

Representative Larry B. Wiley proposes the following substitute bill:

HEATING, VENTILATION, AND AIR CONDITIONING

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) technicians.

Highlighted Provisions:

This bill:

- ▶ modifies construction trade licensing provisions to include HVAC technicians;
- ▶ creates the HVAC 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 technicians;

- ▶ repeals provisions excepting HVAC technicians from licensure;
- ▶ removes a repeal date;
- ▶ requires that a licensed HVAC technician complete fuel and electricity efficiency

education; and

- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None



26 **Other Special Clauses:**

27 This bill provides an effective date.

28 **Utah Code Sections Affected:**

29 AMENDS:

30 **58-55-102**, as last amended by Laws of Utah 2008, Chapter 215

31 **58-55-103**, as last amended by Laws of Utah 2008, Chapter 382

32 **58-55-201**, as last amended by Laws of Utah 2008, Chapter 215

33 **58-55-301**, as last amended by Laws of Utah 2008, Chapter 215

34 **58-55-302**, as last amended by Laws of Utah 2008, Chapters 215 and 382

35 **58-55-305**, as last amended by Laws of Utah 2008, Chapters 282, 354, and 377

36 **58-55-501**, as last amended by Laws of Utah 2008, Chapter 377

37

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

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

40 **58-55-102. Definitions.**

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

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

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

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

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

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

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

57 (a) detecting and signaling unauthorized intrusion or entry into or onto certain
58 premises; or

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

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

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

67 [~~(5)~~] (6) "Apprentice plumber" means a person licensed under this chapter as an
68 apprentice plumber who is learning the plumbing trade under approved supervision of a master
69 plumber, a residential master plumber, a journeyman plumber, or a residential journeyman
70 plumber.

71 [~~(6)~~] (7) "Approved supervision" means the immediate supervision of apprentices by
72 qualified licensed electricians, HVAC technicians, or plumbers as a part of a planned program
73 of training.

74 [~~(7)~~] (8) "Board" means the [~~Electrician~~] Electricians Licensing Board, HVAC
75 Technicians Licensing Board, Alarm System Security and Licensing Board, or Plumbers
76 Licensing Board created in Section 58-55-201.

77 [~~(8)~~] (9) "Combustion system" means an assembly consisting of:

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

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

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

84 [~~(9)~~] (10) "Commission" means the Construction Services Commission created under
85 Section 58-55-103.

86 [~~(10)~~] (11) "Construction trade" means any trade or occupation involving:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

116 (i) transporting or handling electrical materials;

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

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

119 control of electrical utilities.

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

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

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

125 [~~(14)~~] (15) "Employee" means an individual as defined by the division by rule giving
126 consideration to the definition adopted by the Internal Revenue Service and the Department of
127 Workforce Services.

128 [~~(15)~~] (16) "Engage in a construction trade" means to:

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

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

133 [~~(16)~~] (17) (a) "Financial responsibility" means a demonstration of a current and
134 expected future condition of financial solvency evidencing a reasonable expectation to the
135 division and the board that an applicant or licensee can successfully engage in business as a
136 contractor without jeopardy to the public health, safety, and welfare.

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

140 [~~(17)~~] (18) "Gas appliance" means any device that uses natural gas to produce light,
141 heat, power, steam, hot water, refrigeration, or air conditioning.

142 [~~(18)~~] (19) (a) "General building contractor" means a person licensed under this
143 chapter as a general building contractor qualified by education, training, experience, and
144 knowledge to perform or superintend construction of structures for the support, shelter, and
145 enclosure of persons, animals, chattels, or movable property of any kind or any of the
146 components of that construction except plumbing, electrical work, [~~mechanical~~] HVAC work,
147 and manufactured housing installation, for which the general building contractor shall employ
148 the services of a contractor licensed in the particular specialty, except that a general building
149 contractor engaged in the construction of single-family and multifamily residences up to four

150 units may ~~[perform the mechanical work and]~~ hire a licensed plumber ~~[or]~~, electrician, or
151 HVAC technician as an employee.

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

156 ~~[(19)]~~ (20) (a) "General engineering contractor" means a person licensed under this
157 chapter as a general engineering contractor qualified by education, training, experience, and
158 knowledge to perform construction of fixed works in any of the following: irrigation, drainage,
159 water, power, water supply, flood control, inland waterways, harbors, railroads, highways,
160 tunnels, airports and runways, sewers and bridges, refineries, pipelines, chemical and industrial
161 plants requiring specialized engineering knowledge and skill, piers, and foundations, or any of
162 the components of those works.

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

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

167 (b) "HVAC" does not include an appliance listed for domestic use, including a
168 refrigerator, a range, a washer, a dryer, or a window air conditioner.

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

172 ~~[(20)]~~ (23) "Immediate supervision" means reasonable direction, oversight, inspection,
173 and evaluation of the work of a person, in or out of the immediate presence of the supervising
174 person, so as to ensure that the end result complies with applicable standards.

175 ~~[(21)]~~ (24) "Individual" means a natural person.

176 ~~[(22)]~~ (25) "Journeyman electrician" means a person licensed under this chapter as a
177 journeyman electrician having the qualifications, training, experience, and knowledge to wire,
178 install, and repair electrical apparatus and equipment for light, heat, power, and other purposes.

179 (26) "Journeyman HVAC technician" means a person licensed under this chapter as a
180 journeyman HVAC technician having the qualifications, training, experience, and knowledge

181 to install, service, maintain, and repair an HVAC system.

182 [~~(23)~~] (27) "Journeyman plumber" means a person licensed under this chapter as a
183 journeyman plumber having the qualifications, training, experience, and technical knowledge
184 to engage in the plumbing trade.

185 [~~(24)~~] (28) "Master electrician" means a person licensed under this chapter as a master
186 electrician having the qualifications, training, experience, and knowledge to properly plan,
187 layout, and supervise the wiring, installation, and repair of electrical apparatus and equipment
188 for light, heat, power, and other purposes.

189 (29) "Master HVAC technician" means a person licensed under this chapter as a master
190 HVAC technician having the qualifications, training, experience, and knowledge to properly
191 plan, layout, and supervise the installation, service, maintenance, and repair of an HVAC
192 system.

193 [~~(25)~~] (30) "Master plumber" means a person licensed under this chapter as a master
194 plumber having the qualifications, training, experience, and knowledge to properly plan and
195 layout projects and supervise persons in the plumbing trade.

196 [~~(26)~~] (31) "Person" means a natural person, sole proprietorship, joint venture,
197 corporation, limited liability company, association, or organization of any type.

198 [~~(27)~~] (32) (a) "Plumbing trade" means the performance of any mechanical work
199 pertaining to the installation, alteration, change, repair, removal, maintenance, or use in
200 buildings, or within three feet beyond the outside walls of buildings of pipes, fixtures, and
201 fittings for:

202 (i) delivery of the water supply;

203 (ii) discharge of liquid and water carried waste; or

204 (iii) the building drainage system within the walls of the building.

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

209 [~~(28)~~] (33) (a) "Ratio of apprentices" means, for the purpose of determining
210 compliance with the requirements for planned programs of training and electrician apprentice
211 licensing applications, the shop ratio of apprentice electricians to journeyman or master

212 electricians shall be one journeyman or master electrician to one apprentice on industrial and
213 commercial work, and one journeyman or master electrician to three apprentices on residential
214 work.

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

218 ~~[(29)]~~ (34) "Residential and small commercial contractor" means a person licensed
219 under this chapter as a residential and small commercial contractor qualified by education,
220 training, experience, and knowledge to perform or superintend the construction of
221 single-family residences, multifamily residences up to four units, and commercial construction
222 of not more than three stories above ground and not more than 20,000 square feet, or any of the
223 components of that construction except plumbing, electrical work, mechanical work, and
224 manufactured housing installation, for which the residential and small commercial contractor
225 shall employ the services of a contractor licensed in the particular specialty, except that a
226 residential and small commercial contractor engaged in the construction of single-family and
227 multifamily residences up to four units may ~~[perform the mechanical work and]~~ hire a licensed
228 plumber ~~[or]~~, electrician, or HVAC technician as an employee.

229 ~~[(30)]~~ (35) "Residential building," as it relates to the license classification of residential
230 journeyman plumber ~~[and]~~, residential master plumber, residential HVAC technician, and
231 residential master HVAC technician means a single or multiple family dwelling of up to four
232 units.

233 ~~[(31)]~~ (36) "Residential journeyman electrician" means a person licensed under this
234 chapter as a residential journeyman electrician having the qualifications, training, experience,
235 and knowledge to wire, install, and repair electrical apparatus and equipment for light, heat,
236 power, and other purposes on buildings using primarily nonmetallic sheath cable.

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

240 ~~[(32)]~~ (38) "Residential journeyman plumber" means a person licensed under this
241 chapter as a residential journeyman plumber having the qualifications, training, experience, and
242 knowledge to engage in the plumbing trade as limited to the plumbing of residential buildings.

243 ~~[(33)]~~ (39) "Residential master electrician" means a person licensed under this chapter
244 as a residential master electrician having the qualifications, training, experience, and
245 knowledge to properly plan, layout, and supervise the wiring, installation, and repair of
246 electrical apparatus and equipment for light, heat, power, and other purposes on residential
247 projects.

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

252 ~~[(34)]~~ (41) "Residential master plumber" means a person licensed under this chapter as
253 a residential master plumber having the qualifications, training, experience, and knowledge to
254 properly plan and layout projects and supervise persons in the plumbing trade as limited to the
255 plumbing of residential buildings.

256 ~~[(35)]~~ (42) "Residential project," as it relates to an electrician or electrical contractor,
257 means buildings primarily wired with nonmetallic sheathed cable, in accordance with standard
258 rules and regulations governing this work, including the National Electrical Code, and in which
259 the voltage does not exceed 250 volts line to line and 125 volts to ground.

260 ~~[(36)]~~ (43) (a) "Specialty contractor" means a person licensed under this chapter under
261 a specialty contractor classification established by rule, who is qualified by education, training,
262 experience, and knowledge to perform those construction trades and crafts requiring
263 specialized skill, the regulation of which are determined by the division to be in the best
264 interest of the public health, safety, and welfare.

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

267 ~~[(37)]~~ (44) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-55-501.

268 ~~[(38)]~~ (45) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-55-502
269 and as may be further defined by rule.

270 ~~[(39)]~~ (46) "Wages" means amounts due to an employee for labor or services whether
271 the amount is fixed or ascertained on a time, task, piece, commission, or other basis for
272 calculating the amount.

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

274 **58-55-103. Construction Services Commission created -- Functions --**
275 **Appointment -- Qualifications and terms of members -- Vacancies -- Expenses --**
276 **Meetings.**

277 (1) (a) There is created within the division the Construction Services Commission.
278 (b) The commission shall:
279 (i) with the concurrence of the director, make reasonable rules under Title 63G,
280 Chapter 3, Utah Administrative Rulemaking Act, to administer and enforce this chapter which
281 are consistent with this chapter including:
282 (A) licensing of various licensees;
283 (B) examination requirements and administration of the examinations, to include
284 approving and establishing a passing score for applicant examinations;
285 (C) standards of supervision for students or persons in training to become qualified to
286 obtain a license in the trade they represent; and
287 (D) standards of conduct for various licensees;
288 (ii) approve or disapprove fees adopted by the division under Section 63J-1-303;
289 (iii) except where the boards conduct them, conduct all administrative hearings not
290 delegated to an administrative law judge relating to the licensing of any applicant;
291 (iv) except as otherwise provided in Sections 38-11-207 and 58-55-503, with the
292 concurrence of the director, impose sanctions against licensees and certificate holders with the
293 same authority as the division under Section 58-1-401;
294 (v) advise the director on the administration and enforcement of any matters affecting
295 the division and the construction industry;
296 (vi) advise the director on matters affecting the division budget;
297 (vii) advise and assist trade associations in conducting construction trade seminars and
298 industry education and promotion; and
299 (viii) perform other duties as provided by this chapter.

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

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

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

308 ~~[(i)]~~ (a) one member shall be a licensed general engineering contractor;
309 ~~[(ii)]~~ (b) one member shall be a licensed general building contractor;
310 ~~[(iii)]~~ (c) two members shall be licensed residential and small commercial contractors;
311 ~~[(iv)]~~ (d) ~~[three]~~ four members shall be ~~[the three chair persons]:~~
312 (i) the chairperson from the Plumbers Licensing Board~~[-, the];~~
313 (ii) the chairperson from the Alarm System Security and Licensing Board~~[-, and];~~
314 (iii) the chairperson from the Electricians Licensing Board; and
315 (iv) the chairperson from the HVAC Technicians Licensing Board; and
316 ~~[(v) two members]~~ (e) one member shall be from the general public~~[-, provided,~~
317 ~~however that the certified public accountant on the Contractors Licensing Board will continue~~
318 ~~to serve until the current term expires, after which both members under this Subsection~~
319 ~~(2)(c)(v) shall be appointed from the general public].~~

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

323 (b) Notwithstanding the requirements of Subsection (3)(a), the executive director with
324 the approval of the governor shall, at the time of appointment or reappointment, adjust the
325 length of terms to stagger the terms of commission members so that approximately 1/2 of the
326 commission members are appointed every two years.

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

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

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

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

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

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

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

340 (8) (a) Five members constitute a quorum for the transaction of business.

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

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

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

348 **58-55-201. Boards created -- Duties.**

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

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

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

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

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

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

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

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

362 (C) one individual representing the general public.

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

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

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

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

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

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

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

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

379 (d) The HVAC Technicians Licensing Board consists of five members as follows:

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

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

383 (B) one who has no union affiliation;

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

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

386 (B) one who has no union affiliation; and

387 (iii) one member shall be from the public at large who has no history of involvement in
388 a construction trade.

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

390 (a) recommending to the commission appropriate rules;

391 (b) recommending to the commission policy and budgetary matters;

392 (c) approving and establishing a passing score for applicant examinations;

393 (d) overseeing the screening of applicants for licensing, renewal, reinstatement, and
394 relicensure;

395 (e) assisting the commission in establishing standards of supervision for students or
396 persons in training to become qualified to obtain a license in the occupation or profession it
397 represents; and

398 (f) acting as presiding officer in conducting hearings associated with the adjudicative
399 proceedings and in issuing recommended orders when so authorized by the commission.

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

401 **58-55-301. License required -- License classifications.**

402 (1) (a) A person engaged in the construction trades licensed under this chapter, as a
403 contractor regulated under this chapter, as an alarm business or company, or as an alarm
404 company agent, shall become licensed under this chapter before engaging in that trade or
405 contracting activity in this state unless specifically exempted from licensure under Section
406 58-1-307 or 58-55-305.

407 (b) The license issued under this chapter and the business license issued by the local
408 jurisdiction in which the licensee has its principal place of business shall be the only licenses
409 required for the licensee to engage in a trade licensed by this chapter, within the state.

410 (c) Neither the state nor any of its political subdivisions may require of a licensee any
411 additional business licenses, registrations, certifications, contributions, donations, or anything
412 else established for the purpose of qualifying a licensee under this chapter to do business in that
413 local jurisdiction, except for contract prequalification procedures required by state agencies, or
414 the payment of any fee for the license, registration, or certification established as a condition to
415 do business in that local jurisdiction.

416 (2) The division shall issue licenses under this chapter to qualified persons in the
417 following classifications:

- 418 (a) general engineering contractor;
- 419 (b) general building contractor;
- 420 (c) residential and small commercial contractor;
- 421 (d) specialty contractor;
- 422 (e) master plumber;
- 423 (f) residential master plumber;
- 424 (g) journeyman plumber;
- 425 (h) apprentice plumber;
- 426 (i) residential journeyman plumber;
- 427 (j) master electrician;
- 428 (k) residential master electrician;

- 429 (l) journeyman electrician;
- 430 (m) residential journeyman electrician;
- 431 (n) apprentice electrician;
- 432 (o) construction trades instructor:
- 433 (i) general engineering classification;
- 434 (ii) general building classification;
- 435 (iii) electrical classification;
- 436 (iv) plumbing classification; and
- 437 (v) mechanical classification;
- 438 (p) alarm company; [~~and~~]
- 439 (q) alarm company agent[-];
- 440 (r) master HVAC technician;
- 441 (s) residential master HVAC technician;
- 442 (t) journeyman HVAC technician;
- 443 (u) residential HVAC technician; and
- 444 (v) apprentice HVAC technician.
- 445 (3) (a) An applicant may apply for a license in one or more classification or specialty
- 446 contractor subclassification.
- 447 (b) A license shall be granted in each classification or subclassification for which the
- 448 applicant qualifies.
- 449 (c) A separate application and fee must be submitted for each license classification or
- 450 subclassification.
- 451 Section 5. Section **58-55-302** is amended to read:
- 452 **58-55-302. Qualifications for licensure.**
- 453 (1) Each applicant for a license under this chapter shall:
- 454 (a) submit an application prescribed by the division;
- 455 (b) pay a fee as determined by the department under Section 63J-1-303;
- 456 (c) (i) meet the examination requirements established by rule by the commission with
- 457 the concurrence of the director, except for the classifications of apprentice plumber and
- 458 apprentice electrician for whom no examination is required; or
- 459 (ii) if required in Section 58-55-304, the individual qualifier must pass the required

460 examination if the applicant is a business entity;

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

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

463 (i) produce satisfactory evidence of financial responsibility, except for a construction

464 trades instructor for whom evidence of financial responsibility is not required;

465 (ii) produce satisfactory evidence of knowledge and experience in the construction

466 industry and knowledge of the principles of the conduct of business as a contractor, reasonably

467 necessary for the protection of the public health, safety, and welfare; and

468 (iii) be a licensed master electrician if an applicant for an electrical contractor's license

469 or a licensed master residential electrician if an applicant for a residential electrical contractor's

470 license; ~~or~~

471 (iv) be a licensed master HVAC technician or a licensed master residential HVAC

472 technician if an applicant for:

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

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

475 ~~(iv)~~ (v) be a licensed master plumber if an applicant for a plumbing contractor's

476 license or a licensed ~~master~~ residential master plumber if an applicant for a residential

477 plumbing contractor's license; and

478 (f) if an applicant for a construction trades instructor license, satisfy any additional

479 requirements established by rule.

480 (2) After approval of an applicant for a contractor's license by the applicable board and

481 the division, the applicant shall file the following with the division before the division issues

482 the license:

483 (a) proof of workers' compensation insurance which covers employees of the applicant

484 in accordance with applicable Utah law;

485 (b) proof of public liability insurance in coverage amounts and form established by rule

486 except for a construction trades instructor for whom public liability insurance is not required;

487 and

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

489 (i) Utah Department of Commerce;

490 (ii) Division of Corporations and Commercial Code;

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

493 (iv) State Tax Commission; and

494 (v) Internal Revenue Service.

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

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

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

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

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

506 (ii) An individual holding a valid Utah license as a journeyman plumber, based on at
507 least four years of practical experience as a licensed apprentice under the supervision of a
508 licensed journeyman plumber and four years as a licensed journeyman plumber, in effect
509 immediately prior to May 5, 2008, is on and after May 5, 2008, considered to hold a current
510 master plumber license under this chapter, and satisfies the requirements of this Subsection
511 (3)(a) for the purpose of renewal or reinstatement of that license under Section 58-55-303.

512 (iii) An individual holding a valid plumbing contractor's license or residential
513 plumbing contractor's license, in effect immediately prior to May 5, 2008, is on or after May 5,
514 2008:

515 (A) considered to hold a current master plumber license under this chapter if licensed
516 as a plumbing contractor and a journeyman plumber, and satisfies the requirements of this
517 Subsection (3)(a) for purposes of renewal or reinstatement of that license under Section
518 58-55-303; and

519 (B) considered to hold a current residential master plumber license under this chapter if
520 licensed as a residential plumbing contractor and a residential journeyman plumber, and
521 satisfies the requirements of this Subsection (3)(a) for purposes of renewal or reinstatement of

522 that license under Section 58-55-303.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

574 (h) A journeyman electrician applicant shall produce satisfactory evidence that the
575 applicant:

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

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

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

583 (i) A residential journeyman electrician applicant shall produce satisfactory evidence

584 that the applicant:

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

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

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

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

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

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

601 (iii) A licensed master or journeyman electrician may have under immediate
602 supervision on nonresidential projects only one licensed apprentice electrician.

603 (k) A master HVAC technician applicant shall produce satisfactory evidence that the
604 applicant:

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

607 (B) has one year of practical HVAC experience as a licensed apprentice HVAC
608 technician;

609 (ii) (A) is a graduate of an HVAC trade school, having received a certificate following
610 successful completion of a course of study approved by the division; and

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

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

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

615 (l) An individual is considered to hold a master HVAC technician license, and satisfies
616 the requirements of Subsection (3)(k) for purposes of renewal of that license under Section
617 58-55-303, if, before July 1, 2012, the individual:

618 (i) worked in an HVAC trade; and

619 (ii) (A) had at least eight years practical experience; or

620 (B) completed a five-year HVAC apprentice training program.

621 (m) A residential master HVAC technician applicant shall produce satisfactory
622 evidence that the applicant:

623 (i) has at least two years of practical experience as a residential HVAC technician; or

624 (ii) meets the qualifications determined by the board to be equivalent to two years of
625 practical experience as a residential HVAC technician.

626 (n) An individual is considered to hold a residential master HVAC technician license,
627 and satisfies the requirements of Subsection (3)(m) for purposes of renewal of that license
628 under Section 58-55-303, if, before July 1, 2012, the individual:

629 (i) worked in an HVAC trade; and

630 (ii) had at least five years practical experience.

631 (o) A journeyman HVAC technician applicant shall produce satisfactory evidence that
632 the applicant:

633 (i) has successfully completed at least four years of training and instruction as a
634 licensed apprentice HVAC technician:

635 (A) under the supervision of a master HVAC technician or journeyman HVAC
636 technician; and

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

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

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

642 (p) An individual is considered to hold a journeyman HVAC technician license, and
643 satisfies the requirements of Subsection (3)(o) for purposes of renewal of that license under
644 Section 58-55-303, if, before July 1, 2012, the individual:

645 (i) worked in an HVAC trade; and

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

647 (q) A residential HVAC technician applicant shall produce satisfactory evidence that
648 the applicant:

649 (i) has successfully completed three years of training in an HVAC training program
650 approved by the division;

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

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

656 (r) An individual is considered to hold a residential HVAC technician license, and
657 satisfies the requirements of Subsection (3)(q) for purposes of renewal of that license under
658 Section 58-55-303, if, before July 1, 2012, the individual:

659 (i) worked in an HVAC trade; and

660 (ii) had at least three years practical experience.

661 (s) (i) A licensed apprentice HVAC technician shall be under the immediate
662 supervision of a licensed master HVAC technician or journeyman HVAC technician.

663 (ii) The HVAC Technicians Board created in Section 58-55-201 shall, by rule,
664 determine the appropriate supervision ratio of master HVAC technician or journeyman HVAC
665 technician to the number of apprentice HVAC technicians.

666 (iii) A licensed apprentice HVAC technician in the fourth year of training may work
667 without immediate supervision for a period not to exceed eight hours in any 24-hour period.

668 (iv) A residential master HVAC technician or a residential HVAC technician may not
669 supervise a licensed apprentice HVAC technician on a nonresidential building.

670 ~~(k)~~ (t) An alarm company applicant shall:

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

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

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

676 (C) passes an examination component established by rule by the commission with the

677 concurrence of the director;

678 (ii) if a corporation, provide:

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

683 (B) the names, addresses, dates of birth, Social Security numbers, and fingerprint cards
684 of all shareholders owning 5% or more of the outstanding shares of the corporation, except this
685 shall not be required if the stock is publicly listed and traded;

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

687 (A) the names, addresses, dates of birth, Social Security numbers, and fingerprint cards
688 of all company officers, and those responsible management personnel employed within the
689 state or having direct responsibility for managing operations of the applicant within the state;
690 and

691 (B) the names, addresses, dates of birth, Social Security numbers, and fingerprint cards
692 of all individuals owning 5% or more of the equity of the company;

693 (iv) if a partnership, the names, addresses, dates of birth, Social Security numbers, and
694 fingerprint cards of all general partners, and those responsible management personnel
695 employed within the state or having direct responsibility for managing operations of the
696 applicant within the state;

697 (v) if a proprietorship, the names, addresses, dates of birth, Social Security numbers,
698 and fingerprint cards of the proprietor, and those responsible management personnel employed
699 within the state or having direct responsibility for managing operations of the applicant within
700 the state;

701 (vi) be of good moral character in that officers, directors, shareholders described in
702 Subsection (3)~~(A)~~(i)(ii)(B), partners, proprietors, and responsible management personnel have
703 not been convicted of a felony, a misdemeanor involving moral turpitude, or any other crime
704 that when considered with the duties and responsibilities of an alarm company is considered by
705 the board to indicate that the best interests of the public are served by granting the applicant a
706 license;

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

708 Subsection (3)~~(k)~~(l)(ii)(B), partners, proprietors, and responsible management personnel have
709 been declared by any court of competent jurisdiction incompetent by reason of mental defect or
710 disease and not been restored;

711 (viii) document that none of the applicant's officers, directors, shareholders described
712 in Subsection (3)~~(k)~~(l)(ii)(B), partners, proprietors, and responsible management personnel
713 are currently suffering from habitual drunkenness or from drug addiction or dependence;

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

715 (A) comprehensive general liability insurance in form and in amounts to be established
716 by rule by the commission with the concurrence of the director;

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

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

720 (I) Division of Corporations and Commercial Code;

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

723 (III) State Tax Commission; and

724 (IV) Internal Revenue Service; and

725 (x) meet with the division and board.

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

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

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

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

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

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

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

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

742 (5) To determine if an applicant meets the qualifications of Subsections (3)[~~(k)~~](l)(vi)
743 and (3)[~~(h)~~](u)(iii), the division shall provide an appropriate number of copies of fingerprint
744 cards to the Department of Public Safety with the division's request to:

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

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

751 (6) The Department of Public Safety shall send to the division:

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

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

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

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

764 (8) Information obtained by the division from the reviews of criminal history records
765 of the Department of Public Safety and the F.B.I. shall be used or disseminated by the division
766 only for the purpose of determining if an applicant for licensure as an alarm company or alarm
767 company agent is qualified for licensure.

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

769 (i) the applicant has had a previous license, which was issued under this chapter,

770 suspended or revoked within one year prior to the date of the applicant's application;

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

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

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

779 (B) any owner or agent acting as a qualifier has served in any capacity listed in
780 Subsection (9)(a)(ii)(B) in any entity which has had a previous license, which was issued under
781 this chapter, suspended or revoked within one year prior to the date of the applicant's
782 application.

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

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

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

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

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

795 (B) any owner or agent acting as a qualifier has served in any capacity listed in
796 Subsection (9)(b)(ii)(B) in any entity which has had a previous license, which was issued under
797 this chapter, suspended or revoked more than one year prior to the date of the applicant's
798 application.

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

800 **58-55-305. Exemptions from licensure.**

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

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

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

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

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

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

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

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

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

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

831 (ii) as used in this Subsection (1)(e), "token compensation" means compensation paid

832 by a sole owner of property exempted from licensure under Subsection (1)(d) to a person
833 exempted from licensure under this Subsection (1)(e), that is:

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

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

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

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

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

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

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

851 (A) work in the plumbing and electrical trades on a Subsection (1)(h)(i) project must
852 be performed by a licensed journeyman electrician or journeyman plumber except as otherwise
853 provided in this section;

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

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

861 (D) work as an alarm business or company or as an alarm company agent shall be
862 performed by a licensed alarm business or company or a licensed alarm company agent, except

863 as otherwise provided in this chapter;

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

867 (F) installation, repair, or replacement of a heating, ventilation, or air conditioning
868 system (HVAC) on a Subsection (1)(h)(i) project must be performed by an HVAC contractor
869 licensed by the division; and

870 (G) if the total value of the project is greater than \$1,000, the person shall file with the
871 division a one-time affirmation, subject to periodic reaffirmation as established by division
872 rule, that the person has:

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

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

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

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

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

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

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

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

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

- 894 (i) meets the appropriate state construction codes or local plumbing standards; and
895 (ii) is installed or repaired under the direction of a person authorized to do the work
896 under an appropriate specialty contractor license;
- 897 (m) a person who ordinarily would be subject to the electrician licensure requirements
898 under this chapter when employed by:
- 899 (i) railroad corporations, telephone corporations or their corporate affiliates, elevator
900 contractors or constructors, or street railway systems; or
- 901 (ii) public service corporations, rural electrification associations, or municipal utilities
902 who generate, distribute, or sell electrical energy for light, heat, or power;
- 903 (n) a person involved in minor electrical work incidental to a mechanical or service
904 installation;
- 905 (o) a student participating in construction trade education and training programs
906 approved by the commission with the concurrence of the director under the condition that:
- 907 (i) all work intended as a part of a finished product on which there would normally be
908 an inspection by a building inspector is, in fact, inspected and found acceptable by a licensed
909 building inspector; and
- 910 (ii) a licensed contractor obtains the necessary building permits; and
- 911 (p) a delivery person when replacing any of the following existing equipment with a
912 new gas appliance, provided there is an existing gas shutoff valve at the appliance:
- 913 (i) gas range;
914 (ii) gas dryer;
915 (iii) outdoor gas barbeque; or
916 (iv) outdoor gas patio heater.
- 917 (2) A compliance agency as defined in Subsection 58-56-3(4) that issues a building
918 permit to a person requesting a permit as a sole owner of property referred to in Subsection
919 (1)(d) shall notify the division, in writing or through electronic transmission, of the issuance of
920 the permit.

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

922 **58-55-501. Unlawful conduct.**

923 Unlawful conduct includes:

- 924 (1) engaging in a construction trade, acting as a contractor, an alarm business or

925 company, or an alarm company agent, or representing oneself to be engaged in a construction
926 trade or to be acting as a contractor in a construction trade requiring licensure, unless the
927 person doing any of these is appropriately licensed or exempted from licensure under this
928 chapter;

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

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

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

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

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

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

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

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

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

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

950 (12) [~~if licensed as a specialty contractor in the electrical trade or plumbing trade;~~
951 ~~journeyman plumber, residential journeyman plumber, journeyman electrician, master~~
952 ~~electrician, or residential electrician,]~~ failing to directly supervise an apprentice under one's
953 supervision or exceeding the number of apprentices one is allowed to have under [~~his~~] one's
954 supervision[;] if one is licensed as a:

955 (a) specialty contractor in the electrical, HVAC, or plumbing trade;

- 956 (b) master electrician;
- 957 (c) residential master electrician;
- 958 (d) journeyman electrician;
- 959 (e) residential journeyman electrician;
- 960 (f) master HVAC technician;
- 961 (g) residential master HVAC technician;
- 962 (h) journeyman HVAC technician;
- 963 (i) residential HVAC technician;
- 964 (j) journeyman plumber; or
- 965 (k) residential journeyman plumber;
- 966 (13) if licensed as a contractor or representing oneself to be a contractor, receiving any
- 967 funds in payment for a specific project from an owner or any other person, which funds are to
- 968 pay for work performed or materials and services furnished for that specific project, and after
- 969 receiving the funds to exercise unauthorized control over the funds by failing to pay the full
- 970 amounts due and payable to persons who performed work or furnished materials or services
- 971 within a reasonable period of time;
- 972 (14) employing an unlicensed alarm business or company or an unlicensed individual
- 973 as an alarm company agent, except as permitted under the exemption from licensure provisions
- 974 under Section 58-1-307;
- 975 (15) if licensed as an alarm company or alarm company agent, filing with the division
- 976 fingerprint cards for an applicant which are not those of the applicant, or are in any other way
- 977 false or fraudulent and intended to mislead the division in its consideration of the applicant for
- 978 licensure;
- 979 (16) if licensed under this chapter, willfully or deliberately disregarding or violating:
- 980 (a) the building or construction laws of this state or any political subdivision;
- 981 (b) the safety and labor laws applicable to a project;
- 982 (c) any provision of the health laws applicable to a project;
- 983 (d) the workers' compensation insurance laws of the state applicable to a project;
- 984 (e) the laws governing withholdings for employee state and federal income taxes,
- 985 unemployment taxes, FICA, or other required withholdings; or
- 986 (f) reporting, notification, and filing laws of this state or the federal government;

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

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

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

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

996 (21) if licensed as a contractor, not completing a three-hour core education class and an
997 additional three hours of professional education approved by the division and the Construction
998 Services Commission within each two-year renewal cycle, beginning with the two-year renewal
999 cycle that starts July 1, 2005, and ends June 30, 2007 unless an exemption has been granted to
1000 the licensee by the Construction Services Commission, with the concurrence of the division,
1001 except that [~~this Subsection (21) is repealed effective July 1, 2010 and~~] its implementation is
1002 subject to the division receiving adequate funding for its implementation through a legislative
1003 appropriation; or

1004 (22) if licensed as an HVAC technician, not completing two hours of HVAC system
1005 fuel and electricity efficiency education:

1006 (a) that is approved by the division and the HVAC Technicians Licensing Board; and

1007 (b) within each two-year license renewal cycle, beginning with the two-year license
1008 renewal cycle that starts July 1, 2009, and ends June 30, 2011.

1009 **Section 8. Effective date.**

1010 This bill takes effect on July 1, 2011, except that Sections 58-55-301, 58-55-302,
1011 58-55-305, 58-55-501 of this bill take effect on July 1, 2012.