uncodified Material Affected:**

67 ENACTS UNCODIFIED MATERIAL



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

70 Section 1. Section **14-1-20** is amended to read:

71 **14-1-20. Preliminary notice requirement.**

72 (1) Any person furnishing labor, service, equipment, or material for which a payment bond
73 claim may be made under this chapter shall provide preliminary notice to the designated agent as
74 prescribed by Section [~~38-1-32~~] 38-1-32.5, except that this section does not apply:

75 (a) to a person performing labor for wages; or

76 (b) if a notice of commencement is not filed as prescribed in Section [~~38-1-31~~] 38-1-31.5
77 for the project or improvement for which labor, service, equipment, or material is furnished.

78 (2) Any person who fails to provide the preliminary notice required by Subsection (1) may
79 not make a payment bond claim under this chapter.

80 (3) The preliminary notice required by Subsection (1) shall be provided prior to

81 commencement of any action on the payment bond.

82 Section 2. Section **14-2-5** is amended to read:

83 **14-2-5. Preliminary notice requirement.**

84 (1) Any person furnishing labor, service, equipment, or material for which a payment bond
85 claim may be made under this chapter shall provide preliminary notice to the designated agent as
86 prescribed by Section 38-1-32, except that this section does not apply[~~:(a)~~] to a person performing
87 labor for wages[~~;-or~~].

88 [~~(b) if a notice of commencement is not filed as prescribed in Section 38-1-31 for the~~
89 ~~project or improvement for which labor, service, equipment, or material is furnished.~~]

90 (2) Any person who fails to provide the preliminary notice required by Subsection (1) may
91 not make a payment bond claim under this chapter.

92 (3) The preliminary notice required by Subsection (1) shall be provided prior to
93 commencement of any action on the payment bond.

94 Section 3. Section **38-1-1** is amended to read:

95 **38-1-1. Public buildings not subject to act.**

96 [~~The provisions of this~~] Except as provided in Sections 38-1-27, 38-1-30 through 38-1-37,
97 and 38-1-40 relating to the State Construction Registry, this chapter [shall] does not apply to any
98 public building, structure, or improvement.

99 Section 4. Section **38-1-5** is amended to read:

100 **38-1-5. Relation back and priority of liens.**

101 [~~The liens herein provided for shall relate~~]

102 (1) As used in this section:

103 (a) "First preliminary notice filing" means the filing of a preliminary notice that is:

104 (i) the earliest preliminary notice filed on a private project, as defined in Section 38-1-27;

105 (ii) filed on or after August 1, 2011;

106 (iii) not filed on a project that, according to the law in effect before August 1, 2011,

107 commenced before August 1, 2011;

108 (iv) not canceled under Subsection 38-1-32(6); and

109 (v) not withdrawn under Subsection 38-1-32(8).

110 (b) "Project property" means the real property on which a building or structure is being
111 constructed or altered or on which an improvement is made.

112 (2) A lien under this chapter relates back to, and [take] takes effect as of, the time of the
113 [commencement to do work or furnish materials on the ground for the structure or improvement, and
114 shall have] first preliminary notice filing.

115 (3) (a) Subject to Subsection (3)(b), a lien under this chapter has priority over:

116 (i) any lien, mortgage, or other encumbrance [which may have attached subsequently to the
117 time when the building, improvement or structure was commenced, work begun, or first material
118 furnished on the ground; also over] that attaches after the first preliminary notice filing; and

119 (ii) any lien, mortgage, or other encumbrance of which the lien holder had no notice and
120 which was unrecorded at the time [the building, structure or improvement was commenced, work
121 begun, or first material furnished on the ground] of the first preliminary notice filing.

122 (b) A recorded mortgage or trust deed of a construction lender, as defined in Section
123 38-1-27, has priority over each lien under this chapter of a claimant who files a preliminary notice in
124 accordance with Section 38-1-32 before the mortgage or trust deed is recorded if the claimant:

125 (i) accepts payment in full for labor, service, equipment, and material that the claimant
126 furnishes to the project before the mortgage or trust deed is recorded; and

127 (ii) withdraws the claimant's preliminary notice by filing a notice of withdrawal under
128 Subsection 38-1-32(8).

129 Section 5. Section **38-1-27** is amended to read:

130 **38-1-27. State Construction Registry.**

131 (1) As used in this section, Sections 38-1-30 through 38-1-37, and Section 38-1-40:

132 (a) "Alternate filing" means a legible and complete filing made in a manner established by the

133 division under Subsection (2)(e) other than an electronic filing.

134 (b) "Cancel" means to indicate that a filing is no longer given effect.

135 (c) "Construction lender" means a lender who provides construction financing for a private
136 project.

137 [~~(e)~~] (d) "Construction project[;]" or "project[;]" [~~or "improvement"~~] means all labor, service,
138 equipment, and materials provided[;-(i)] under an original contract[; ~~or~~].

139 [~~(i)~~] by, or under contracts with, an owner-builder.

140 [~~(d)~~] (e) "Database" means the State Construction Registry created in this section.

141 [~~(e)~~] (f) (i) "Designated agent" means the third party the [~~Division of Occupational and~~
142 ~~Professional Licensing~~] division contracts with to create and maintain the State Construction Registry.

143 (ii) The designated agent is not an agency, instrumentality, or a political subdivision of the
144 state.

145 [~~(f)~~] (g) "Division" means the Division of Occupational and Professional Licensing.

146 (h) "Entry number" means the reference number that:

147 (i) the designated agent assigns to each notice or other document filed with the database; and

148 (ii) is unique for each notice or other document.

149 (i) "Government project" means a construction project undertaken by or for:

150 (i) the state, including a department, division, or other agency of the state; or

151 (ii) a county, city, town, school district, local district, special service district, community
152 development and renewal agency, or other political subdivision of the state.

153 (j) "Government project-identifying information" means:

154 (i) the lot or parcel number of each lot included in the project property that has a lot or
155 parcel number; and

156 (ii) the unique project number assigned by the designated agent.

157 [~~(g)~~] (k) "Interested person" means a person who may be affected by a construction project.

158 (l) "Private project" means a construction project that is not a government project.

159 ~~[(h)]~~ (m) "Program" means the State Construction Registry Program created in this section.

160 (n) "Project property" means the real property on which a construction project occurs or will
161 occur.

162 (2) Subject to receiving adequate funding through a legislative appropriation and contracting
163 with an approved third party vendor who meets the requirements of Sections 38-1-30 through
164 38-1-37, there is created the State Construction Registry Program that shall:

165 (a) (i) assist in protecting public health, safety, and welfare; and

166 (ii) promote a fair working environment;

167 (b) be overseen by the division with the assistance of the designated agent;

168 (c) provide a central repository for ~~[notices of commencement, preliminary notices, and~~
169 ~~notices of completion filed in connection with all privately owned construction projects as well as all~~
170 ~~state and local government owned construction projects throughout Utah]~~ all notices filed with the
171 database under Section 38-1-30.5, 38-1-31.5, 38-1-32, 38-1-32.5, 38-1-32.7, 38-1-33, or
172 38-1-40;

173 (d) ~~[be]~~ make accessible ~~[for filing and review]~~, by way of the program Internet website ~~[of]~~:

174 (i) the filing and reviewing of notices described in Subsection (2)(c); and

175 ~~[(i) notices of commencement;]~~

176 ~~[(ii) preliminary notices;]~~

177 ~~[(iii) a notice of intent to file notice of final completion;]~~

178 ~~[(iv) a notice for remaining amounts due to complete the contract; and]~~

179 ~~[(v) notices of completion;]~~

180 (ii) the transmitting of building permit information under Subsection 38-1-31(2)(a) and the
181 reviewing of that information;

182 (e) accommodate:

183 (i) electronic filing of the notices described in Subsection (2)~~[(f)]~~(c) and electronic

184 transmitting of building permit information described in Subsection (2)(d)(ii); and

185 (ii) alternate filing of the notices described in Subsection (2)(d) by U.S. mail, telefax, or any
186 other alternate method as provided by rule made by the division in accordance with Title 63G,
187 Chapter 3, Utah Administrative Rulemaking Act;

188 (f) (i) provide electronic notification for up to three email addresses for each interested
189 person or company who requests notice from the construction notice registry; and

190 (ii) provide alternate means of notification for a person who makes an alternate filing,
191 including U.S. mail, telefax, or any other method as prescribed by rule made by the division in
192 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

193 (g) provide hard-copy printing of electronic receipts for an individual filing evidencing the
194 date and time of the individual filing and the content of the individual filing.

195 (3) (a) The designated agent shall provide notice of all other filings for a project to any
196 person who files a notice of commencement, preliminary notice, or notice of completion for that
197 project, unless the person:

198 (i) requests that the person not receive notice of other filings; or

199 (ii) does not provide the designated agent with the person's contact information in a manner
200 that adequately informs the designated agent.

201 (b) An interested person may request notice of filings related to a project.

202 (c) The database shall be indexed by:

203 (i) the name of the property owner [~~name~~];

204 (ii) the name of the original contractor [~~name~~];

205 (iii) subdivision, development, or other project name, if any;

206 [~~(iv) project address;~~]

207 [~~(v)~~] (iv) lot or parcel number;

208 [~~(vi) unique project number assigned by the designated agent; and~~]

209 (v) the address of the project property;

210 (vi) entry number;

211 (vii) the name of the county in which the project property is located;
212 (viii) for private projects:
213 (A) the tax parcel identification number of each parcel included in the project property; and
214 (B) the building permit number;
215 (ix) for government projects, the government project-identifying information; and
216 ~~[(vii)]~~ (x) any other identifier that the division considers reasonably appropriate in
217 collaboration with the designated agent.

218 (4) (a) In accordance with the process required by Section 63J-1-504, the division shall
219 establish the fees for:

220 ~~[(i) a notice of commencement;]~~
221 ~~[(ii) a preliminary notice;]~~
222 ~~[(iii) a notice of intent to file notice of final completion;]~~
223 ~~[(iv) a notice for remaining amounts due to complete the contract;]~~
224 ~~[(v) a notice of completion;]~~
225 (i) notices described in Subsection (2)(c);
226 ~~[(vi)]~~ (ii) a request for notice;
227 ~~[(vii)]~~ (iii) providing a required notice by an alternate ~~[method of delivery]~~ filing;
228 ~~[(viii)]~~ (iv) a duplicate receipt of a filing; and
229 ~~[(ix)]~~ (v) account setup for a person who wishes to be billed periodically for filings with the
230 database.

231 (b) The fees allowed under Subsection (4)(a) may not exceed the amount reasonably
232 necessary to create and maintain the database.

233 (c) The fees established by the division may vary by method of filing if one form of filing is
234 more costly to process than another form of filing.

235 (d) The division may provide by contract that the designated agent may retain all fees
236 collected by the designated agent except that the designated agent shall remit to the division the cost

237 of the division's oversight under Subsection (2)(b).

238 (5) (a) The database is classified as a public record under Title 63G, Chapter 2, Government
239 Records Access and Management Act, unless otherwise classified by the division.

240 (b) A request for information submitted to the designated agent is not subject to Title 63G,
241 Chapter 2, Government Records Access and Management Act.

242 (c) Information contained in a public record contained in the database shall be requested
243 from the designated agent.

244 (d) The designated agent may charge a commercially reasonable fee allowed by the
245 designated agent's contract with the division for providing information under Subsection (5)(c).

246 (e) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management
247 Act, if information is available in a public record contained in the database, a person may not request
248 the information from the division.

249 (f) (i) A person may request information that is not a public record contained in the database
250 from the division in accordance with Title 63G, Chapter 2, Government Records Access and
251 Management Act.

252 (ii) The division shall inform the designated agent of how to direct inquiries made to the
253 designated agent for information that is not a public record contained in the database.

254 (6) The following are not an adjudicative proceeding under Title 63G, Chapter 4,
255 Administrative Procedures Act:

256 (a) the filing of a notice permitted by this chapter;

257 (b) the rejection of a filing permitted by this chapter; or

258 (c) other action by the designated agent in connection with a filing of any notice permitted by
259 this chapter.

260 (7) The division and the designated agent need not determine the timeliness of any notice
261 before filing the notice in the database.

262 (8) (a) A person who is delinquent on the payment of a fee established under Subsection (4)

263 may not file a notice with the database.

264 (b) A determination that a person is delinquent on the payment of a fee for filing established
265 under Subsection (4) shall be made in accordance with Title 63G, Chapter 4, Administrative
266 Procedures Act.

267 (c) Any order issued in a proceeding described in Subsection (8)(b) may prescribe the
268 method of that person's payment of fees for filing notices with the database after issuance of the
269 order.

270 (9) If a notice is filed by a third party on behalf of another, the notice is considered to be filed
271 by the person on whose behalf the notice is filed.

272 (10) A person filing a notice of commencement, preliminary notice, or notice of completion is
273 responsible for verifying the accuracy of information entered into the database, whether the person
274 files electronically or by alternate or third party filing.

275 (11) Each notice or other document submitted for inclusion in the database and for which this
276 chapter does not specify information required to be included in the notice or other document shall
277 contain:

278 (a) the name of the county in which the project property to which the notice or other
279 document applies is located;

280 (b) for a private project:

281 (i) the tax parcel identification number of each parcel included in the project property; or

282 (ii) the number of the building permit for the construction project on the project property;

283 and

284 (c) for a government project, the government project-identifying information.

285 Section 6. Section **38-1-30** is amended to read:

286 **38-1-30. Third party contract -- Designated agent.**

287 (1) The division shall contract in accordance with Title 63G, Chapter 6, Utah Procurement
288 Code, with a third party to establish and maintain the database for the purposes established under this

289 section, Section 38-1-27, and Sections 38-1-31 through 38-1-37.

290 (2) (a) The third party under contract under this section is the division's designated agent,
291 and shall develop and maintain a database from the information provided by:

292 (i) local government entities issuing building permits;

293 (ii) original contractors;

294 (iii) subcontractors; and

295 (iv) other interested persons.

296 (b) The database shall accommodate filings by third parties on behalf of clients.

297 (c) The division and the designated agent shall design, develop, and test the database for full
298 implementation on May 1, 2005.

299 (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
300 division shall make rules and develop procedures for:

301 (a) the division to oversee and enforce this section, Section 38-1-27, and Sections 38-1-31
302 through 38-1-37;

303 (b) the designated agent to administer this section, Section 38-1-27, and Sections 38-1-31
304 through 38-1-37; and

305 (c) the form of submission of an alternate filing, which may include procedures for rejecting
306 an illegible or incomplete filing.

307 (4) (a) The designated agent shall archive computer data files at least semiannually for
308 auditing purposes.

309 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
310 division shall make rules to allow the designated agent to periodically archive projects from the
311 database.

312 (c) A project shall be archived no earlier than:

313 (i) one year after the day on which a notice of completion is filed for a project;

314 (ii) if no notice of completion is filed, two years after the last filing activity for a project; or

315 (iii) one year after the day on which a filing is cancelled under Subsection 38-1-32[(3)](6)(c)
316 or 38-1-33(2)(c).

317 (d) The division may audit the designated agent's administration of the database as often as
318 the division considers necessary.

319 (5) The designated agent shall carry errors and omissions insurance in the amounts
320 established by rule made by the division in accordance with Title 63G, Chapter 3, Utah
321 Administrative Rulemaking Act.

322 (6) (a) The designated agent shall make reasonable efforts to assure the accurate entry into
323 the database of information provided in alternate filings.

324 (b) The designated agent shall meet or exceed standards established by the division for the
325 accuracy of data entry for alternate filings.

326 (7) The designated agent is not liable for the correctness of the information contained in an
327 alternate filing it enters into the database.

328 Section 7. Section **38-1-30.5** is enacted to read:

329 **38-1-30.5. Notice of construction loan.**

330 (1) As used in this section, "construction loan" does not include a consumer loan secured by
331 the equity in the consumer's home.

332 (2) After recording a mortgage or trust deed securing a construction loan on a private
333 project, the construction lender on the loan shall promptly, in conjunction with the closing of the
334 construction loan, file with the database a notice of construction loan.

335 (3) A notice under Subsection (2) shall accurately state:

336 (a) the lender's name, address, and telephone number;

337 (b) the name of the trustor on the trust deed securing the loan;

338 (c) the tax parcel identification number of each parcel included or to be included in the
339 construction project for which the loan was given;

340 (d) the address of the project property; and

341 (e) the name of the county in which the project property is located.

342 (4) A construction lender that files a notice of construction loan containing incomplete or
343 inaccurate information may not be held liable for damages suffered by any other person who relies on
344 the inaccurate or incomplete information in filing a preliminary notice.

345 Section 8. Section **38-1-31** is amended to read:

346 **38-1-31. Building permit -- Transmission to database -- Posting at project site.**

347 ~~[(1)(a)(i)(A) For a construction project where a building permit is issued to an original~~
348 ~~contractor or owner-builder, no later than 15 days after the issuance of the building permit:]~~

349 ~~[(f) the local government entity issuing that]~~

350 (1) (a) A county, city, or town issuing a building permit for a private project:

351 (i) shall, no later than 15 days after issuing the permit, input the building permit application
352 and transmit the building permit information to the database electronically by way of the Internet or
353 computer modem or by any other means; ~~[or]~~ and

354 (ii) may collect a building permit fee related to the issuance of the building permit, but may
355 not spend or otherwise use the building permit fee until the county, city, or town complies with
356 Subsection (1)(a)(i) with respect to the building permit for which the fee is charged.

357 ~~[(H) the original contractor, owner, or owner-builder may file a notice of commencement~~
358 ~~with the database whether or not a building permit is issued or a notice of commencement is filed~~
359 ~~under Subsection (1)(a)(i)(A)(f).]~~

360 ~~[(B) The information submitted under Subsection (1)(a)(i)(A) forms the basis of a notice of~~
361 ~~commencement.]~~

362 ~~[(ii)]~~ (b) The person to whom a building permit, filed under Subsection (1)(a)~~[(f)]~~, is issued is
363 responsible for the accuracy of the information in the building permit.

364 ~~[(iii)]~~ (c) For the purposes of classifying a record under Title 63G, Chapter 2, Government
365 Records Access and Management Act, building permit information transmitted from a ~~[local~~
366 ~~governmental entity]~~ county, city, or town to the database shall be classified in the database by the

367 division notwithstanding the [~~local governmental entity's~~] classification of the building permit
368 information by the county, city, or town.

369 ~~[(b) No later than 15 days after commencement of physical construction work at the project~~
370 ~~site, the original contractor, owner, or owner-builder may file a notice of commencement with the~~
371 ~~database whether or not a building permit is issued or a notice of commencement is filed under~~
372 ~~Subsection (1)(a).]~~

373 ~~[(c) An original contractor, owner, or owner-builder may file a notice of commencement with~~
374 ~~the designated agent prior to the time frames established in Subsections (1)(a) and (b).]~~

375 ~~[(d) An owner of construction or an original contractor may file a notice of commencement~~
376 ~~with the designated agent within the time prescribed by Subsections (1)(a) and (b).]~~

377 ~~[(e) (i) If duplicate notices of commencement are filed, they shall be combined into one~~
378 ~~notice for each project and any notices filed relate back to the date of the earliest-filed notice of~~
379 ~~commencement for the project.]~~

380 ~~[(ii) A duplicate notice of commencement that is untimely filed relates back under Subsection~~
381 ~~(1)(e)(i) if the earlier filed notice of commencement is timely filed.]~~

382 ~~[(iii) Duplicate notices of commencement shall be automatically linked by the designated~~
383 ~~agent.]~~

384 ~~[(f) The designated agent shall assign each construction project a unique project number~~
385 ~~that:]~~

386 ~~[(i) identifies each construction project, and]~~

387 ~~[(ii) can be associated with all notices of commencement, preliminary notices, and notices of~~
388 ~~completion.]~~

389 ~~[(g) A notice of commencement is effective only as to any labor, service, equipment, and~~
390 ~~material furnished to the construction project that is furnished subsequent to the filing of the notice of~~
391 ~~commencement.]~~

392 ~~[(2) (a) A notice of commencement shall include the following:]~~

393 ~~[(i) the name and address of the owner of the project;]~~
394 ~~[(ii) the name and address of the:]~~
395 ~~[(A) original contractor; and]~~
396 ~~[(B) surety providing any payment bond for the project, or if none exists, a statement that a~~
397 ~~payment bond was not required for the work being performed; and]~~
398 ~~[(iii) (A) the project address if the project can be reasonably identified by an address; or]~~
399 ~~[(B) the name and general description of the location of the project if the project cannot be~~
400 ~~reasonably identified by an address.]~~
401 ~~[(b) A notice of commencement may include:]~~
402 ~~[(i) a general description of the project; or]~~
403 ~~[(ii) the lot or parcel number, and any subdivision, development, or other project name, of~~
404 ~~the real property upon which the project is to be constructed if the project is subject to mechanics'~~
405 ~~liens.]~~
406 ~~[(c) A notice of commencement need not include all of the items listed in Subsection (2)(a)~~
407 ~~if:]~~
408 ~~[(i) a building permit is issued for the project; and]~~
409 ~~[(ii) all items listed in Subsection (2)(a) that are available on the building permit are included~~
410 ~~in the notice of commencement.]~~
411 ~~[(3) If a notice of commencement for a construction project is not filed within the time set~~
412 ~~forth in Subsections(1)(a) and (b), the following do not apply:]~~
413 ~~[(a) Section 38-1-32; and]~~
414 ~~[(b) Section 38-1-33.]~~
415 ~~[(4) (a) Unless a person indicates to the division or designated agent that the person does not~~
416 ~~wish to receive a notice under this section, electronic notice of the filing of a notice of commencement~~
417 ~~or alternate notice as prescribed in Subsection (1), shall be provided to:]~~
418 ~~[(i) all persons who have filed notices of commencement for the project; and]~~

419 ~~[(ii) all interested persons who have requested notices concerning the project.]~~
420 ~~[(b) (i) A person to whom notice is required under Subsection (4)(a) is responsible for:]~~
421 ~~[(A) providing an e-mail address, mailing address, or telefax number to which a notice~~
422 ~~required by Subsection (4)(a) is to be sent; and]~~
423 ~~[(B) the accuracy of any e-mail address, mailing address, or telefax number to which notice~~
424 ~~is to be sent.]~~
425 ~~[(ii) The designated agent fulfills the notice requirement of Subsection (4)(a) when it sends~~
426 ~~the notice to the e-mail address, mailing address, or telefax number provided to the designated agent~~
427 ~~whether or not the notice is actually received.]~~
428 ~~[(5) (a) The burden is upon any person seeking to enforce a notice of commencement to~~
429 ~~verify the accuracy of information in the notice of commencement and prove that the notice of~~
430 ~~commencement is filed timely and meets all of the requirements in this section.]~~
431 ~~[(b) A substantial inaccuracy in a notice of commencement renders the notice of~~
432 ~~commencement unenforceable.]~~
433 ~~[(c) A person filing a notice of commencement by alternate filing is responsible for verifying~~
434 ~~and changing any incorrect information in the notice of commencement before the expiration of the~~
435 ~~time period during which the notice is required to be filed.]~~
436 ~~[(6)]~~ (2) At the time a building permit is obtained, each original contractor shall
437 conspicuously post at the project site a copy of the building permit obtained for the project.
438 Section 9. Section **38-1-31.5** is enacted to read:
439 **38-1-31.5. Notice of commencement for a government project.**
440 (1) No later than 15 days after commencement of physical construction work at a
441 government project site, the original contractor, owner, or owner-builder shall file a notice of
442 commencement with the database.
443 (2) An original contractor, owner, or owner-builder on a government project may file a
444 notice of commencement with the designated agent before the commencement of physical

445 construction work on the project property.

446 (3) (a) If duplicate notices of commencement are filed, they shall be combined into one
447 notice for each government project, and any notices filed relate back to the date of the earliest-filed
448 notice of commencement for the project.

449 (b) A duplicate notice of commencement that is untimely filed relates back under Subsection
450 (3)(a) if the earlier filed notice of commencement is timely filed.

451 (c) Duplicate notices of commencement shall be automatically linked by the designated
452 agent.

453 (4) The designated agent shall assign each government project a unique project number that:

454 (a) identifies the project; and

455 (b) can be associated with all notices of commencement, preliminary notices, and notices of
456 completion filed in connection with the project.

457 (5) A notice of commencement is effective only as to any labor, service, equipment, and
458 material that is furnished after the notice of commencement is filed.

459 (6) (a) A notice of commencement shall include:

460 (i) the name, address, and email address of the owner of the project;

461 (ii) the name, address, and email address of the original contractor;

462 (iii) the name, address, and email address of the surety providing any payment bond for the
463 project or, if none exists, a statement that a payment bond was not required for the work being
464 performed;

465 (iv) (A) the project address if the project can be reasonably identified by an address; or

466 (B) the name and general description of the location of the project, if the project cannot be
467 reasonably identified by an address; and

468 (v) the government project-identifying information.

469 (b) A notice of commencement may include a general description of the project.

470 (7) If a notice of commencement for a government project is not filed within the time set forth

471 in Subsection (1), Sections 38-1-32.5 and 38-1-33 do not apply.

472 (8) (a) Notwithstanding any other provision of this chapter, a notice of commencement need
473 not be filed for a private project.

474 (b) A provision of this chapter does not apply to a private project if the provision depends
475 for its effectiveness upon the filing of a notice of commencement.

476 (9) (a) Unless a person indicates to the division or designated agent that the person does not
477 wish to receive a notice under this section, the designated agent shall provide electronic notice of the
478 filing of a notice of commencement or alternate filing to:

479 (i) all persons who have filed notices of commencement for the project; and

480 (ii) all interested persons who have requested notices concerning the project.

481 (b) A person to whom notice is required under Subsection (9)(a) is responsible for:

482 (i) providing an email address, mailing address, or telefax number to which a notice required
483 by Subsection (9)(a) is to be sent; and

484 (ii) the accuracy of any email address, mailing address, or telefax number to which notice is
485 to be sent.

486 (c) The designated agent fulfills the notice requirement of Subsection (9)(a) by sending the
487 notice to the email address, mailing address, or telefax number provided to the designated agent,
488 whether or not the notice is actually received.

489 (10) (a) The burden is upon any person seeking to enforce a notice of commencement to
490 verify the accuracy of information in the notice of commencement and prove that the notice of
491 commencement is filed timely and meets all of the requirements of this section.

492 (b) A substantial inaccuracy in a notice of commencement renders the notice of
493 commencement invalid.

494 (c) A person filing a notice of commencement by alternate filing is responsible for verifying
495 and changing any incorrect information in the notice of commencement before the expiration of the
496 time period during which the notice is required to be filed.

497 Section 10. Section **38-1-32** is amended to read:

498 **38-1-32. Preliminary notice for a private project.**

499 (1) As used in this section:

500 (a) "Pre-lender claimant" means a person whose lien under this chapter is made subject to a
501 construction lender's mortgage or trust deed, as provided in Subsection 38-1-5(3)(b), by the
502 person's acceptance of payment in full and the person's withdrawal of the person's preliminary notice.

503 (b) "Refiled preliminary notice" means a preliminary notice that a pre-lender claimant files
504 under Subsection (2)(a)(ii) with the database on a project after withdrawing a preliminary notice that
505 the claimant previously filed for the same project.

506 ~~[(1)]~~ (2) (a) (i) ~~[Except for a person who has a contract with an owner or an owner-builder~~
507 ~~or a laborer compensated with wages, a subcontractor]~~ A person who, under Section 38-1-3, is
508 entitled to a lien under this chapter with respect to a private project shall file a preliminary notice with
509 the database ~~[by the]~~ no later ~~[of: (A)]~~ than 20 days after ~~[commencement of its own work or the~~
510 ~~commencement of]~~ the person commences furnishing labor, service, equipment, ~~[and]~~ or material to
511 ~~[a construction]~~ the project~~[; or].~~

512 (ii) A pre-lender claimant who, under Section 38-1-3, is entitled to claim a lien under this
513 chapter for labor, service, equipment, or material the claimant furnishes to a private project after the
514 recording of a construction lender's mortgage or trust deed on the project property shall file a
515 preliminary notice within 20 days after the recording of the mortgage or trust deed.

516 ~~[(B) 20 days after the filing of a notice of commencement if the subcontractor's work~~
517 ~~commences before the filing of the first notice of commencement.]~~

518 ~~[(ii)]~~ (b) [A] Subject to Subsection (2)(c), a preliminary notice ~~[filed within the period~~
519 ~~described in Subsection (1)(a)(i)]~~ is effective as to all labor, service, equipment, and material
520 ~~[furnished]~~ that the person filing the notice furnishes to the ~~[construction]~~ private project, including
521 labor, service, equipment, and material ~~[provided]~~ that the person furnishes to more than one
522 contractor or subcontractor on that same project.

523 ~~[(iii) (A) If more than one notice of commencement is filed for a project, a person may attach~~
524 ~~a preliminary notice to any notice of commencement filed for the project by a party authorized in~~
525 ~~Section 38-1-31.]~~

526 ~~[(B) A preliminary notice attached to an untimely notice of commencement is valid if there is~~
527 ~~also a valid and timely notice of commencement for the project filed by a party authorized in Section~~
528 ~~38-1-31.]~~

529 ~~[(b)]~~ (c) ~~[If a person files a]~~ A preliminary notice filed after the period [prescribed by]
530 provided in Subsection (1) (2)(a)[, the preliminary notice]:

531 (i) becomes effective five days after the day [on which] the preliminary notice is filed[-]; and
532 (ii) is not effective for labor, service, equipment, or material that the person who files the
533 preliminary notice furnishes to the construction project before five days after the preliminary notice is
534 filed.

535 ~~[(c) Except as provided in Subsection (1)(c), failure to file a preliminary notice within the~~
536 ~~period required by Subsection (1)(a) precludes a person from maintaining any claim for compensation~~
537 ~~earned for performance of labor or service or supply of materials or equipment furnished to the~~
538 ~~construction project before the expiration of five days after the late filing of a preliminary notice,~~
539 ~~except as against the person with whom the person contracted.]~~

540 (d) (i) (A) ~~[If a]~~ A person who [is required to file a preliminary notice under this chapter] fails
541 to file [the] a preliminary notice[,- that person] as required in this section may not hold a valid lien
542 under this chapter.

543 (B) A person who files a preliminary notice after the period provided in Subsection (2)(a)
544 may not hold a valid lien under this chapter for labor, service, equipment, or material the person
545 furnishes to the construction project before five days after the preliminary notice is filed.

546 ~~[(B)]~~ (ii) A county recorder need not verify that a valid preliminary notice is filed when a
547 person files a notice to hold and claim a lien under Section 38-1-7.

548 ~~[(ii) The content of a]~~

549 (e) (i) Except as provided in Subsection (2)(e)(ii), a preliminary notice that is timely filed with
550 the database with respect to a private project is considered to be filed at the time of the first
551 preliminary notice filing, as defined in Section 38-1-5.

552 (ii) A timely filed preliminary notice that is a refiled preliminary notice is considered to be
553 filed
554 immediately after the recording of a mortgage or trust deed of the construction lender that paid the
555 pre-lender claimant in full for labor, service, equipment, or material the claimant furnished before the
556 recording of the mortgage or trust deed.

557 (f) If a preliminary notice filed with the database includes the tax parcel identification number
558 of a parcel not previously associated in the database with a private project, the designated agent shall
559 promptly notify the person who filed the preliminary notice that:

560 (i) the preliminary notice includes a tax parcel identification number of a parcel not previously
561 associated in the database with a private project; and

562 (ii) the likely explanation is that:

563 (A) the preliminary notice is the first filing for the project; or

564 (B) the tax parcel identification number is incorrectly stated in the preliminary notice.

565 (g) A preliminary notice for a private project shall include:

566 ~~[(A) the building permit number for the project, or the number assigned to the project by the~~
567 ~~designated agent;]~~

568 ~~[(B) (i) the name, address, [and] telephone number, and email address of the person~~
569 ~~furnishing the labor, service, equipment, or material for which the preliminary notice is filed;~~

570 ~~[(C) (ii) the name and address of the person who contracted with the claimant for the~~
571 ~~furnishing of the labor, service, equipment, or material;~~

572 ~~[(D) (iii) the name of the record or reputed owner of the project property;~~

573 ~~[(E) (iv) the name of the original contractor under which the claimant is [performing]~~
574 ~~furnishing or will [perform its work, and] furnish labor, service, equipment, or material;~~

575 ~~[(F) (v) the address of the project property or a description of the location of the project[-];~~

575 ~~[(iii) Upon request by person identified in Subsection (1)(a)(i), an original contractor shall~~
576 ~~provide the person with the building permit number for the project, or the number assigned to the~~
577 ~~project by the designated agent.]~~

578 ~~[(e) If a person provides labor, service, equipment, or material before the filing of a notice of~~
579 ~~commencement and the notice of commencement is filed more than 15 days after the day on which~~
580 ~~the person providing labor, service, equipment, or material begins work on the project, the person~~
581 ~~providing labor, service, equipment, or material need not file a preliminary notice to maintain the~~
582 ~~person's right to hold a lien under this chapter or any other right, including a right referenced under~~
583 ~~Subsection (1)(c).]~~

584 (vi) the name of the county in which the project property is located; and

585 (vii) (A) the tax parcel identification number of each parcel included in the project property;

586 (B) the entry number of a previously filed notice of construction loan under Section
587 38-1-30.5 on the same project;

588 (C) the entry number of a previously filed preliminary notice on the same project that
589 includes the tax parcel identification number of each parcel included in the project property; or

590 (D) the entry number of the building permit issued for the project.

591 (h) A preliminary notice for a private project may include:

592 (i) the subdivision, development, or other project name applicable to the construction project
593 for which the preliminary notice is filed; and

594 (ii) the lot or parcel number of each lot or parcel that is included in the project property.

595 ~~[(2)] (3) (a) [(†)] Unless a person indicates to the division or designated agent that the person~~
596 ~~does not wish to receive a notice under this section, electronic notification of the filing of a preliminary~~
597 ~~notice or alternate [notice as prescribed in Subsection (1);] filing shall be provided to:~~

598 ~~[(A)] (i) the person filing the preliminary notice; and~~

599 ~~[(B) each person that filed a notice of commencement for the project; and]~~

600 ~~[(C) all interested persons who have requested notices]~~

601 (ii) each person who has requested a notice concerning the project.

602 ~~[(ii)]~~ (b) A person to whom notice is required to be provided under Subsection (2)(a)~~[(i)]~~ is
603 responsible for:

604 ~~[(A)]~~ (i) providing an email address, mailing address, or telefax number to which a notice
605 required by Subsection (2)(a) is to be sent; and

606 ~~[(B)]~~ (ii) the accuracy of any email address, mailing address, or telefax number to which
607 notice is to be sent.

608 ~~[(iii)]~~ (c) The designated agent fulfills the notice requirement of Subsection (2)(a)~~[(i) when it~~
609 ~~sends]~~ by sending the notice to the email address, mailing address, or telefax number provided to the
610 designated agent, whether or not the notice is actually received.

611 ~~[(b)]~~ (4) (a) The burden is upon the person filing the preliminary notice to prove that the
612 person has substantially complied with the requirements of this section.

613 (b) Substantial compliance with the requirements of Subsection (2)(g) may be established by
614 a person's reasonable reliance on information in the database provided by a previously filed:

615 (i) notice of construction loan under Section 38-1-30.5;

616 (ii) preliminary notice; or

617 (iii) building permit.

618 ~~[(c)]~~ (5) (a) Subject to Subsection ~~[(2)(d)]~~ (5)(b), a person required by this section to give
619 preliminary notice is only required to give one notice for each project.

620 ~~[(d)]~~ (b) If the labor, service, equipment, or material is furnished pursuant to contracts under
621 more than one original contract, the notice requirements ~~[must]~~ shall be met with respect to the labor,
622 service, equipment, or material furnished under each original contract.

623 ~~[(3)]~~ (6) (a) ~~[If a]~~ A construction project owner, original contractor, subcontractor, or other
624 interested person who believes that a preliminary notice has been filed erroneously~~[-that owner,~~
625 ~~original contractor, subcontractor, or other interested person can]~~ may request from the person who
626 filed the preliminary notice evidence establishing the validity of the preliminary notice.

627 (b) Within 10 days after the request described in Subsection [~~(3)~~] (6)(a), the person or entity
628 that filed the preliminary notice shall provide the requesting person or entity proof that the preliminary
629 notice is valid.

630 (c) If the person or entity that filed the preliminary notice does not provide proof of the
631 validity of the preliminary notice, that person or entity shall immediately cancel the preliminary notice
632 from the database in any manner prescribed by the division pursuant to rule.

633 [~~(4)~~] (7) A person filing a preliminary notice by alternate filing is responsible for verifying and
634 changing any incorrect information in the preliminary notice before the expiration of the time period
635 during which the notice is required to be filed.

636 [~~(5) Until June 1, 2008, nothing in this section affects a person's rights under Title 38,
637 Chapter 11, Residence Lien Restriction and Lien Recovery Fund Act.]~~

638 (8) (a) A person who files a preliminary notice before the recording of a construction lender's
639 mortgage or trust deed may withdraw the preliminary notice by filing with the database a notice of
640 withdrawal as provided in Subsection (8)(b).

641 (b) A notice of withdrawal shall include:

642 (i) the information required for a preliminary notice under Subsection (2)(g); and

643 (ii) the entry number of the preliminary notice being withdrawn.

644 (9) A person who files a preliminary notice that contains inaccurate or incomplete information
645 may not be held liable for damages suffered by any other person who relies on the inaccurate or
646 incomplete information in filing a preliminary notice.

647 Section 11. Section **38-1-32.5** is enacted to read:

648 **38-1-32.5. Preliminary notice on government project.**

649 (1) Except for a person who has a contract with an owner or an owner-builder or a laborer
650 compensated with wages, a subcontractor on a government project shall file a preliminary notice with
651 the database by the later of:

652 (a) 20 days after the subcontractor commences the subcontractor's own work or

653 commences furnishing labor, service, equipment, or material to the construction project; and

654 (b) 20 days after the filing of a notice of commencement, if the subcontractor's work
655 commences before the filing of the first notice of commencement.

656 (2) A preliminary notice filed within the period described in Subsection (1) is effective as to
657 all labor, service, equipment, and material that the subcontractor furnishes to the construction project,
658 including labor, service, equipment, and material provided that the subcontractor furnishes to more
659 than one contractor or subcontractor.

660 (3) (a) If more than one notice of commencement is filed for a project, a person may attach a
661 preliminary notice to any notice of commencement filed for the project.

662 (b) A preliminary notice attached to an untimely notice of commencement is valid if there is
663 also a valid and timely notice of commencement for the project.

664 (4) If a person files a preliminary notice after the period prescribed by Subsection (1), the
665 preliminary notice becomes effective five days after the day on which the preliminary notice is filed.

666 (5) Except as provided in Subsection (8), failure to file a preliminary notice within the period
667 required by Subsection (1) precludes a person from maintaining any claim for compensation earned
668 for labor, service, material, or equipment furnished to the construction project before the expiration of
669 five days after the late filing of a preliminary notice, except as against the person with whom the
670 person contracted.

671 (6) A preliminary notice on a government project shall include:

672 (a) the government project-identifying information;

673 (b) the name, address, and telephone number of the person furnishing the labor, service,
674 equipment, or material;

675 (c) the name and address of the person who contracted with the claimant for the furnishing of
676 the labor, service, equipment, or material;

677 (d) the name of the record or reputed owner of the project;

678 (e) the name of the original contractor under which the claimant is performing or will perform

679 its work; and

680 (f) the address of the project or a description of the location of the project.

681 (7) Upon request, an original contractor shall provide a subcontractor with the number
682 assigned to the project by the designated agent.

683 (8) A person who provides labor, service, equipment, or material before the filing of a notice
684 of commencement need not file a preliminary notice to maintain any right the person would otherwise
685 have, if the notice of commencement is filed more than 15 days after the day on which the person
686 begins work on the project.

687 (9) Subsections 38-1-32(2), (3), (4), (5), and (6) apply to a preliminary notice on a
688 government project under this section to the same extent that those subsections apply to a preliminary
689 notice on a private project under Section 38-1-32.

690 Section 12. Section **38-1-32.7** is enacted to read:

691 **38-1-32.7. Notice concerning construction loan default.**

692 (1) Within five business days after a notice of default is filed for recording under Section
693 57-1-24 with respect to a trust deed on the project property securing a construction loan, the
694 construction lender under the loan shall file a notice with the database.

695 (2) A notice under Subsection (1) shall:

696 (a) include:

697 (i) the information required to be included in a notice of construction loan under Subsections
698 38-1-30.5(3)(a), (b), (c), (d), and (e); and

699 (ii) the entry number of the notice of construction loan;

700 (b) state that a notice of default with respect to the construction loan has been recorded; and

701 (c) state the date that the notice of default was recorded.

702 Section 13. Section **38-1-33** is amended to read:

703 **38-1-33. Notice of completion.**

704 (1) (a) Upon final completion of a construction project, and in accordance with Section

705 38-1-40, the following with a construction project registered with the database may file a notice of
706 completion with the database:

- 707 (i) an owner of the construction project;
- 708 (ii) an original contractor of the construction project;
- 709 (iii) a lender that has provided financing for the construction project;
- 710 (iv) a surety that has provided bonding for the construction project; or
- 711 (v) a title company issuing a title insurance policy on the construction project.

712 (b) Notwithstanding Section 38-1-2, if a subcontractor performs substantial work after the
713 applicable dates established by Subsection (1)(a), that subcontractor's subcontract is considered an
714 original contract for the sole purpose of determining:

- 715 (i) the subcontractor's time frame to file a notice to hold and claim a lien under Subsection
716 38-1-7(1); and
- 717 (ii) the original contractor's time frame to file a notice to hold and claim a lien under
718 Subsection 38-1-7(1) for that subcontractor's work.

719 (c) A notice of completion shall include:

720 ~~[(i) the building permit number for the project, or the number assigned to the project by the~~
721 ~~designated agent;]~~

722 ~~[(ii)]~~ (i) the name, address, ~~[and]~~ telephone number, and email address of the person filing
723 the notice of completion;

724 ~~[(iii) the name of the original contractor for the project;]~~

725 ~~[(iv) the address of the project or a description of the location of the project;]~~

726 (ii) the name of the county in which the project property is located;

727 (iii) for a private project:

728 (A) the tax parcel identification number of each parcel included in the project property;

729 (B) the entry number of a preliminary notice on the same project that includes the tax parcel
730 identification number of each parcel included in the project property; or

731 (C) the entry number of the building permit issued for the project;
732 (iv) for a government project, the government project-identifying information;
733 (v) the date on which final completion is alleged to have occurred; and
734 (vi) the method used to determine final completion.

735 (d) For purposes of this section, final completion of the original contract does not occur if
736 work remains to be completed for which the owner is holding payment to ensure completion of the
737 work.

738 (e) (i) Unless a person indicates to the division or designated agent that the person does not
739 wish to receive a notice under this section, electronic notification of the filing of a notice of completion
740 or alternate [~~notice as prescribed in Subsection (1)(a);~~] filing shall be provided to:

741 (A) each person that filed a notice of commencement for the project;
742 (B) each person that filed preliminary notice for the project; and
743 (C) all interested persons who have requested notices concerning the project.

744 (ii) A person to whom notice is required under this Subsection (1)(e) is responsible for:

745 (A) providing an email address, mailing address, or telefax number to which a notice
746 required by this Subsection (1)(e) is to be sent; and
747 (B) the accuracy of any email address, mailing address, or telefax number to which notice is
748 to be sent.

749 (iii) The designated agent fulfills the notice requirement of Subsection (1)(e)(i) when it sends
750 the notice to the email address, mailing address, or telefax number provided to the designated agent,
751 whether or not the notice is actually received.

752 (iv) Upon the filing of a notice of completion, the time periods for filing a preliminary
753 notice stated in Section [~~38-1-27~~] 38-1-32 or 38-1-32.5 are modified such that all preliminary
754 notices shall be filed subsequent to the notice of completion and within 10 days from the day on
755 which the notice of completion is filed.

756 (f) A subcontract that is considered an original contract for purposes of this section does not

757 create a requirement for an additional preliminary notice if a preliminary notice has already been given
758 for the labor, service, equipment, and material furnished to the subcontractor who performs
759 substantial work.

760 (2) (a) If a construction project owner, original contractor, subcontractor, or other interested
761 person believes that a notice of completion has been filed erroneously, that owner, original contractor,
762 subcontractor, or other interested person can request from the person who filed the notice of
763 completion evidence establishing the validity of the notice of completion.

764 (b) Within 10 days after the request described in Subsection (2)(a), the person who filed the
765 notice of completion shall provide the requesting person proof that the notice of completion is valid.

766 (c) If the person that filed the notice of completion does not provide proof of the validity of
767 the notice of completion, that person shall immediately cancel the notice of completion from the
768 database in any manner prescribed by the division pursuant to rule.

769 (3) A person filing a notice of completion by alternate filing is responsible for verifying and
770 changing any incorrect information in the notice of completion before the expiration of the time period
771 during which the notice is required to be filed.

772 Section 14. Section **58-56-20** is amended to read:

773 **58-56-20. Standardized building permit content.**

774 (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
775 division shall adopt a standardized building permit form by rule.

776 (2) (a) The standardized building permit form created under Subsection (1) shall include
777 fields for indicating the following information:

778 (i) the name and address of the owner of [~~or contractor for the~~] each parcel of property on
779 which the project will occur;

780 (ii) the name and address of the contractor for the project;

781 [~~(i)~~] (iii) (A) the address of the project; or

782 (B) a general description of the project; [~~and~~]

783 (iv) the county in which the property on which the project will occur is located;

784 (v) the tax parcel identification number of each parcel of the property; and

785 [~~(iii)~~] (vi) whether the permit applicant is an original contractor or owner-builder.

786 (b) The standardized building permit form created under Subsection (1) may include any
787 other information the division considers useful.

788 (3) (a) A compliance agency shall issue a permit for construction only on a standardized
789 building permit form approved by the division.

790 (b) A permit for construction issued by a compliance agency under Subsection (3)(a) shall
791 print the standardized building permit number assigned under Section 58-56-19 in the upper
792 right-hand corner of the building permit form in at least 12-point type.

793 (c) (i) Except as provided in Subsection (3)(c)(ii), a compliance agency may not issue a
794 permit for construction if the information required by Subsection (2)(a) is not completed on the
795 building permit form.

796 (ii) If a compliance agency does not issue a separate permit for different aspects of the same
797 project, the compliance agency may issue a permit for construction without the information required
798 by Subsection (2)(a)[~~(iii)~~](vi).

799 (d) A compliance agency may require additional information for the issuance of a permit for
800 construction.

801 (4) A local regulator issuing a single-family residential building permit application shall
include
802 in the application or attach to the building permit the following notice prominently placed in at least 14
803 point font: "Decisions relative to this application are subject to review by the chief executive officer of
804 the municipal or county entity issuing the single-family residential building permit and appeal under
the
805 International Residential Code as adopted by the Legislature."

806 Section 15. Section **63G-6-506** is amended to read:

807 **63G-6-506. Preliminary notice requirement.**

808 (1) Any person furnishing labor, service, equipment, or material for which a payment bond

809 claim may be made under this chapter shall provide preliminary notice to the designated agent as
810 prescribed by Section [~~38-1-32~~] 38-1-32.5, except that this section does not apply:

811 (a) to a person performing labor for wages; or

812 (b) if a notice of commencement is not filed as prescribed in Section [~~38-1-31~~] 38-1-31.5
813 for the project or improvement for which labor, service, equipment, or material is furnished.

814 (2) Any person who fails to provide the preliminary notice required by Subsection (1) may
815 not make a payment bond claim under this chapter.

816 (3) The preliminary notice required by Subsection (1) must be provided [~~prior to~~] before
817 commencement of any action on the payment bond.

818 **Section 16. Repealer.**

819 This bill repeals:

820 Section **38-1-37, Application of Section 38-1-27 and Sections 38-1-30 through 38-1-36.**

821 **Section 17. Legislative intent.**

822 It is the intent of the Legislature that:

823 (1) the changes to the law made by this bill apply only to construction projects that
824 commence on or after August 1, 2011; and

825 (2) during the 2012 and 2013 interim periods, before the November interim committee
826 meeting each year, the Business and Labor Interim Committee review and evaluate the
827 implementation of this bill, determine whether the provisions of this bill should be modified or
828 repealed, and make a recommendation accordingly to the Legislative Management Committee.

829 **Section 18. Effective date.**

830 This bill takes effect on August 1, 2011.

831 **Section 19. Coordinating H.B. 260 with H.B. 203 -- Technically merging substantive**
832 **amendments.**

833 If this H.B. 260 and H.B. 203, Codification of State Construction and Fire Codes, both pass,
834 it is the intent of the Legislature that:

835 (1) the coordination clause in this H.B. 260 supersedes the coordination clause contained in
836 H.B. 203; and

837 (2) the Office of Legislative Research and General Counsel, in preparing the Utah Code
838 database for publication:

839 (a) modify Subsection 15A-1-209(3)(b), as enacted in H.B. 203, to read:

840 "(b) The standardized building permit form created under this Subsection (3) shall include
841 fields for indicating the following information:

842 (i) the name and address of the owner of each parcel of property on which the project will
843 occur;

844 (ii) the name and address of the contractor for the project;

845 (iii) (A) the address of the project; or

846 (B) a general description of the project;

847 (iv) the county in which the property on which the project will occur is located;

848 (v) the tax parcel identification number of each parcel of the property; and

849 (vi) whether the permit applicant is an original contractor or owner-builder."; and

850 (b) change the citation in Subsection 15A-1-209(3)(f)(ii), as enacted in H.B. 203, from
851 "Subsection (3)(b)(iii)" to "Subsection (3)(b)(vi)."

852 **Section 20. Coordinating H.B. 260 with H.B. 115 -- Technically merging substantive**
853 **amendments.**

854 If this H.B. 260 and H.B. 115, Mechanics' Lien Amendments, both pass, it is the intent of the
855 Legislature that:

856 (1) the Office of Legislative Research and General Counsel, in preparing the Utah Code
857 database for publication:

858 (a) modify Subsection 38-1-2(6) to read:

859 "(6) "Construction service":

860 (a) means to furnish labor, service, material, or equipment for the purpose and during the

861 process of constructing, altering, or repairing an improvement; and

862 (b) includes the scheduling, estimating, staking, supervising, managing, materials testing,
863 inspection, observation, and quality control or assurance involved in constructing, altering, or repairing
864 an improvement.";

865 (b) modify Section 38-1-5 to read:

866 **"38-1-5. Relation back and priority of liens.**

867 ~~[The liens herein provided for shall relate]~~

868 (1) As used in this section:

869 (a) "First preliminary notice filing" means the filing of a preliminary notice that is:

870 (i) the earliest preliminary notice filed on a private project, as defined in Section 38-1-27;

871 (ii) filed on or after August 1, 2011;

872 (iii) not filed on a project that, according to the law in effect before August 1, 2011,

873 commenced before August 1, 2011;

874 (iv) not canceled under Subsection 38-1-32(6); and

875 (v) not withdrawn under Subsection 38-1-32(8).

876 (b) "Project property" means the real property on which an improvement is being
877 constructed or made.

878 (2) A construction service lien relates back to, and [take] takes effect as of, the time of the
879 [commencement to do work or furnish materials on the ground for the structure or improvement, and
880 shall have] first preliminary notice filing.

881 (3) (a) Subject to Subsection (3)(b), a construction service lien has priority over:

882 (i) any lien, mortgage, or other encumbrance [which may have attached subsequently to the
883 time when the building, improvement or structure was commenced, work begun, or first material
884 furnished on the ground; also over] that attaches after the first preliminary notice filing; and

885 (ii) any lien, mortgage, or other encumbrance of which the lien holder had no notice and
886 which was unrecorded at the time [the building, structure or improvement was commenced, work

887 ~~begun, or first material furnished on the ground] of the first preliminary notice filing.~~

888 (b) A recorded mortgage or trust deed of a construction lender has priority over each
 889 construction service lien of a claimant who files a preliminary notice in accordance with Section
 890 38-1-32 before the mortgage or trust deed is recorded if the claimant:

891 (i) accepts payment in full for construction service that the claimant furnishes to the project
 892 before the mortgage or trust deed is recorded; and

893 (ii) withdraws the claimant's preliminary notice by filing a notice of withdrawal under
 894 Subsection 38-1-32(8).";

895 (c) modify Subsection 38-1-19(1) to read:

896 "~~When any~~ (1) If a subcontractor ~~[shall have]~~ has actually begun to ~~[furnish labor or~~
 897 ~~materials]~~ perform preconstruction service or furnish construction service for which ~~[he] the~~
 898 ~~subcontractor~~ is entitled to a lien ~~[no]~~, a payment to the original contractor ~~[shall]~~ may not impair or
 899 defeat ~~[such] the~~ lien~~[-and no]~~.";

900 (d) modify Subsection 38-1-27(2)(c) to read:

901 "(c) provide a central repository for ~~[notices of commencement, preliminary notices, and~~
 902 ~~notices of completion filed in connection with all privately owned construction projects as well as all~~
 903 ~~state and local government owned construction projects throughout Utah]~~ all notices filed with the
 904 database under Section 38-1-30.5, 38-1-30.7, 38-1-31.5, 38-1-32, 38-1-32.5, 38-1-32.7,
 905 38-1-33, or 38-1-40;";

906 (e) modify Subsection 38-1-32(2) to read:

907 "~~(1)~~ (2) (a) (i) ~~[Except for a person who has a contract with an owner or an owner-builder~~
 908 ~~or a laborer compensated with wages, a subcontractor]~~ A person who, under Section 38-1-3, is
 909 entitled to a construction service lien with respect to a private project shall file a preliminary notice
 910 with the database ~~[by the]~~ no later ~~[of: (A)]~~ than 20 days after ~~[commencement of its own work or~~
 911 the commencement of] the person commences furnishing ~~[labor, service, equipment, and material]~~
 912 construction service to ~~[a construction]~~ the project~~[-or]~~.

913 (ii) A pre-lender claimant who, under Section 38-1-3, is entitled to claim a construction
 914 service lien for construction service the claimant furnishes to a private project after the recording of a
 915 construction lender's mortgage or trust deed on the project property shall file a preliminary notice
 916 within 20 days after the recording of the mortgage or trust deed.

917 ~~[(B) 20 days after the filing of a notice of commencement if the subcontractor's work~~
 918 ~~commences before the filing of the first notice of commencement.]~~

919 ~~[(ii)]~~ (b) ~~[A]~~ Subject to Subsection (2)(c), a preliminary notice ~~[filed within the period~~
 920 ~~described in Subsection (1)(a)(i)]~~ is effective as to all ~~[labor, service, equipment, and material~~
 921 ~~furnished]~~ construction service that the person filing the notice furnishes to the ~~[construction]~~ private
 922 project, including ~~[labor, service, equipment, and material provided]~~ construction service that the
 923 person furnishes to more than one contractor or subcontractor on that same project.

924 ~~[(iii) (A) If more than one notice of commencement is filed for a project, a person may attach~~
 925 ~~a preliminary notice to any notice of commencement filed for the project by a party authorized in~~
 926 ~~Section 38-1-31.]~~

927 ~~[(B) A preliminary notice attached to an untimely notice of commencement is valid if there is~~
 928 ~~also a valid and timely notice of commencement for the project filed by a party authorized in Section~~
 929 ~~38-1-31.]~~

930 ~~[(b)]~~ (c) ~~[If a person files a]~~ A preliminary notice filed after the period ~~[prescribed by]~~
 931 provided in Subsection ~~[(1)]~~ (2)(a) ~~[-, the preliminary notice]:~~

932 (i) becomes effective five days after the day ~~[on which]~~ the preliminary notice is filed ~~[-]; and~~

933 (ii) is not effective for construction service that the person who files the preliminary notice
 934 furnishes to the construction project before five days after the preliminary notice is filed.

935 ~~[(c) Except as provided in Subsection (1)(c), failure to file a preliminary notice within the~~
 936 ~~period required by Subsection (1)(a) precludes a person from maintaining any claim for compensation~~
 937 ~~earned for performance of labor or service or supply of materials or equipment furnished to the~~
 938 ~~construction project before the expiration of five days after the late filing of a preliminary notice;~~

939 ~~except as against the person with whom the person contracted.]~~

940 (d) (i) (A) ~~[If a]~~ A person who [is required to file a preliminary notice under this chapter] fails
941 to file [the] a preliminary notice[, that person] as required in this section may not hold a valid
942 construction service lien under this chapter.

943 (B) A person who files a preliminary notice after the period provided in Subsection (2)(a)
944 may not hold a valid construction service lien for construction service the person furnishes to the
945 construction project before five days after the preliminary notice is filed.

946 ~~[(B)]~~ (ii) A county recorder need not verify that a valid preliminary notice is filed when a
947 person files a notice to hold and claim a lien under Section 38-1-7.

948 ~~[(ii) The content of a]~~

949 (e) (i) Except as provided in Subsection (2)(e)(ii), a preliminary notice that is timely filed with
950 the database with respect to a private project is considered to be filed at the time of the first
951 preliminary notice filing, as defined in Section 38-1-5.

952 (ii) A timely filed preliminary notice that is a refiled preliminary notice is considered to be
953 filed

954 immediately after the recording of a mortgage or trust deed of the construction lender that paid the
955 pre-lender claimant in full for construction service the claimant furnished before the recording of the
956 mortgage or trust deed.

957 (f) If a preliminary notice filed with the database includes the tax parcel identification number
958 of a parcel not previously associated in the database with a private project, the designated agent shall
959 promptly notify the person who filed the preliminary notice that:

960 (i) the preliminary notice includes a tax parcel identification number of a parcel not previously
961 associated in the database with a private project; and

962 (ii) the likely explanation is that:

963 (A) the preliminary notice is the first filing for the project; or

964 (B) the tax parcel identification number is incorrectly stated in the preliminary notice.

965 (g) A preliminary notice for a private project shall include:

965 ~~[(A) the building permit number for the project, or the number assigned to the project by the~~
966 ~~designated agent;]~~

967 ~~[(B)]~~ (i) the name, address, [and] telephone number, and email address of the person
968 furnishing the [labor, service, equipment, or material] construction service for which the preliminary
969 notice is filed;

970 ~~[(C)]~~ (ii) the name and address of the person who contracted with the claimant for the
971 furnishing of the [labor, service, equipment, or material] construction service;

972 ~~[(D)]~~ (iii) the name of the record or reputed owner of the project property;

973 ~~[(E)]~~ (iv) the name of the original contractor for construction service under which the
974 claimant is [performing] furnishing or will [perform its work; and] furnish construction service;

975 ~~[(F)]~~ (v) the address of the project property or a description of the location of the project[-];

976 ~~[(iii) Upon request by person identified in Subsection (1)(a)(i), an original contractor shall~~
977 ~~provide the person with the building permit number for the project, or the number assigned to the~~
978 ~~project by the designated agent.]~~

979 ~~[(e) If a person provides labor, service, equipment, or material before the filing of a notice of~~
980 ~~commencement and the notice of commencement is filed more than 15 days after the day on which~~
981 ~~the person providing labor, service, equipment, or material begins work on the project, the person~~
982 ~~providing labor, service, equipment, or material need not file a preliminary notice to maintain the~~
983 ~~person's right to hold a lien under this chapter or any other right, including a right referenced under~~
984 ~~Subsection (1)(c).]~~

985 (vi) the name of the county in which the project property is located; and

986 (vii) (A) the tax parcel identification number of each parcel included in the project property;

987 (B) the entry number of a previously filed notice of construction loan under Section
988 38-1-30.7 on the same project;

989 (C) the entry number of a previously filed preliminary notice on the same project that
990 includes the tax parcel identification number of each parcel included in the project property; or

991 (D) the entry number of the building permit issued for the project.
992 (h) A preliminary notice for a private project may include:
993 (i) the subdivision, development, or other project name applicable to the construction project
994 for which the preliminary notice is filed; and
995 (ii) the lot or parcel number of each lot or parcel that is included in the project property.";
996 and
997 (f) modify Subsection 38-1-32(5) to read:
998 "[(e)] (5) (a) Subject to Subsection [(2)(d)] (5)(b), a person required by this section to give
999 preliminary notice is only required to give one notice for each project.
1000 [(d)] (b) If the [labor, service, equipment, or material] construction service is furnished
1001 pursuant to contracts under more than one original contract for construction service, the notice
1002 requirements [must] shall be met with respect to the [labor, service, equipment, or material]
1003 construction service furnished under each original contract.";
1004 (2) the amendments to Subsection 38-1-27(2)(d) in this H.B. 260 supersede the
1005 amendments to Subsection 38-1-27(2)(d) in H.B. 115;
1006 (3) the amendments to Subsection 38-1-27(4)(a) in this H.B. 260 supersede the
1007 amendments to Subsection 38-1-27(4)(a) in H.B. 115; and
1008 (4) (a) Section 30-1-30.5, as enacted in this H.B. 260, be renumbered to Section
1009 30-1-30.7; and
1010 (b) all references in this H.B. 260 to Section 30-1-30.5 be changed to Section 30-1-30.7.