

MECHANICAL CONTRACTOR LICENSING

PROVISIONS

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Larry B. Wiley

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies Title 58, Chapter 55, Utah Construction Trades Licensing Act, to license heating, venting, and air conditioning (HVAC) mechanical technicians.

Highlighted Provisions:

This bill:

- ▶ modifies construction trade licensing provisions to include HVAC mechanical technicians;
- ▶ sets the HVAC mechanical technician-to-apprentice ratio;
- ▶ creates the HVAC Mechanical Technicians Licensing Board;
- ▶ modifies the membership of the Construction Services Commission;
- ▶ authorizes the Division of Occupational and Professional Licensing to issue licenses to various HVAC mechanical technicians;
- ▶ repeals provisions excepting HVAC mechanical technicians from licensure;
- ▶ removes a repeal date;
- ▶ requires that a licensed HVAC mechanical technician complete fuel and electricity efficiency education; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None



28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **58-55-102**, as last amended by Laws of Utah 2008, Chapter 215

33 **58-55-103**, as last amended by Laws of Utah 2008, Chapter 382

34 **58-55-201**, as last amended by Laws of Utah 2008, Chapter 215

35 **58-55-301**, as last amended by Laws of Utah 2008, Chapter 215

36 **58-55-302**, as last amended by Laws of Utah 2008, Chapters 215 and 382

37 **58-55-305**, as last amended by Laws of Utah 2008, Chapters 282, 354, and 377

38 **58-55-501**, as last amended by Laws of Utah 2008, Chapter 377



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

41 Section 1. Section **58-55-102** is amended to read:

42 **58-55-102. Definitions.**

43 In addition to the definitions in Section 58-1-102, as used in this chapter:

44 (1) (a) "Alarm business or company" means a person engaged in the sale, installation,
45 maintenance, alteration, repair, replacement, servicing, or monitoring of an alarm system,
46 except as provided in Subsection (1)(b).

47 (b) "Alarm business or company" does not include:

48 (i) a person engaged in the manufacture and sale of alarm systems when that person is
49 not engaged in the installation, maintenance, alteration, repair, replacement, servicing, or
50 monitoring of alarm systems, and the manufacture or sale occurs only at a place of business
51 established by the person engaged in the manufacture or sale and does not involve site visits at
52 the place or intended place of installation of an alarm system; or

53 (ii) an owner of an alarm system, or an employee of the owner of an alarm system who
54 is engaged in installation, maintenance, alteration, repair, replacement, servicing, or monitoring
55 of the alarm system owned by that owner.

56 (2) "Alarm company agent" means any individual employed within this state by a
57 person engaged in the alarm business.

58 (3) "Alarm system" means equipment and devices assembled for the purpose of:

59 (a) detecting and signaling unauthorized intrusion or entry into or onto certain
60 premises; or

61 (b) signaling a robbery or attempted robbery on protected premises.

62 (4) "Apprentice electrician" means a person licensed under this chapter as an
63 apprentice electrician who is learning the electrical trade under approved supervision of a
64 master electrician, a residential master electrician, a journeyman electrician, or a residential
65 journeyman electrician.

66 (5) "Apprentice HVAC mechanical technician" means a person licensed under this
67 chapter as an apprentice HVAC mechanical technician who is learning the HVAC trade under
68 approved supervision of a licensed HVAC supervisor.

69 [~~(5)~~] (6) "Apprentice plumber" means a person licensed under this chapter as an
70 apprentice plumber who is learning the plumbing trade under approved supervision of a master
71 plumber, a residential master plumber, a journeyman plumber, or a residential journeyman
72 plumber.

73 [~~(6)~~] (7) "Approved supervision" means the immediate supervision of apprentices by
74 qualified licensed electricians, HVAC mechanical technicians, or plumbers as a part of a
75 planned program of training.

76 [~~(7)~~] (8) "Board" means the [~~Electrician~~] Electricians Licensing Board, HVAC
77 Mechanical Technicians Licensing Board, Alarm System Security and Licensing Board, or
78 Plumbers Licensing Board created in Section 58-55-201.

79 [~~(8)~~] (9) "Combustion system" means an assembly consisting of:

80 (a) piping and components with a means for conveying, either continuously or
81 intermittently, natural gas from the outlet of the natural gas provider's meter to the burner of the
82 appliance;

83 (b) the electric control and combustion air supply and venting systems, including air
84 ducts; and

85 (c) components intended to achieve control of quantity, flow, and pressure.

86 [~~(9)~~] (10) "Commission" means the Construction Services Commission created under
87 Section 58-55-103.

88 [~~(10)~~] (11) "Construction trade" means any trade or occupation involving:

89 (a) (i) construction, alteration, remodeling, repairing, wrecking or demolition, addition

90 to, or improvement of any building, highway, road, railroad, dam, bridge, structure, excavation
91 or other project, development, or improvement to other than personal property; and

92 (ii) constructing, remodeling, or repairing a manufactured home or mobile home as
93 defined in Section 58-56-3; or

94 (b) installation or repair of a residential or commercial natural gas appliance or
95 combustion system.

96 [~~(H)~~] (12) "Construction trades instructor" means a person licensed under this chapter
97 to teach one or more construction trades in both a classroom and project environment, where a
98 project is intended for sale to or use by the public and is completed under the direction of the
99 instructor, who has no economic interest in the project.

100 [~~(H2)~~] (13) (a) "Contractor" means any person who for compensation other than wages
101 as an employee undertakes any work in the construction, plumbing, or electrical trade for
102 which licensure is required under this chapter and includes:

103 (i) a person who builds any structure on his own property for the purpose of sale or
104 who builds any structure intended for public use on his own property;

105 (ii) any person who represents himself to be a contractor by advertising or any other
106 means;

107 (iii) any person engaged as a maintenance person, other than an employee, who
108 regularly engages in activities set forth under the definition of "construction trade";

109 (iv) any person engaged in any construction trade for which licensure is required under
110 this chapter; or

111 (v) a construction manager who performs management and counseling services on a
112 construction project for a fee.

113 (b) "Contractor" does not include an alarm company or alarm company agent.

114 [~~(H3)~~] (14) (a) "Electrical trade" means the performance of any electrical work involved
115 in the installation, construction, alteration, change, repair, removal, or maintenance of facilities,
116 buildings, or appendages or appurtenances.

117 (b) "Electrical trade" does not include:

118 (i) transporting or handling electrical materials;

119 (ii) preparing clearance for raceways for wiring; or

120 (iii) work commonly done by unskilled labor on any installations under the exclusive

121 control of electrical utilities.

122 (c) For purposes of Subsection [~~(13)~~] (14)(b):

123 (i) no more than one unlicensed person may be so employed unless more than five
124 licensed electricians are employed by the shop; and

125 (ii) a shop may not employ unlicensed persons in excess of the five-to-one ratio
126 permitted by this Subsection [~~(13)~~] (14)(c).

127 [~~(14)~~] (15) "Employee" means an individual as defined by the division by rule giving
128 consideration to the definition adopted by the Internal Revenue Service and the Department of
129 Workforce Services.

130 [~~(15)~~] (16) "Engage in a construction trade" means to:

131 (a) engage in, represent oneself to be engaged in, or advertise oneself as being engaged
132 in a construction trade; or

133 (b) use the name "contractor" or "builder" or in any other way lead a reasonable person
134 to believe one is or will act as a contractor.

135 [~~(16)~~] (17) (a) "Financial responsibility" means a demonstration of a current and
136 expected future condition of financial solvency evidencing a reasonable expectation to the
137 division and the board that an applicant or licensee can successfully engage in business as a
138 contractor without jeopardy to the public health, safety, and welfare.

139 (b) Financial responsibility may be determined by an evaluation of the total history
140 concerning the licensee or applicant including past, present, and expected condition and record
141 of financial solvency and business conduct.

142 [~~(17)~~] (18) "Gas appliance" means any device that uses natural gas to produce light,
143 heat, power, steam, hot water, refrigeration, or air conditioning.

144 [~~(18)~~] (19) (a) "General building contractor" means a person licensed under this
145 chapter as a general building contractor qualified by education, training, experience, and
146 knowledge to perform or superintend construction of structures for the support, shelter, and
147 enclosure of persons, animals, chattels, or movable property of any kind or any of the
148 components of that construction except plumbing, electrical work, [~~mechanical~~] HVAC work,
149 and manufactured housing installation, for which the general building contractor shall employ
150 the services of a contractor licensed in the particular specialty, except that a general building
151 contractor engaged in the construction of single-family and multifamily residences up to four

152 units may perform the mechanical work and hire a licensed plumber or electrician as an
153 employee.

154 (b) The division may by rule exclude general building contractors from engaging in the
155 performance of other construction specialties in which there is represented a substantial risk to
156 the public health, safety, and welfare, and for which a license is required unless that general
157 building contractor holds a valid license in that specialty classification.

158 ~~[(19)]~~ (20) (a) "General engineering contractor" means a person licensed under this
159 chapter as a general engineering contractor qualified by education, training, experience, and
160 knowledge to perform construction of fixed works in any of the following: irrigation, drainage,
161 water, power, water supply, flood control, inland waterways, harbors, railroads, highways,
162 tunnels, airports and runways, sewers and bridges, refineries, pipelines, chemical and industrial
163 plants requiring specialized engineering knowledge and skill, piers, and foundations, or any of
164 the components of those works.

165 (b) A general engineering contractor may not perform construction of structures built
166 primarily for the support, shelter, and enclosure of persons, animals, and chattels.

167 (21) (a) "HVAC" or "heating, ventilation, or air conditioning" means a mechanical
168 system that uses electricity, fuel, or both to provide temperature control or air circulation.

169 (b) "HVAC" does not include:

170 (i) equipment that is exempted by the International Mechanical Code or the
171 International Fuel Gas Code; or

172 (ii) an appliance listed for domestic use, including a refrigerator, a range, a washer, a
173 dryer, or a window air conditioner.

174 (22) "HVAC trade" means work involving the installation, construction, alteration,
175 change, repair, removal, or maintenance of an HVAC system in a facility, a building, or an
176 appendage or appurtenance to a facility or building.

177 ~~[(20)]~~ (23) "Immediate supervision" means reasonable direction, oversight, inspection,
178 and evaluation of the work of a person, in or out of the immediate presence of the supervising
179 person, so as to ensure that the end result complies with applicable standards.

180 ~~[(21)]~~ (24) "Individual" means a natural person.

181 ~~[(22)]~~ (25) "Journeyman electrician" means a person licensed under this chapter as a
182 journeyman electrician having the qualifications, training, experience, and knowledge to wire,

183 install, and repair electrical apparatus and equipment for light, heat, power, and other purposes.

184 (26) "Journeyman HVAC mechanical technician" means a person licensed under this
185 chapter as a journeyman HVAC mechanical technician having the qualifications, training,
186 experience, and knowledge to install, service, maintain, and repair an HVAC system.

187 [~~23~~] (27) "Journeyman plumber" means a person licensed under this chapter as a
188 journeyman plumber having the qualifications, training, experience, and technical knowledge
189 to engage in the plumbing trade.

190 (28) "Licensed HVAC supervisor" means a person who:

191 (a) supervises a licensed apprentice HVAC mechanical technician; and

192 (b) is:

193 (i) a licensed master HVAC mechanical technician;

194 (ii) a journeyman HVAC mechanical technician;

195 (iii) a residential master HVAC mechanical technician; or

196 (iv) a residential journeyman HVAC mechanical technician.

197 [~~24~~] (29) "Master electrician" means a person licensed under this chapter as a master
198 electrician having the qualifications, training, experience, and knowledge to properly plan,
199 layout, and supervise the wiring, installation, and repair of electrical apparatus and equipment
200 for light, heat, power, and other purposes.

201 (30) "Master HVAC mechanical technician" means a person licensed under this
202 chapter as a master HVAC mechanical technician having the qualifications, training,
203 experience, and knowledge to properly plan, layout, and supervise the installation, service,
204 maintenance, and repair of an HVAC system.

205 [~~25~~] (31) "Master plumber" means a person licensed under this chapter as a master
206 plumber having the qualifications, training, experience, and knowledge to properly plan and
207 layout projects and supervise persons in the plumbing trade.

208 [~~26~~] (32) "Person" means a natural person, sole proprietorship, joint venture,
209 corporation, limited liability company, association, or organization of any type.

210 [~~27~~] (33) (a) "Plumbing trade" means the performance of any mechanical work
211 pertaining to the installation, alteration, change, repair, removal, maintenance, or use in
212 buildings, or within three feet beyond the outside walls of buildings of pipes, fixtures, and
213 fittings for:

- 214 (i) delivery of the water supply;
- 215 (ii) discharge of liquid and water carried waste; or
- 216 (iii) the building drainage system within the walls of the building.

217 (b) "Plumbing trade" includes work pertaining to the water supply, distribution pipes,
218 fixtures and fixture traps, soil, waste and vent pipes, and the building drain and roof drains
219 together with their devices, appurtenances, and connections where installed within the outside
220 walls of the building.

221 ~~[(28) (a) "Ratio of apprentices" means, for the purpose of determining compliance with~~
222 ~~the requirements for planned programs of training and electrician apprentice licensing~~
223 ~~applications, the shop ratio of apprentice electricians to journeyman or master electricians shall~~
224 ~~be one journeyman or master electrician to one apprentice on industrial and commercial work,~~
225 ~~and one journeyman or master electrician to three apprentices on residential work.]~~

226 ~~[(b) On-the-job training shall be under circumstances in which the ratio of apprentices~~
227 ~~to supervisors is in accordance with a ratio of one-to-one on nonresidential work and up to~~
228 ~~three apprentices to one supervisor on residential projects.]~~

229 ~~[(29) (34) "Residential and small commercial contractor" means a person licensed~~
230 ~~under this chapter as a residential and small commercial contractor qualified by education,~~
231 ~~training, experience, and knowledge to perform or superintend the construction of~~
232 ~~single-family residences, multifamily residences up to four units, and commercial construction~~
233 ~~of not more than three stories above ground and not more than 20,000 square feet, or any of the~~
234 ~~components of that construction except plumbing, electrical work, mechanical work, and~~
235 ~~manufactured housing installation, for which the residential and small commercial contractor~~
236 ~~shall employ the services of a contractor licensed in the particular specialty, except that a~~
237 ~~residential and small commercial contractor engaged in the construction of single-family and~~
238 ~~multifamily residences up to four units may perform the mechanical work and hire a licensed~~
239 ~~plumber or electrician as an employee.~~

240 ~~[(30) (35) "Residential building," as it relates to the license classification of residential~~
241 ~~journeyman plumber [and], residential master plumber, residential journeyman HVAC~~
242 ~~mechanical technician, and residential master HVAC mechanical technician means a single or~~
243 ~~multiple family dwelling of up to four units.~~

244 ~~[(31) (36) "Residential journeyman electrician" means a person licensed under this~~

245 chapter as a residential journeyman electrician having the qualifications, training, experience,
246 and knowledge to wire, install, and repair electrical apparatus and equipment for light, heat,
247 power, and other purposes on buildings using primarily nonmetallic sheath cable.

248 (37) "Residential journeyman HVAC mechanical technician" means a person licensed
249 under this chapter as a residential journeyman HVAC mechanical technician having the
250 qualifications, training, experience, and knowledge to install, service, maintain, and repair an
251 HVAC system.

252 [~~(32)~~] (38) "Residential journeyman plumber" means a person licensed under this
253 chapter as a residential journeyman plumber having the qualifications, training, experience, and
254 knowledge to engage in the plumbing trade as limited to the plumbing of residential buildings.

255 [~~(33)~~] (39) "Residential master electrician" means a person licensed under this chapter
256 as a residential master electrician having the qualifications, training, experience, and
257 knowledge to properly plan, layout, and supervise the wiring, installation, and repair of
258 electrical apparatus and equipment for light, heat, power, and other purposes on residential
259 projects.

260 (40) "Residential master HVAC mechanical technician" means a person licensed under
261 this chapter as a residential master HVAC mechanical technician having the qualifications,
262 training, experience, and knowledge to properly plan, layout, and supervise the installation,
263 service, maintenance, and repair of an HVAC system.

264 [~~(34)~~] (41) "Residential master plumber" means a person licensed under this chapter as
265 a residential master plumber having the qualifications, training, experience, and knowledge to
266 properly plan and layout projects and supervise persons in the plumbing trade as limited to the
267 plumbing of residential buildings.

268 [~~(35)~~] (42) "Residential project," as it relates to an electrician or electrical contractor,
269 means buildings primarily wired with nonmetallic sheathed cable, in accordance with standard
270 rules and regulations governing this work, including the National Electrical Code, and in which
271 the voltage does not exceed 250 volts line to line and 125 volts to ground.

272 [~~(36)~~] (43) (a) "Specialty contractor" means a person licensed under this chapter under
273 a specialty contractor classification established by rule, who is qualified by education, training,
274 experience, and knowledge to perform those construction trades and crafts requiring
275 specialized skill, the regulation of which are determined by the division to be in the best

276 interest of the public health, safety, and welfare.

277 (b) A specialty contractor may perform work in crafts or trades other than those in
278 which he is licensed if they are incidental to the performance of his licensed craft or trade.

279 [~~37~~] (44) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-55-501.

280 [~~38~~] (45) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-55-502
281 and as may be further defined by rule.

282 [~~39~~] (46) "Wages" means amounts due to an employee for labor or services whether
283 the amount is fixed or ascertained on a time, task, piece, commission, or other basis for
284 calculating the amount.

285 Section 2. Section **58-55-103** is amended to read:

286 **58-55-103. Construction Services Commission created -- Functions --**

287 **Appointment -- Qualifications and terms of members -- Vacancies -- Expenses --**

288 **Meetings.**

289 (1) (a) There is created within the division the Construction Services Commission.

290 (b) The commission shall:

291 (i) with the concurrence of the director, make reasonable rules under Title 63G,

292 Chapter 3, Utah Administrative Rulemaking Act, to administer and enforce this chapter which
293 are consistent with this chapter including:

294 (A) licensing of various licensees;

295 (B) examination requirements and administration of the examinations, to include
296 approving and establishing a passing score for applicant examinations;

297 (C) standards of supervision for students or persons in training to become qualified to
298 obtain a license in the trade they represent; and

299 (D) standards of conduct for various licensees;

300 (ii) approve or disapprove fees adopted by the division under Section 63J-1-303;

301 (iii) except where the boards conduct them, conduct all administrative hearings not
302 delegated to an administrative law judge relating to the licensing of any applicant;

303 (iv) except as otherwise provided in Sections 38-11-207 and 58-55-503, with the
304 concurrence of the director, impose sanctions against licensees and certificate holders with the
305 same authority as the division under Section 58-1-401;

306 (v) advise the director on the administration and enforcement of any matters affecting

307 the division and the construction industry;

308 (vi) advise the director on matters affecting the division budget;

309 (vii) advise and assist trade associations in conducting construction trade seminars and
310 industry education and promotion; and

311 (viii) perform other duties as provided by this chapter.

312 ~~[(2)(a) Initially the commission shall be comprised of the five members of the
313 Contractors Licensing Board and two of the three chair persons from the Plumbers Licensing
314 Board, the Alarm System Security and Licensing Board, and the Electricians Licensing Board.]~~

315 ~~[(b) The terms of office of the commission members who are serving on the
316 Contractors Licensing Board shall continue as they serve on the commission.]~~

317 ~~[(c)]~~ (2) ~~[Beginning July 1, 2004, the]~~ The commission shall be comprised of ~~[nine]~~ 11
318 members appointed by the executive director with the approval of the governor from the
319 following groups:

320 ~~[(i)]~~ (a) one member shall be a licensed general engineering contractor;

321 ~~[(ii)]~~ (b) one member shall be a licensed general building contractor;

322 ~~[(iii)]~~ (c) two members shall be licensed residential and small commercial contractors;

323 ~~[(iv)]~~ (d) ~~[three]~~ four members shall be ~~[the three chair persons]~~;

324 (i) the chairperson from the Plumbers Licensing Board~~[, the]~~;

325 (ii) the chairperson from the Alarm System Security and Licensing Board~~[, and]~~;

326 (iii) the chairperson from the Electricians Licensing Board; and

327 (iv) the chairperson from the HVAC Mechanical Technicians Licensing Board; and

328 ~~[(v)]~~ (e) ~~[two]~~ three members shall be from the general public~~[, provided, however that
329 the certified public accountant on the Contractors Licensing Board will continue to serve until
330 the current term expires, after which both members under this Subsection (2)(c)(v) shall be
331 appointed from the general public].~~

332 (3) (a) Except as required by Subsection (3)(b), as terms of current commission
333 members expire, the executive director with the approval of the governor shall appoint each
334 new member or reappointed member to a four-year term ending June 30.

335 (b) Notwithstanding the requirements of Subsection (3)(a), the executive director with
336 the approval of the governor shall, at the time of appointment or reappointment, adjust the
337 length of terms to stagger the terms of commission members so that approximately 1/2 of the

338 commission members are appointed every two years.

339 (c) A commission member may not serve more than two consecutive terms.

340 (4) The commission shall elect annually one of its members as chair, for a term of one
341 year.

342 (5) When a vacancy occurs in the membership for any reason, the replacement shall be
343 appointed for the unexpired term.

344 (6) (a) Members may not receive compensation or benefits for their services, but may
345 receive per diem and expenses incurred in the performance of the members' official duties at
346 the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

347 (b) Members may decline to receive per diem and expenses for their service.

348 (7) (a) The commission shall meet at least monthly unless the director determines
349 otherwise.

350 (b) The director may call additional meetings at the director's discretion, upon the
351 request of the chair, or upon the written request of four or more commission members.

352 (8) (a) ~~Five~~ Six members constitute a quorum for the transaction of business.

353 (b) If a quorum is present ~~[when a vote is taken, the affirmative vote of commission],~~
354 the action of a majority of the members present [is the act] constitutes the action of the
355 commission.

356 (9) The commission shall comply with the procedures and requirements of Title 13,
357 Chapter 1, Department of Commerce, and Title 63G, Chapter 4, Administrative Procedures
358 Act, in all of its adjudicative proceedings.

359 Section 3. Section **58-55-201** is amended to read:

360 **58-55-201. Boards created -- Duties.**

361 (1) There is created a Plumbers Licensing Board, an Alarm System Security and
362 Licensing Board, ~~[and]~~ an Electricians Licensing Board, and an HVAC Mechanical
363 Technicians Licensing Board. Members of the boards shall be selected to provide
364 representation as follows:

365 (a) The Plumbers Licensing Board consists of five members as follows:

366 (i) two members shall be licensed from among the license classifications of master or
367 journeyman plumber;

368 (ii) two members shall be licensed plumbing contractors; and

369 (iii) one member shall be from the public at large with no history of involvement in the
370 construction trades.

371 (b) (i) The Alarm System Security and Licensing Board consists of five members as
372 follows:

373 (A) three individuals who are officers or owners of a licensed alarm business;

374 (B) one individual from among nominees of the Utah Peace Officers Association; and

375 (C) one individual representing the general public.

376 (ii) The Alarm System Security and Licensing Board shall designate one of its
377 members on a permanent or rotating basis to:

378 (A) assist the division in reviewing complaints concerning the unlawful or
379 unprofessional conduct of a licensee; and

380 (B) advise the division in its investigation of these complaints.

381 (iii) A board member who has, under this Subsection (1)(b)(iii), reviewed a complaint
382 or advised in its investigation is disqualified from participating with the board when the board
383 serves as a presiding officer in an adjudicative proceeding concerning the complaint.

384 (c) The Electricians Licensing Board consists of five members as follows:

385 (i) two members shall be licensed from among the license classifications of master or
386 journeyman electrician, of whom one shall represent a union organization and one shall be
387 selected having no union affiliation;

388 (ii) two shall be licensed electrical contractors of whom one shall represent a union
389 organization and one shall be selected having no union affiliation; and

390 (iii) one member shall be from the public at large with no history of involvement in the
391 construction trades or union affiliation.

392 (d) The HVAC Mechanical Technicians Licensing Board consists of five members as
393 follows:

394 (i) two members shall be licensed from among the license classifications of master or
395 journeyman HVAC mechanical technician, including:

396 (A) one who is a member of a union organization; and

397 (B) one who has no union affiliation;

398 (ii) two members shall be licensed HVAC contractors, including:

399 (A) one who is a member of a union organization; and

- 400 (B) one who has no union affiliation; and
- 401 (iii) one member shall be from the public at large who has:
- 402 (A) no history of involvement in a construction trade; and
- 403 (B) no union affiliation.

404 (2) The duties, functions, and responsibilities of each board include the following:

- 405 (a) recommending to the commission appropriate rules;
- 406 (b) recommending to the commission policy and budgetary matters;
- 407 (c) approving and establishing a passing score for applicant examinations;
- 408 (d) overseeing the screening of applicants for licensing, renewal, reinstatement, and
- 409 relicensure;

410 (e) assisting the commission in establishing standards of supervision for students or

411 persons in training to become qualified to obtain a license in the occupation or profession it

412 represents; and

413 (f) acting as presiding officer in conducting hearings associated with the adjudicative

414 proceedings and in issuing recommended orders when so authorized by the commission.

415 Section 4. Section **58-55-301** is amended to read:

416 **58-55-301. License required -- License classifications.**

417 (1) (a) A person engaged in the construction trades licensed under this chapter, as a

418 contractor regulated under this chapter, as an alarm business or company, or as an alarm

419 company agent, shall become licensed under this chapter before engaging in that trade or

420 contracting activity in this state unless specifically exempted from licensure under Section

421 58-1-307 or 58-55-305.

422 (b) The license issued under this chapter and the business license issued by the local

423 jurisdiction in which the licensee has its principal place of business shall be the only licenses

424 required for the licensee to engage in a trade licensed by this chapter, within the state.

425 (c) Neither the state nor any of its political subdivisions may require of a licensee any

426 additional business licenses, registrations, certifications, contributions, donations, or anything

427 else established for the purpose of qualifying a licensee under this chapter to do business in that

428 local jurisdiction, except for contract prequalification procedures required by state agencies, or

429 the payment of any fee for the license, registration, or certification established as a condition to

430 do business in that local jurisdiction.

- 431 (2) The division shall issue licenses under this chapter to qualified persons in the
432 following classifications:
- 433 (a) general engineering contractor;
 - 434 (b) general building contractor;
 - 435 (c) residential and small commercial contractor;
 - 436 (d) specialty contractor;
 - 437 (e) master plumber;
 - 438 (f) residential master plumber;
 - 439 (g) journeyman plumber;
 - 440 (h) apprentice plumber;
 - 441 (i) residential journeyman plumber;
 - 442 (j) master electrician;
 - 443 (k) residential master electrician;
 - 444 (l) journeyman electrician;
 - 445 (m) residential journeyman electrician;
 - 446 (n) apprentice electrician;
 - 447 (o) construction trades instructor:
 - 448 (i) general engineering classification;
 - 449 (ii) general building classification;
 - 450 (iii) electrical classification;
 - 451 (iv) plumbing classification; and
 - 452 (v) mechanical classification;
 - 453 (p) alarm company; [~~and~~]
 - 454 (q) alarm company agent[-];
 - 455 (r) master HVAC mechanical technician;
 - 456 (s) residential master HVAC mechanical technician;
 - 457 (t) journeyman HVAC mechanical technician;
 - 458 (u) residential journeyman HVAC mechanical technician; and
 - 459 (v) apprentice HVAC mechanical technician.
- 460 (3) (a) An applicant may apply for a license in one or more classification or specialty
461 contractor subclassification.

462 (b) A license shall be granted in each classification or subclassification for which the
463 applicant qualifies.

464 (c) A separate application and fee must be submitted for each license classification or
465 subclassification.

466 Section 5. Section **58-55-302** is amended to read:

467 **58-55-302. Qualifications for licensure.**

468 (1) Each applicant for a license under this chapter shall:

469 (a) submit an application prescribed by the division;

470 (b) pay a fee as determined by the department under Section 63J-1-303;

471 (c) (i) meet the examination requirements established by rule by the commission with
472 the concurrence of the director, except for the classifications of apprentice plumber and
473 apprentice electrician for whom no examination is required; or

474 (ii) if required in Section 58-55-304, the individual qualifier must pass the required
475 examination if the applicant is a business entity;

476 (d) if an apprentice, identify the proposed supervisor of the apprenticeship;

477 (e) if an applicant for a contractor's license:

478 (i) produce satisfactory evidence of financial responsibility, except for a construction
479 trades instructor for whom evidence of financial responsibility is not required;

480 (ii) produce satisfactory evidence of knowledge and experience in the construction
481 industry and knowledge of the principles of the conduct of business as a contractor, reasonably
482 necessary for the protection of the public health, safety, and welfare; and

483 (iii) be a licensed master electrician if an applicant for an electrical contractor's license
484 or a licensed master residential electrician if an applicant for a residential electrical contractor's
485 license; ~~or~~

486 (iv) be a licensed master HVAC mechanical technician or a licensed master residential
487 HVAC mechanical technician if an applicant for:

488 (A) an HVAC contractor's license; or

489 (B) a refrigeration contractor's license; or

490 ~~(iv)~~ (v) be a licensed master plumber if an applicant for a plumbing contractor's
491 license or a licensed ~~master~~ residential master plumber if an applicant for a residential
492 plumbing contractor's license; and

493 (f) if an applicant for a construction trades instructor license, satisfy any additional
494 requirements established by rule.

495 (2) After approval of an applicant for a contractor's license by the applicable board and
496 the division, the applicant shall file the following with the division before the division issues
497 the license:

498 (a) proof of workers' compensation insurance which covers employees of the applicant
499 in accordance with applicable Utah law;

500 (b) proof of public liability insurance in coverage amounts and form established by rule
501 except for a construction trades instructor for whom public liability insurance is not required;
502 and

503 (c) proof of registration as required by applicable law with the:

504 (i) Utah Department of Commerce;

505 (ii) Division of Corporations and Commercial Code;

506 (iii) Unemployment Insurance Division in the Department of Workforce Services, for
507 purposes of Title 35A, Chapter 4, Employment Security Act;

508 (iv) State Tax Commission; and

509 (v) Internal Revenue Service.

510 (3) In addition to the general requirements for each applicant in Subsection (1),
511 applicants shall comply with the following requirements to be licensed in the following
512 classifications:

513 (a) (i) A master plumber shall produce satisfactory evidence that the applicant:

514 (A) has been a licensed journeyman plumber for at least two years and had two years of
515 supervisory experience as a licensed journeyman plumber in accordance with division rule;

516 (B) has received at least an associate of applied science degree or similar degree
517 following the completion of a course of study approved by the division and had one year of
518 supervisory experience as a licensed journeyman plumber in accordance with division rule; or

519 (C) meets the qualifications determined by the division in collaboration with the board
520 to be equivalent to Subsection (3)(a)(i)(A) or (B).

521 (ii) An individual holding a valid Utah license as a journeyman plumber, based on at
522 least four years of practical experience as a licensed apprentice under the supervision of a
523 licensed journeyman plumber and four years as a licensed journeyman plumber, in effect

524 immediately prior to May 5, 2008, is on and after May 5, 2008, considered to hold a current
525 master plumber license under this chapter, and satisfies the requirements of this Subsection
526 (3)(a) for the purpose of renewal or reinstatement of that license under Section 58-55-303.

527 (iii) An individual holding a valid plumbing contractor's license or residential
528 plumbing contractor's license, in effect immediately prior to May 5, 2008, is on or after May 5,
529 2008:

530 (A) considered to hold a current master plumber license under this chapter if licensed
531 as a plumbing contractor and a journeyman plumber, and satisfies the requirements of this
532 Subsection (3)(a) for purposes of renewal or reinstatement of that license under Section
533 58-55-303; and

534 (B) considered to hold a current residential master plumber license under this chapter if
535 licensed as a residential plumbing contractor and a residential journeyman plumber, and
536 satisfies the requirements of this Subsection (3)(a) for purposes of renewal or reinstatement of
537 that license under Section 58-55-303.

538 (b) A [~~master~~] residential master plumber applicant shall produce satisfactory evidence
539 that the applicant:

540 (i) has been a licensed residential journeyman plumber for at least two years and had
541 two years of supervisory experience as a licensed residential journeyman plumber in
542 accordance with division rule; or

543 (ii) meets the qualifications determined by the division in collaboration with the board
544 to be equivalent to Subsection (3)(b)(i).

545 (c) A journeyman plumber applicant shall produce satisfactory evidence of:

546 (i) successful completion of the equivalent of at least four years of full-time training
547 and instruction as a licensed apprentice plumber under supervision of a licensed master
548 plumber or journeyman plumber and in accordance with a planned program of training
549 approved by the division;

550 (ii) at least eight years of full-time experience approved by the division in collaboration
551 with the Plumbers Licensing Board; or

552 (iii) satisfactory evidence of meeting the qualifications determined by the board to be
553 equivalent to Subsection (3)(c)(i) or (c)(ii).

554 (d) A residential journeyman plumber shall produce satisfactory evidence of:

555 (i) completion of the equivalent of at least three years of full-time training and
556 instruction as a licensed apprentice plumber under the supervision of a licensed residential
557 master plumber, licensed residential journeyman plumber, or licensed journeyman plumber in
558 accordance with a planned program of training approved by the division;

559 (ii) completion of at least six years of full-time experience in a maintenance or repair
560 trade involving substantial plumbing work; or

561 (iii) meeting the qualifications determined by the board to be equivalent to Subsection
562 (3)(d)(i) or (d)(ii).

563 (e) The conduct of licensed apprentice plumbers and their licensed supervisors shall be
564 in accordance with the following:

565 (i) while engaging in the trade of plumbing, a licensed apprentice plumber shall be
566 under the immediate supervision of a licensed master plumber, licensed residential master
567 plumber, licensed journeyman plumber, or a licensed residential journeyman plumber; and

568 (ii) a licensed apprentice plumber in the fourth through tenth year of training may work
569 without supervision for a period not to exceed eight hours in any 24-hour period, but if the
570 apprentice does not become a licensed journeyman plumber or licensed residential journeyman
571 plumber by the end of the tenth year of apprenticeship, this nonsupervision provision no longer
572 applies.

573 (f) A master electrician applicant shall produce satisfactory evidence that the applicant:

574 (i) is a graduate electrical engineer of an accredited college or university approved by
575 the division and has one year of practical electrical experience as a licensed apprentice
576 electrician;

577 (ii) is a graduate of an electrical trade school, having received an associate of applied
578 sciences degree following successful completion of a course of study approved by the division,
579 and has two years of practical experience as a licensed journeyman electrician;

580 (iii) has four years of practical experience as a journeyman electrician; or

581 (iv) meets the qualifications determined by the board to be equivalent to Subsection
582 (3)(f)(i), (ii), or (iii).

583 (g) A [~~master~~] residential master electrician applicant shall produce satisfactory
584 evidence that the applicant:

585 (i) has at least two years of practical experience as a residential journeyman electrician;

586 or

587 (ii) meets the qualifications determined by the board to be equivalent to this practical
588 experience.

589 (h) A journeyman electrician applicant shall produce satisfactory evidence that the
590 applicant:

591 (i) has successfully completed at least four years of full-time training and instruction as
592 a licensed apprentice electrician under the supervision of a master electrician or journeyman
593 electrician and in accordance with a planned training program approved by the division;

594 (ii) has at least eight years of full-time experience approved by the division in
595 collaboration with the Electricians Licensing Board; or

596 (iii) meets the qualifications determined by the board to be equivalent to Subsection
597 (3)(h)(i) or (ii).

598 (i) A residential journeyman electrician applicant shall produce satisfactory evidence
599 that the applicant:

600 (i) has successfully completed two years of training in an electrical training program
601 approved by the division;

602 (ii) has four years of practical experience in wiring, installing, and repairing electrical
603 apparatus and equipment for light, heat, and power under the supervision of a licensed master,
604 journeyman, residential master, or residential journeyman electrician; or

605 (iii) meets the qualifications determined by the division and [~~applicable board~~]
606 Electricians Licensing Board to be equivalent to Subsection (3)(i)(i) or (ii).

607 (j) The conduct of licensed apprentice electricians and their licensed supervisors shall
608 be in accordance with the following:

609 (i) A licensed apprentice electrician shall be under the immediate supervision of a
610 licensed master, journeyman, residential master, or residential journeyman electrician. An
611 apprentice in the fourth year of training may work without supervision for a period not to
612 exceed eight hours in any 24-hour period.

613 (ii) A licensed master, journeyman, residential master, or residential journeyman
614 electrician may have under immediate supervision on a residential project up to three licensed
615 apprentice electricians.

616 (iii) A licensed master or journeyman electrician may have under immediate

617 supervision on nonresidential projects only one licensed apprentice electrician.

618 (k) A master HVAC mechanical technician applicant shall produce satisfactory
619 evidence that the applicant:

620 (i) (A) is a graduate mechanical engineer of an accredited college or university
621 approved by the division; and

622 (B) has one year of practical HVAC experience as a licensed apprentice HVAC
623 mechanical technician;

624 (ii) (A) is a graduate of an HVAC trade school, having received an associate of applied
625 sciences degree following successful completion of a course of study approved by the division;
626 and

627 (B) has two years of practical experience as a licensed journeyman HVAC mechanical
628 technician;

629 (iii) has four years of practical experience as a journeyman HVAC mechanical
630 technician; or

631 (iv) meets the qualifications determined by the board to be equivalent to Subsection
632 (3)(k)(i), (ii), or (iii).

633 (l) Beginning on June 6, 2012 an individual is considered to hold a master journeyman
634 HVAC mechanical technician license, and satisfies the requirements of Subsection (3)(k) for
635 purposes of renewal of that license under Section 58-55-303, if, before June 6, 2012, the
636 individual:

637 (i) worked in an HVAC trade; and

638 (ii) had at least eight years practical experience.

639 (m) A residential master HVAC mechanical technician applicant shall produce
640 satisfactory evidence that the applicant:

641 (i) has at least two years of practical experience as a residential journeyman HVAC
642 mechanical technician; or

643 (ii) meets the qualifications determined by the board to be equivalent to two years of
644 practical experience as an HVAC mechanical technician.

645 (n) Beginning on June 6, 2012 an individual is considered to hold a residential master
646 journeyman HVAC mechanical technician license, and satisfies the requirements of Subsection
647 (3)(m) for purposes of renewal of that license under Section 58-55-303, if, before June 6, 2012,

648 the individual:

649 (i) worked in an HVAC trade; and

650 (ii) had at least four years practical experience.

651 (o) A journeyman HVAC mechanical technician applicant shall produce satisfactory
652 evidence that the applicant:

653 (i) has successfully completed at least four years of full-time training and instruction as
654 a licensed apprentice HVAC mechanical technician:

655 (A) under the supervision of a master HVAC mechanical technician or journeyman
656 HVAC mechanical technician; and

657 (B) in accordance with a planned training program approved by the division;

658 (ii) has at least eight years of full-time experience approved by the division in
659 collaboration with the HVAC Mechanical Technicians Licensing Board; or

660 (iii) meets the qualifications determined by the board to be equivalent to Subsection
661 (3)(o)(i) or (ii).

662 (p) Beginning on June 6, 2012 an individual is considered to hold a journeyman HVAC
663 mechanical technician license, and satisfies the requirements of Subsection (3)(o) for purposes
664 of renewal of that license under Section 58-55-303, if, before June 6, 2012, the individual:

665 (i) worked in an HVAC trade; and

666 (ii) had at least four years practical experience.

667 (q) A residential journeyman HVAC mechanical technician applicant shall produce
668 satisfactory evidence that the applicant:

669 (i) has successfully completed two years of training in an HVAC training program
670 approved by the division;

671 (ii) has four years of practical experience in the installation, service, maintenance, and
672 repair of HVAC equipment in a residential building under the supervision of a licensed master,
673 journeyman, residential master, or residential journeyman HVAC mechanical technician; or

674 (iii) meets the qualifications determined by the division and HVAC Mechanical
675 Technicians Board to be equivalent to Subsection (3)(q)(i) or (ii).

676 (r) Beginning on June 6, 2012 an individual is considered to hold a residential
677 journeyman HVAC mechanical technician license, and satisfies the requirements of Subsection
678 (3)(q) for purposes of renewal of that license under Section 58-55-303, if, before June 6, 2012,

679 the individual:

680 (i) worked in an HVAC trade; and

681 (ii) had at least two years practical experience.

682 (s) (i) A licensed apprentice HVAC mechanical technician shall be under the

683 immediate supervision of a licensed HVAC supervisor.

684 (ii) A licensed apprentice HVAC mechanical technician in the fourth year of training
685 may work without immediate supervision for a period not to exceed eight hours in any 24-hour
686 period.

687 (iii) A licensed HVAC supervisor may immediately supervise no more than three
688 licensed apprentice HVAC mechanical technicians on a residential building.

689 (iv) A licensed master HVAC mechanical technician or journeyman HVAC
690 mechanical technician acting as a licensed HVAC supervisor may immediately supervise no
691 more than one licensed apprentice HVAC mechanical technician on a nonresidential building.

692 (v) A residential master HVAC mechanical technician or a residential journeyman
693 HVAC technician may not supervise a licensed apprentice HVAC technician on a
694 nonresidential building.

695 [~~(t)~~] (t) An alarm company applicant shall:

696 (i) have a qualifying agent who is an officer, director, partner, proprietor, or manager of
697 the applicant who:

698 (A) demonstrates 6,000 hours of experience in the alarm company business;

699 (B) demonstrates 2,000 hours of experience as a manager or administrator in the alarm
700 company business or in a construction business; and

701 (C) passes an examination component established by rule by the commission with the
702 concurrence of the director;

703 (ii) if a corporation, provide:

704 (A) the names, addresses, dates of birth, Social Security numbers, and fingerprint cards
705 of all corporate officers, directors, and those responsible management personnel employed
706 within the state or having direct responsibility for managing operations of the applicant within
707 the state; and

708 (B) the names, addresses, dates of birth, Social Security numbers, and fingerprint cards
709 of all shareholders owning 5% or more of the outstanding shares of the corporation, except this

710 shall not be required if the stock is publicly listed and traded;

711 (iii) if a limited liability company, provide:

712 (A) the names, addresses, dates of birth, Social Security numbers, and fingerprint cards

713 of all company officers, and those responsible management personnel employed within the

714 state or having direct responsibility for managing operations of the applicant within the state;

715 and

716 (B) the names, addresses, dates of birth, Social Security numbers, and fingerprint cards

717 of all individuals owning 5% or more of the equity of the company;

718 (iv) if a partnership, the names, addresses, dates of birth, Social Security numbers, and

719 fingerprint cards of all general partners, and those responsible management personnel

720 employed within the state or having direct responsibility for managing operations of the

721 applicant within the state;

722 (v) if a proprietorship, the names, addresses, dates of birth, Social Security numbers,

723 and fingerprint cards of the proprietor, and those responsible management personnel employed

724 within the state or having direct responsibility for managing operations of the applicant within

725 the state;

726 (vi) be of good moral character in that officers, directors, shareholders described in

727 Subsection (3)~~(k)~~(l)(ii)(B), partners, proprietors, and responsible management personnel have

728 not been convicted of a felony, a misdemeanor involving moral turpitude, or any other crime

729 that when considered with the duties and responsibilities of an alarm company is considered by

730 the board to indicate that the best interests of the public are served by granting the applicant a

731 license;

732 (vii) document that none of the applicant's officers, directors, shareholders described in

733 Subsection (3)~~(k)~~(l)(ii)(B), partners, proprietors, and responsible management personnel have

734 been declared by any court of competent jurisdiction incompetent by reason of mental defect or

735 disease and not been restored;

736 (viii) document that none of the applicant's officers, directors, shareholders described

737 in Subsection (3)~~(k)~~(l)(ii)(B), partners, proprietors, and responsible management personnel

738 are currently suffering from habitual drunkenness or from drug addiction or dependence;

739 (ix) file and maintain with the division evidence of:

740 (A) comprehensive general liability insurance in form and in amounts to be established

741 by rule by the commission with the concurrence of the director;

742 (B) workers' compensation insurance that covers employees of the applicant in
743 accordance with applicable Utah law; and

744 (C) registration as is required by applicable law with the:

745 (I) Division of Corporations and Commercial Code;

746 (II) Unemployment Insurance Division in the Department of Workforce Services, for
747 purposes of Title 35A, Chapter 4, Employment Security Act;

748 (III) State Tax Commission; and

749 (IV) Internal Revenue Service; and

750 (x) meet with the division and board.

751 ~~(f)~~ (u) Each applicant for licensure as an alarm company agent shall:

752 (i) submit an application in a form prescribed by the division accompanied by
753 fingerprint cards;

754 (ii) pay a fee determined by the department under Section 63J-1-303;

755 (iii) be of good moral character in that the applicant has not been convicted of a felony,
756 a misdemeanor involving moral turpitude, or any other crime that when considered with the
757 duties and responsibilities of an alarm company agent is considered by the board to indicate
758 that the best interests of the public are served by granting the applicant a license;

759 (iv) not have been declared by any court of competent jurisdiction incompetent by
760 reason of mental defect or disease and not been restored;

761 (v) not be currently suffering from habitual drunkenness or from drug addiction or
762 dependence; and

763 (vi) meet with the division and board if requested by the division or the board.

764 (4) (a) The apprentice ratio for determining compliance with the requirements for
765 planned training programs and electrician or HVAC mechanical technician apprentice licensing
766 applications shall be:

767 (i) one journeyman or master electrician to one apprentice on industrial and
768 commercial work;

769 (ii) one journeyman or master electrician to three apprentices on a residential project;

770 (iii) one journeyman or master HVAC mechanical technician to two apprentices on
771 industrial and commercial work; and

772 (iv) one journeyman or HVAC mechanical technician to three apprentices on a
773 residential building.

774 (b) On-the-job training shall be under circumstances in which the ratio of apprentices
775 to supervisors is in accordance with a ratio of one-to-one on nonresidential work and up to
776 three apprentices to one supervisor on residential projects.

777 [~~(4)~~] (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
778 Act, the division may make rules establishing when Federal Bureau of Investigation records
779 shall be checked for applicants as an alarm company or alarm company agent.

780 [~~(5)~~] (6) To determine if an applicant meets the qualifications of Subsections
781 (3)[~~(k)~~](l)(vi) and (3)[~~(t)~~](u)(iii), the division shall provide an appropriate number of copies of
782 fingerprint cards to the Department of Public Safety with the division's request to:

783 (a) conduct a search of records of the Department of Public Safety for criminal history
784 information relating to each applicant for licensure as an alarm company or alarm company
785 agent and each applicant's officers, directors, shareholders described in Subsection
786 (3)[~~(k)~~](l)(ii)(B), partners, proprietors, and responsible management personnel; and

787 (b) forward to the Federal Bureau of Investigation a fingerprint card of each applicant
788 requiring a check of records of the F.B.I. for criminal history information under this section.

789 [~~(6)~~] (7) The Department of Public Safety shall send to the division:

790 (a) a written record of criminal history, or certification of no criminal history record, as
791 contained in the records of the Department of Public Safety in a timely manner after receipt of
792 a fingerprint card from the division and a request for review of Department of Public Safety
793 records; and

794 (b) the results of the F.B.I. review concerning an applicant in a timely manner after
795 receipt of information from the F.B.I.

796 [~~(7)~~] (8) (a) The division shall charge each applicant for licensure as an alarm company
797 or alarm company agent a fee, in accordance with Section 63J-1-303, equal to the cost of
798 performing the records reviews under this section.

799 (b) The division shall pay the Department of Public Safety the costs of all records
800 reviews, and the Department of Public Safety shall pay the F.B.I. the costs of records reviews
801 under this section.

802 [~~(8)~~] (9) Information obtained by the division from the reviews of criminal history

803 records of the Department of Public Safety and the F.B.I. shall be used or disseminated by the
804 division only for the purpose of determining if an applicant for licensure as an alarm company
805 or alarm company agent is qualified for licensure.

806 ~~(9)~~ (10) (a) An application for licensure under this chapter shall be denied if:

807 (i) the applicant has had a previous license, which was issued under this chapter,
808 suspended or revoked within one year prior to the date of the applicant's application;

809 (ii) (A) the applicant is a partnership, corporation, or limited liability company; and

810 (B) any corporate officer, director, shareholder holding 25% or more of the stock in the
811 applicant, partner, member, agent acting as a qualifier, or any person occupying a similar
812 status, performing similar functions, or directly or indirectly controlling the applicant has
813 served in any similar capacity with any person or entity which has had a previous license,
814 which was issued under this chapter, suspended or revoked within one year prior to the date of
815 the applicant's application; or

816 (iii) (A) the applicant is an individual or sole proprietorship; and

817 (B) any owner or agent acting as a qualifier has served in any capacity listed in

818 Subsection ~~(9)~~ (10)(a)(ii)(B) in any entity which has had a previous license, which was issued
819 under this chapter, suspended or revoked within one year prior to the date of the applicant's
820 application.

821 (b) An application for licensure under this chapter shall be reviewed by the appropriate
822 licensing board prior to approval if:

823 (i) the applicant has had a previous license, which was issued under this chapter,
824 suspended or revoked more than one year prior to the date of the applicant's application;

825 (ii) (A) the applicant is a partnership, corporation, or limited liability company; and

826 (B) any corporate officer, director, shareholder holding 25% or more of the stock in the
827 applicant, partner, member, agent acting as a qualifier, or any person occupying a similar
828 status, performing similar functions, or directly or indirectly controlling the applicant has
829 served in any similar capacity with any person or entity which has had a previous license,
830 which was issued under this chapter, suspended or revoked more than one year prior to the date
831 of the applicant's application; or

832 (iii) (A) the applicant is an individual or sole proprietorship; and

833 (B) any owner or agent acting as a qualifier has served in any capacity listed in

834 Subsection [~~(9)~~] (10)(b)(ii)(B) in any entity which has had a previous license, which was issued
835 under this chapter, suspended or revoked more than one year prior to the date of the applicant's
836 application.

837 Section 6. Section **58-55-305** is amended to read:

838 **58-55-305. Exemptions from licensure.**

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

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

846 (b) a person engaged in construction or operation incidental to the construction and
847 repair of irrigation and drainage ditches of regularly constituted irrigation districts, reclamation
848 districts, and drainage districts or construction and repair relating to farming, dairying,
849 agriculture, livestock or poultry raising, metal and coal mining, quarries, sand and gravel
850 excavations, well drilling, as defined in Section 73-3-25, hauling to and from construction
851 sites, and lumbering;

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

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

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

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

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

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

867 (B) works under the direction of the property owner who engages in building the
868 structure; and

869 (ii) as used in this Subsection (1)(e), "token compensation" means compensation paid
870 by a sole owner of property exempted from licensure under Subsection (1)(d) to a person
871 exempted from licensure under this Subsection (1)(e), that is:

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

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

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

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

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

884 (h) (i) a person engaged in the alteration, repair, remodeling, or addition to or
885 improvement of a building with a contracted or agreed value of less than \$3,000, including
886 both labor and materials, and including all changes or additions to the contracted or agreed
887 upon work; and

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

889 (A) except as otherwise provided by this section, work in the plumbing [~~and~~],
890 electrical, or HVAC trades on a project described in Subsection (1)(h)(i) [~~project~~] must be
891 performed by:

892 (I) a licensed journeyman [~~electrician or journeyman~~] plumber [~~except as otherwise~~
893 ~~provided in this section~~];

894 (II) a licensed journeyman electrician; or

895 (III) a licensed journeyman HVAC mechanical technician;

896 (B) installation, repair, or replacement of a residential or commercial gas appliance or a
897 combustion system on a Subsection (1)(h)(i) project must be performed by a person who has
898 received certification under Subsection 58-55-308(2) except as otherwise provided in
899 Subsection 58-55-308(2)(d) or 58-55-308(3);

900 (C) installation, repair, or replacement of water-based fire protection systems on a
901 Subsection (1)(h)(i) project must be performed by a licensed fire suppression systems
902 contractor or a licensed journeyman plumber;

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

906 (E) installation, repair, or replacement of an alarm system on a Subsection (1)(h)(i)
907 project must be performed by a licensed alarm business or company or a licensed alarm
908 company agent; and

909 [~~(F)~~ installation, repair, or replacement of a heating, ventilation, or air conditioning
910 system (HVAC) on a Subsection (1)(h)(i) project must be performed by an HVAC contractor
911 licensed by the division; and]

912 [~~(G)~~] (F) if the total value of the project is greater than \$1,000, the person shall file
913 with the division a one-time affirmation, subject to periodic reaffirmation as established by
914 division rule, that the person has:

915 (I) public liability insurance in coverage amounts and form established by division
916 rule; and

917 (II) if applicable, workers compensation insurance which would cover an employee of
918 the person if that employee worked on the construction project;

919 (i) a person practicing a specialty contractor classification or construction trade which
920 the director does not classify by administrative rule as significantly impacting the public's
921 health, safety, and welfare;

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

925 (k) (i) a person engaged in minor plumbing work incidental to the replacement or
926 repair of a fixture or an appliance in a residential or small commercial building, or structure

927 used for agricultural use, as defined in Section 58-56-4, provided that no modification is made
928 to:

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

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

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

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

936 (i) meets the appropriate state construction codes or local plumbing standards; and

937 (ii) is installed or repaired under the direction of a person authorized to do the work
938 under an appropriate specialty contractor license;

939 (m) a person who ordinarily would be subject to the electrician licensure requirements
940 under this chapter when employed by:

941 (i) railroad corporations, telephone corporations or their corporate affiliates, elevator
942 contractors or constructors, or street railway systems; or

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

945 (n) a person involved in minor electrical work incidental to a mechanical or service
946 installation;

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

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

952 (ii) a licensed contractor obtains the necessary building permits; and

953 (p) a delivery person when replacing any of the following existing equipment with a
954 new gas appliance, provided there is an existing gas shutoff valve at the appliance:

955 (i) gas range;

956 (ii) gas dryer;

957 (iii) outdoor gas barbeque; or

958 (iv) outdoor gas patio heater.

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

963 Section 7. Section **58-55-501** is amended to read:

964 **58-55-501. Unlawful conduct.**

965 Unlawful conduct includes:

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

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

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

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

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

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

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

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

987 (9) willfully or deliberately misrepresenting or omitting a material fact in connection
988 with an application to obtain or renew a license under this chapter;

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

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

992 (12) ~~[if licensed as a specialty contractor in the electrical trade or plumbing trade,
993 journeyman plumber, residential journeyman plumber, journeyman electrician, master
994 electrician, or residential electrician, failing] failure by a licensed supervisor to directly
995 supervise an apprentice under ~~[one's]~~ the supervisor's supervision or exceeding the number of
996 apprentices ~~[one]~~ the supervisor is allowed to have under ~~[his]~~ the supervisor's supervision[;] if
997 the supervisor is licensed as a:~~

998 (a) specialty contractor in the electrical, mechanical, or plumbing trade;

999 (b) master electrician;

1000 (c) residential master electrician;

1001 (d) journeyman electrician;

1002 (e) residential journeyman electrician;

1003 (f) master HVAC mechanical technician;

1004 (g) residential master HVAC mechanical technician;

1005 (h) journeyman HVAC mechanical technician;

1006 (i) residential journeyman HVAC mechanical technician;

1007 (j) journeyman plumber; or

1008 (k) residential journeyman plumber;

1009 (13) if licensed as a contractor or representing oneself to be a contractor, receiving any
1010 funds in payment for a specific project from an owner or any other person, which funds are to
1011 pay for work performed or materials and services furnished for that specific project, and after
1012 receiving the funds to exercise unauthorized control over the funds by failing to pay the full
1013 amounts due and payable to persons who performed work or furnished materials or services
1014 within a reasonable period of time;

1015 (14) employing an unlicensed alarm business or company or an unlicensed individual
1016 as an alarm company agent, except as permitted under the exemption from licensure provisions
1017 under Section 58-1-307;

1018 (15) if licensed as an alarm company or alarm company agent, filing with the division
1019 fingerprint cards for an applicant which are not those of the applicant, or are in any other way

1020 false or fraudulent and intended to mislead the division in its consideration of the applicant for
1021 licensure;

1022 (16) if licensed under this chapter, willfully or deliberately disregarding or violating:

1023 (a) the building or construction laws of this state or any political subdivision;

1024 (b) the safety and labor laws applicable to a project;

1025 (c) any provision of the health laws applicable to a project;

1026 (d) the workers' compensation insurance laws of the state applicable to a project;

1027 (e) the laws governing withholdings for employee state and federal income taxes,

1028 unemployment taxes, FICA, or other required withholdings; or

1029 (f) reporting, notification, and filing laws of this state or the federal government;

1030 (17) aiding or abetting any person in evading the provisions of this chapter or rules
1031 established under the authority of the division to govern this chapter;

1032 (18) engaging in the construction trade or as a contractor for the construction of
1033 residences of up to two units when not currently registered or exempt from registration as a

1034 qualified beneficiary under Title 38, Chapter 11, Residence Lien Restriction and Lien Recovery
1035 Fund Act;

1036 (19) failing, as an original contractor, as defined in Section 38-11-102, to include in a
1037 written contract the notification required in Section 38-11-108;

1038 (20) wrongfully filing a mechanics' lien in violation of Section 38-1-25; ~~[or]~~

1039 (21) if licensed as a contractor, not completing a three-hour core education class and an
1040 additional three hours of professional education approved by the division and the Construction
1041 Services Commission within each two-year renewal cycle, beginning with the two-year renewal
1042 cycle that starts July 1, 2005, and ends June 30, 2007 unless an exemption has been granted to
1043 the licensee by the Construction Services Commission, with the concurrence of the division,
1044 except that ~~[this Subsection (21) is repealed effective July 1, 2010 and]~~ its implementation is
1045 subject to the division receiving adequate funding for its implementation through a legislative
1046 appropriation; or

1047 (22) if licensed as an HVAC mechanical technician, not completing two hours of
1048 HVAC system fuel and electricity efficiency education:

1049 (a) that is approved by the division and the HVAC Mechanical Technicians Licensing
1050 Board; and

1051 (b) within each two-year license renewal cycle, beginning with the two-year license
1052 renewal cycle that starts July 1, 2009, and ends June 30, 2011.

Legislative Review Note
as of 1-19-09 9:53 AM

Office of Legislative Research and General Counsel