

1 **SECURITY ALARM BUSINESS LICENSING**

2 **AMENDMENTS**

3 2008 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Margaret Dayton**

6 House Sponsor: Stephen H. Urquhart

7

8 **LONG TITLE**

9 **General Description:**

10 This bill modifies the Utah Construction Trades Licensing Act by requiring that a person
11 be licensed in order to work on alarm systems.

12 **Highlighted Provisions:**

13 This bill:

14 ▶ requires that work as a security alarm business or company or as an alarm company
15 agent be performed by a licensed alarm business or company or a licensed alarm
16 company agent, except as otherwise provided in the Utah Construction Trades
17 Licensing Act;

18 ▶ prohibits employing an unlicensed alarm business or company or an unlicensed
19 individual as an alarm company agent, except under specified exemptions; and

20 ▶ requires an alarm business or company to be licensed to maintain or commence
21 action for collection of compensation for work performed for which a license is
22 required.

23 **Monies Appropriated in this Bill:**

24 None

25 **Other Special Clauses:**

26 None

27 **Utah Code Sections Affected:**

28 AMENDS:

29 **58-55-305**, as last amended by Laws of Utah 2007, Chapter 186

30 **58-55-501**, as last amended by Laws of Utah 2004, Chapter 45

31 **58-55-604**, as renumbered and amended by Laws of Utah 1994, Chapter 181



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

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

35 **58-55-305. Exemptions from licensure.**

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

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

43 (b) a person engaged in construction or operation incidental to the construction and
44 repair of irrigation and drainage ditches of regularly constituted irrigation districts, reclamation
45 districts, and drainage districts or construction and repair relating to farming, dairying,
46 agriculture, livestock or poultry raising, metal and coal mining, quarries, sand and gravel
47 excavations, well drilling, as defined in Subsection 73-3-24(3), hauling to and from construction
48 sites, and lumbering;

49 (c) public utilities operating under the rules of the Public Service Commission on
50 construction work incidental to their own business;

51 (d) sole owners of property engaged in building:

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

57 (ii) structures on their property for their own noncommercial, nonpublic use which are

58 incidental to a residential structure on the property, including sheds, carports, or detached
59 garages;

60 (e) (i) a person engaged in construction or renovation of a residential building for
61 noncommercial, nonpublic use if that person:

62 (A) works without compensation other than token compensation that is not considered
63 salary or wages; and

64 (B) works under the direction of the property owner who engages in building the
65 structure;

66 (ii) ~~[for purposes of]~~ as used in this Subsection (1)(e), "token compensation" means
67 compensation paid by a sole owner of property exempted from licensure under Subsection
68 (1)(d) to a person exempted from licensure under this Subsection (1)(e), that is:

69 (A) minimal in value when compared with the fair market value of the services provided
70 by the person;

71 (B) not related to the fair market value of the services provided by the person; and

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

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

79 (g) a contractor submitting a bid on a federal aid highway project, if, before undertaking
80 construction under that bid, the contractor is licensed under this chapter;

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

85 (ii) notwithstanding Subsection (1)(h)(i):

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

88 (B) installation, repair, or replacement of a residential or commercial gas appliance or a
89 combustion system must be performed by a person who has received certification under
90 Subsection 58-55-308(2) except as otherwise provided in Subsection 58-55-308(2)(d) or
91 58-55-308(3); ~~and~~

92 (C) installation, repair, or replacement of water-based fire protection systems must be
93 performed by a licensed fire suppression systems contractor or a licensed journeyman plumber;
94 and

95 (D) work as an alarm business or company or as an alarm company agent shall be
96 performed by a licensed alarm business or company or a licensed alarm company agent, except
97 as otherwise provided in this chapter;

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

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

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

107 (A) existing culinary water, soil, waste, or vent piping; or

108 (B) a gas appliance or combustion system; and

109 (ii) except as provided in Subsection (1)(e), installation for the first time of a fixture or
110 an appliance is not included in the exemption provided under Subsection (1)(k)(i);

111 (l) a person who ordinarily would be subject to the plumber licensure requirements
112 under this chapter when installing or repairing a water conditioner or other water treatment
113 apparatus if the conditioner or apparatus:

- 114 (i) meets the appropriate state construction codes or local plumbing standards; and
- 115 (ii) is installed or repaired under the direction of a person authorized to do the work
- 116 under an appropriate specialty contractor license;
- 117 (m) a person who ordinarily would be subject to the electrician licensure requirements
- 118 under this chapter when employed by:
 - 119 (i) railroad corporations, telephone corporations or their corporate affiliates, elevator
 - 120 contractors or constructors, or street railway systems; or
 - 121 (ii) public service corporations, rural electrification associations, or municipal utilities
 - 122 who generate, distribute, or sell electrical energy for light, heat, or power;
 - 123 (n) a person involved in minor electrical work incidental to a mechanical or service
 - 124 installation;
 - 125 (o) a student participating in construction trade education and training programs
 - 126 approved by the commission with the concurrence of the director under the condition that:
 - 127 (i) all work intended as a part of a finished product on which there would normally be
 - 128 an inspection by a building inspector is, in fact, inspected and found acceptable by a licensed
 - 129 building inspector; and
 - 130 (ii) a licensed contractor obtains the necessary building permits; and
 - 131 (p) a delivery person when replacing any of the following existing equipment with a
 - 132 new gas appliance, provided there is an existing gas shutoff valve at the appliance:
 - 133 (i) gas range;
 - 134 (ii) gas dryer;
 - 135 (iii) outdoor gas barbeque; or
 - 136 (iv) outdoor gas patio heater.
- 137 (2) ~~[(a)]~~ A compliance agency as defined in Subsection 58-56-3(4) that issues a building
- 138 permit to any person requesting a permit as a sole owner of property referred to in Subsection
- 139 (1)(d) shall notify the division, in writing or through electronic transmission, of the issuance of
- 140 the permit.
- 141 ~~[(b) The division shall evaluate the effectiveness of the notification requirement under~~

142 ~~Subsection (2)(a) and report its findings, including any recommendations for modification to or~~
143 ~~termination of the requirement, to the Legislature's Business and Labor Interim Committee prior~~
144 ~~to the 2008 General Session.]~~

145 Section 2. Section **58-55-501** is amended to read:

146 **58-55-501. Unlawful conduct.**

147 Unlawful conduct includes:

148 (1) engaging in a construction trade, acting as a contractor, an alarm business or
149 company, or an alarm company agent, or representing oneself to be engaged in a construction
150 trade or to be acting as a contractor in a construction trade requiring licensure, unless the
151 person doing any of these is appropriately licensed or exempted from licensure under this
152 chapter;

153 (2) acting in a construction trade, as an alarm business or company, or as an alarm
154 company agent beyond the scope of the license held;

155 (3) hiring or employing in any manner an unlicensed person, other than an employee for
156 wages who is not required to be licensed under this chapter, to engage in a construction trade
157 for which licensure is required or to act as a contractor or subcontractor in a construction trade
158 requiring licensure;

159 (4) applying for or obtaining a building permit either for oneself or another when not
160 licensed or exempted from licensure as a contractor under this chapter;

161 (5) issuing a building permit to any person for whom there is no evidence of a current
162 license or exemption from licensure as a contractor under this chapter;

163 (6) applying for or obtaining a building permit for the benefit of or on behalf of any
164 other person who is required to be licensed under this chapter but who is not licensed or is
165 otherwise not entitled to obtain or receive the benefit of the building permit;

166 (7) failing to obtain a building permit when required by law or rule;

167 (8) submitting a bid for any work for which a license is required under this chapter by a
168 person not licensed or exempted from licensure as a contractor under this chapter;

169 (9) willfully or deliberately misrepresenting or omitting a material fact in connection

170 with an application to obtain or renew a license under this chapter;

171 (10) allowing one's license to be used by another except as provided by statute or rule;

172 (11) doing business under a name other than the name appearing on the license, except
173 as permitted by statute or rule;

174 (12) if licensed as a specialty contractor in the electrical trade or plumbing trade,
175 journeyman plumber, residential journeyman plumber, journeyman electrician, master
176 electrician, or residential electrician, failing to directly supervise an apprentice under one's
177 supervision or exceeding the number of apprentices one is allowed to have under his
178 supervision;

179 (13) if licensed as a contractor or representing oneself to be a contractor, receiving any
180 funds in payment for a specific project from an owner or any other person, which funds are to
181 pay for work performed or materials and services furnished for that specific project, and after
182 receiving the funds to exercise unauthorized control over the funds by failing to pay the full
183 amounts due and payable to persons who performed work or furnished materials or services
184 within a reasonable period of time;

185 (14) employing [~~as~~] an unlicensed alarm business or company or an unlicensed
186 individual as an alarm company agent, except as permitted under the exemption from licensure
187 provisions under Section 58-1-307;

188 (15) if licensed as an alarm company or alarm company agent, filing with the division
189 fingerprint cards for an applicant which are not those of the applicant, or are in any other way
190 false or fraudulent and intended to mislead the division in its consideration of the applicant for
191 licensure;

192 (16) if licensed under this chapter, willfully or deliberately disregarding or violating:

193 (a) the building or construction laws of this state or any political subdivision;

194 (b) the safety and labor laws applicable to a project;

195 (c) any provision of the health laws applicable to a project;

196 (d) the workers' compensation insurance laws of the state applicable to a project;

197 (e) the laws governing withholdings for employee state and federal income taxes,

198 unemployment taxes, FICA, or other required withholdings; or

199 (f) reporting, notification, and filing laws of this state or the federal government;

200 (17) aiding or abetting any person in evading the provisions of this chapter or rules
201 established under the authority of the division to govern this chapter;

202 (18) engaging in the construction trade or as a contractor for the construction of
203 residences of up to two units when not currently registered or exempt from registration as a
204 qualified beneficiary under Title 38, Chapter 11, Residence Lien Restriction and Lien Recovery
205 Fund Act;

206 (19) failing, as an original contractor, as defined in Section 38-11-102, to include in a
207 written contract the notification required in Section 38-11-108;

208 (20) wrongfully filing a mechanics' lien in violation of Section 38-1-25; or

209 (21) if licensed as a contractor, not completing a three-hour core education class and an
210 additional three hours of professional education approved by the division and the Construction
211 Services Commission within each two-year renewal cycle, beginning with the two-year renewal
212 cycle that starts July 1, 2005, and ends June 30, 2007 unless an exemption has been granted to
213 the licensee by the Construction Services Commission, with the concurrence of the division,
214 except that this Subsection (21) is repealed effective July 1, 2010 and its implementation is
215 subject to the division receiving adequate funding for its implementation through a legislative
216 appropriation.

217 Section 3. Section **58-55-604** is amended to read:

218 **58-55-604. Proof of licensure to maintain or commence action.**

219 [~~No~~] A contractor or alarm business or company may not act as agent or commence or
220 maintain any action in any court of the state for collection of compensation for performing any
221 act for which a license is required by this chapter without alleging and proving that [~~he was a~~
222 properly] the licensed contractor or alarm business or company was appropriately licensed when
223 the contract sued upon was entered into, and when the alleged cause of action arose.