

PROFESSIONAL LICENSURE EXEMPTIONS

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Larry B. Wiley

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions of Title 58, Occupations and Professions, regarding exemptions from licensure as a licensed architect, professional engineer, or professional structural engineer.

Highlighted Provisions:

This bill:

- ▶ removes the exemption from licensure which allows a licensed professional engineer to practice architecture;
- ▶ removes the exemption from licensure which allows a licensed architect to practice engineering or structural engineering; and
- ▶ makes certain technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-3a-304, as enacted by Laws of Utah 1996, Chapter 260

58-22-305, as last amended by Laws of Utah 2008, Chapter 277

58-22-501, as last amended by Laws of Utah 2008, Chapter 277



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

Section 1. Section **58-3a-304** is amended to read:

58-3a-304. Exemptions from licensure.

(1) In addition to the exemptions from licensure in Section 58-1-307, the following may engage in the stated limited acts or practices without being licensed under this chapter:

(a) a person offering to render architectural services in this state when not licensed under this chapter if the person:

(i) holds a current and valid architect license issued by a licensing authority recognized by rule by the division in collaboration with the board;

(ii) discloses in writing to the potential client the fact that the architect:

(A) is not licensed in ~~[the]~~ this state;

(B) may not provide architectural services in ~~[the]~~ this state until the architect is licensed in ~~[the]~~ this state; and

(C) that ~~[such]~~ this condition may cause a delay in the ability of the architect to provide architectural services in the state;

(iii) notifies the division in writing of ~~[his]~~ the person's intent to offer to render architectural services in the state; and

(iv) does not provide architectural services or engage in the practice of architecture in this state until licensed to do so;

(b) a person preparing a plan and specification for a one-, two-, three-, or four-family residence not exceeding two stories in height, exclusive of basement;

~~[(c) a person licensed to practice professional engineering under Title 58, Chapter 22, Professional Engineers and Land Surveyors Licensing Act, performing engineering or incidental architectural acts or practices that do not exceed the scope of the education and training of the person performing architecture;]~~

~~[(d)]~~ (c) unlicensed employees, subordinates, associates, or drafters of a person licensed under this chapter while preparing plans and specifications under the supervision of an architect;

~~[(e)]~~ (d) a person preparing a plan or specification for, or supervising the alteration of or repair to, an existing building affecting an area not exceeding 3,000 square feet when

59 structural elements of a building are not changed, such as foundations, beams, columns, and
60 structural slabs, joists, bearing walls, and trusses; and

61 ~~[(f)]~~ (e) an organization engaged in the practice of architecture, provided that:

62 (i) the organization employs a principal; and

63 (ii) all individuals employed by the organization, who are engaged in the practice of
64 architecture, are licensed or exempt from licensure under this chapter.

65 (2) Nothing in this section ~~[shall be construed to restrict]~~ restricts a draftsman from
66 preparing plans for a client under the exemption provided in Subsection (1)(b) or taking those
67 plans to a licensed architect for ~~[his]~~ review, approval, and subsequent fixing of the architect's
68 seal to that set of plans if they meet the building code standards.

69 Section 2. Section **58-22-305** is amended to read:

70 **58-22-305. Exemption from licensure.**

71 (1) In addition to the exemptions from licensure in Section 58-1-307, the following
72 may engage in the following acts or practices without being licensed under this chapter:

73 (a) a person offering to render professional engineering, professional structural
74 engineering, or professional land surveying services in this state when not licensed under this
75 chapter if the person:

76 (i) holds a current and valid professional engineer, professional structural engineer, or
77 professional land surveyor license issued by a licensing authority recognized by rule by the
78 division in collaboration with the board;

79 (ii) discloses in writing to the potential client the fact that the professional engineer,
80 professional structural engineer, or professional land surveyor:

81 (A) is not licensed in ~~[the]~~ this state;

82 (B) may not provide professional engineering, professional structural engineering, or
83 professional land surveying services in ~~[the]~~ this state until licensed in ~~[the]~~ this state; and

84 (C) that ~~[such]~~ this condition may cause a delay in the ability of the professional
85 engineer, professional structural engineer, or professional land surveyor to provide licensed
86 services in ~~[the]~~ this state;

87 (iii) notifies the division in writing of ~~[his]~~ the person's intent to offer to render
88 professional engineering, professional structural engineering, or professional land surveying
89 services in ~~[the]~~ this state; and

90 (iv) does not provide professional engineering, professional structural engineering, or
91 professional land surveying services, or engage in the practice of professional engineering,
92 professional structural engineering, or professional land surveying in this state until licensed to
93 do so;

94 (b) a person preparing a plan and specification for a one- or two-family residence not
95 exceeding two stories in height;

96 [~~(c)~~] a person licensed to practice architecture under Title 58, Chapter 3a, Architects
97 Licensing Act, performing architecture acts or incidental engineering or structural engineering
98 practices that do not exceed the scope of the education and training of the person performing
99 engineering or structural engineering;]

100 [~~(d)~~] (c) unlicensed employees, subordinates, associates, or drafters of a person
101 licensed under this chapter while preparing plans, maps, sketches, drawings, documents,
102 specifications, plats, and reports under the supervision of a professional engineer, professional
103 structural engineer, or professional land surveyor;

104 [~~(e)~~] (d) a person preparing a plan or specification for, or supervising the alteration of
105 or repair to, an existing building affecting an area not exceeding 3,000 square feet when
106 structural elements of a building are not changed, such as foundations, beams, columns, and
107 structural slabs, joists, bearing walls, and trusses;

108 [~~(f)~~] (e) an employee of a communications, utility, railroad, mining, petroleum, or
109 manufacturing company, or an affiliate of such a company, if the professional engineering or
110 professional structural engineering work is performed solely in connection with the products or
111 systems of the company and is not offered directly to the public;

112 [~~(g)~~] (f) an organization engaged in the practice of professional engineering, structural
113 engineering, or professional land surveying, provided that:

114 (i) the organization employs a principal; and

115 (ii) all individuals employed by the organization, who are engaged in the practice of
116 professional engineering, structural engineering, or land surveying, are licensed or exempt from
117 licensure under this chapter; and

118 [~~(h)~~] (g) a person licensed as a professional engineer, a professional structural engineer,
119 or a professional land surveyor in a state other than Utah serving as an expert witness, provided
120 the expert testimony meets one of the following:

121 (i) oral testimony as an expert witness in an administrative, civil, or criminal
122 proceeding is not part of the practice of the respective professions for which a license is
123 required; or

124 (ii) written documentation included as part of the testimony in a preceding, including
125 designs, studies, plans, specifications, or similar documentation, is not part of the practice of
126 the respective professions for which a license is required provided that the purpose of the
127 written documentation is not to establish specifications, plans, designs, processes, or standards
128 to be used in the future in any industrial process, system, construction, designs, or repairs.

129 (2) Nothing in this section [~~shall be construed to restrict~~] restricts a draftsman from
130 preparing plans for a client under the exemption provided in Subsection (1)(b) or taking those
131 plans to a professional engineer for [his] review, approval, and subsequent fixing of the
132 engineer's seal to that set of plans if they meet the building code standards.

133 Section 3. Section **58-22-501** is amended to read:

134 **58-22-501. Unlawful conduct.**

135 "Unlawful conduct" includes:

136 (1) using the title "professional engineer," "professional land surveyor," "land
137 surveyor," "professional structural engineer," "structural engineer," or any other words, letters,
138 abbreviations, or designations which represent recognized professional engineering disciplines
139 indicating that the person using them is a professional engineer, professional land surveyor, or
140 professional structural engineer if the person has not been licensed under this chapter, except as
141 provided in Subsection 58-22-305(1);

142 (2) using the terms "engineering," "structural engineering," or "surveying" or any
143 similar words, letters, or abbreviations to describe the type of activity performed or offered to
144 be performed if the person has not been licensed under this chapter, except as provided in
145 Subsection 58-22-305(1);

146 (3) engaging in or representing itself as engaging in the practice of professional
147 engineering, professional structural engineering, or professional land surveying as a
148 corporation, proprietorship, partnership, or limited liability company, except as provided in
149 Subsection 58-22-305(1);

150 (4) engaging in the practice of engineering, structural engineering, or surveying as set
151 forth in Subsections 58-22-102(9), (11), and (14), if the person has not been licensed under this

152 chapter, except as provided in Section 58-1-307 or Subsections 58-3a-304(1)(b) through [(f)]

153 (e); or

154 (5) a professional engineer engaging in the practice of structural engineering as defined

155 in Subsection 58-22-102(14)(a).

Legislative Review Note
as of 12-2-08 10:22 AM

Office of Legislative Research and General Counsel

H.B. 99 - Professional Licensure Exemptions

Fiscal Note

2009 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations nor is it expected to generate additional revenue.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals or local governments. Businesses may incur additional costs for licensure.
