

UTAH CONSTRUCTION TRADE LICENSING

ACT AMENDMENTS

2003 GENERAL SESSION

STATE OF UTAH

Sponsor: Stephen H. Urquhart

This act amends the Utah Construction Trade Licensing Act by requiring compliance agencies to notify the Division of Occupational and Professional Licensing upon the issuance of building permits to sole owners of property who may qualify for a licensure exemption for sole owners of property.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

58-55-305, as last amended by Chapters 33 and 241, Laws of Utah 2002

58-55-308, as last amended by Chapters 33 and 241, Laws of Utah 2002

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

Section 1. Section **58-55-305** is amended to read:

58-55-305. Exemptions from licensure.

(1) In addition to the exemptions from licensure in Section 58-1-307, the following persons may engage in acts or practices included within the practice of construction trades, subject to the stated circumstances and limitations, without being licensed under this chapter:

~~[(1)]~~ (a) an authorized representative of the United States government or an authorized employee of the state or any of its political subdivisions when working on construction work of the state or the subdivision, and when acting within the terms of ~~[his]~~ the person's trust, office, or employment;

~~[(2)]~~ (b) a person engaged in construction or operation incidental to the construction and repair of irrigation and drainage ditches of regularly constituted irrigation districts, reclamation districts, and drainage districts or construction and repair relating to farming, dairying, agriculture, livestock or poultry raising, metal and coal mining, quarries, sand and gravel excavations, well drilling, hauling to and from construction sites, and lumbering;

~~[(3)]~~ (c) public utilities operating under the rules of the Public Service Commission on

construction work incidental to their own business;

~~[(4)]~~ (d) sole owners of property engaged in building:

~~[(a)]~~ (i) no more than one residential structure per year and no more than three residential structures per five years on their property for their own noncommercial, nonpublic use; except, ~~[any]~~ a person other than the property owner or individuals described in Subsection ~~[(5)]~~ (1)(e), who engages in building the structure must be licensed under this chapter if ~~[he]~~ the person is otherwise required to be licensed under this chapter; or

~~[(b)]~~ (ii) structures on their property for their own noncommercial, nonpublic use which are incidental to a residential structure on the property, including sheds, carports, or detached garages;

~~[(5)(a) an individual]~~ (e) (i) a person engaged in construction or renovation of a residential building for noncommercial, nonpublic use if that person:

~~[(i)]~~ (A) works without compensation other than token compensation that is not considered salary or wages; and

~~[(ii)]~~ (B) works under the direction of the property owner who engages in building the structure;

~~[(b)]~~ (ii) for purposes of this Subsection ~~[(5)]~~ (1)(e), "token compensation" means compensation paid by a sole owner of property exempted from licensure under Subsection ~~[(4)]~~ (1)(d) to ~~[an individual]~~ a person exempted from licensure under this Subsection ~~[(5)]~~ (1)(e), that is:

~~[(i)]~~ (A) minimal in value when compared with the fair market value of the services provided by the ~~[individual]~~ person;

~~[(ii)]~~ (B) not related to the fair market value of the services provided by the ~~[individual]~~ person; and

~~[(iii)]~~ (C) is incidental to providing of services by the ~~[individual]~~ person including paying for or providing meals or refreshment while services are being provided, or paying reasonable transportation costs incurred by the ~~[individual]~~ person in travel to the site of construction;

~~[(6)]~~ (f) a person engaged in the sale or merchandising of personal property that by its design or manufacture may be attached, installed, or otherwise affixed to real property who has contracted with a person, firm, or corporation licensed under this chapter to install, affix, or attach that property;

~~[(7)]~~ (g) a contractor submitting a bid on a federal aid highway project, if, before undertaking ~~[any]~~ construction under that bid, the contractor is licensed under this chapter;

~~[(8)(a)]~~ (h) (i) a person engaged in the alteration, repair, remodeling, or addition to or improvement of ~~[any]~~ a building with a contracted or agreed value of less than \$1,000, including both labor and materials, and including all changes or additions to the contracted or agreed upon work;

~~[(b)]~~ (ii) notwithstanding Subsection ~~[(8)(a)]~~ (1)(h)(i):

~~[(i)]~~ (A) work in the plumbing and electrical trades must be performed by a licensed electrician or plumber except as otherwise provided in this section; and

~~[(ii)]~~ (B) installation, repair, or replacement of a residential or commercial gas appliance or a combustion system must be performed by a person who has received certification under Subsection 58-55-308(2);

~~[(9)]~~ (i) a person practicing a specialty contractor classification or construction trade which is not classified by rule by the director as significantly impacting the public's health, safety, and welfare;

~~[(10)]~~ (j) owners and lessees of property and persons regularly employed for wages by owners or lessees of property or their agents for the purpose of maintaining the property, are exempt from this chapter when doing work upon the property;

~~[(11)(a)]~~ (k) (i) a person engaged in minor plumbing work incidental to the replacement or repair of a fixture or an appliance in a residential or small commercial building, or structure used for agricultural use, as defined in Section 58-56-4, provided that no modification is made to:

~~[(i)]~~ (A) existing culinary water, soil, waste, or vent piping; or

~~[(ii)]~~ (B) a gas appliance or combustion system;

~~[(b)]~~ (ii) except as provided in Subsection ~~[(5)]~~ (1)(e), installation for the first time of a

fixture or an appliance is not included in the exemption provided under Subsection [(11)(a)] (1)(k)(i);

[(12)] (1) a person who ordinarily would be subject to the plumber licensure requirements [set forth in] under this chapter when installing or repairing a water conditioner or other water treatment apparatus if the conditioner or apparatus:

[(a)] (i) meets the appropriate state construction codes or local plumbing standards; and

[(b)] (ii) is installed or repaired under the direction of a person authorized to do [such] the work under an appropriate specialty contractor license;

[(13)] (m) a person who ordinarily would be subject to the electrician licensure requirements [set forth in] under this chapter when employed by or under contract with:

[(a)] (i) railroad corporations, telephone corporations or their corporate affiliates, elevator contractors or constructors, or street railway systems; or

[(b)] (ii) public service corporations, rural electrification associations, or municipal utilities who generate, distribute, or sell electrical energy for light, heat, or power;

[(14)] (n) a person involved in minor electrical work incidental to a mechanical or service installation; and

[(15)] (o) a student participating in construction trade education and training programs approved by the commission with the concurrence of the director under the condition that:

[(a)] (i) all work intended as a part of a finished product on which there would normally be an inspection by a building inspector is, in fact, inspected and found acceptable by a licensed building inspector; and

[(b)] (ii) a licensed contractor obtains the necessary building permits.

(2) (a) A compliance agency as defined in Subsection 58-56-3(4) that issues a building permit to any person requesting a permit as a sole owner of property referred to in Subsection (1)(d) shall notify the division, in writing or through electronic transmission, of the issuance of the permit.

(b) The division shall evaluate the effectiveness of the notification requirement under Subsection (2)(a) and report its findings, including any recommendations for modification to or

termination of the requirement, to the Legislature's Business and Labor Interim Committee prior to the 2008 General Session.

Section 2. Section **58-55-308** is amended to read:

58-55-308. Scope of practice -- Installation, repair, or replacement of gas appliance or combustion system -- Rules.

(1) The commission, with the concurrence of the director, may adopt reasonable rules pursuant to Title 63, Chapter 46a, Utah Administrative Rulemaking Act, to define and limit the scope of practice and operating standards of the classifications and subclassifications licensed under this chapter in a manner consistent with established practice in the relevant industry. The commission and the director may limit the field and scope of operations of a licensee under this chapter in accordance with the rules and the public health, safety, and welfare, based on the licensee's education, training, experience, knowledge, and financial responsibility.

(2) (a) The work and scope of practice covered by this Subsection (2) is the installation, repair, or replacement of a residential or commercial gas appliance or combustion system.

(b) The provisions of this Subsection (2) apply to any:

(i) licensee under this chapter whose license authorizes the licensee to perform the work described in Subsection (2)(a); and

(ii) person exempt from licensure under Subsection 58-55-305~~(8)~~(1)(h).

(c) Any person described in Subsection (2)(b) that performs work described in Subsection (2)(a):

(i) must first receive training and certification as specified in rules adopted by the division; and

(ii) shall ensure that any employee authorized under other provisions of this chapter to perform work described in Subsection (2)(a) has first received training and certification as specified in rules adopted by the division.

(d) The division may exempt from the training requirements adopted under Subsection (2)(c) a person that has adequate experience, as determined by the division.

(e) The division shall exempt from initial certification requirements adopted under

Subsection (2)(c) a person who has passed a test equivalent to the level of testing required by the division for certification, or has completed an apprenticeship program that teaches the installation of gas line appliances and is approved by the Federal Bureau of Apprenticeship Training.

(3) This section does not prohibit a licensed specialty contractor from accepting and entering into a contract involving the use of two or more crafts or trades if the performance of the work in the crafts or trades, other than that in which the contractor is licensed, is incidental and supplemental to the work for which the contractor is licensed.