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CONSTRUCTION TRADE EXEMPTION

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephen H. Urquhart

House Sponsor: Keith Grover

LONG TITLE

General Description:

This bill modifies the exemptions from licensure provision of the Utah Construction Trades Licensing Act regarding electrical and plumbing work done on building projects with a value of less than \$3,000.

Highlighted Provisions:

This bill:

- ▶ provides that electrical and plumbing work done on a building project with a value of less than \$3,000 must be done by a licensed electrical or plumbing contractor if the project involves an electrical or plumbing system; and
- ▶ provides that the electrical or plumbing work may be done by a licensed journeyman electrician or plumber if the project involves a single item such as a faucet, toilet, fixture, plug, or electrical switch.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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



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

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

30 **58-55-305. Exemptions from licensure.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

80 (ii) notwithstanding Subsection (1)(h)(i) and except as otherwise provided in this
81 section:

82 (A) work in the plumbing and electrical trades on a Subsection (1)(h)(i) project must
83 be performed by ~~[a licensed journeyman electrician or journeyman plumber except as~~
84 ~~otherwise provided in this section];~~

85 (I) a licensed electrical or plumbing contractor, if the project involves an electrical or
86 plumbing system; and

87 (II) a licensed journeyman electrician or plumber, if the project involves a single item
88 such as a faucet, toilet, fixture, plug, or electrical switch;

89 (B) installation, repair, or replacement of a residential or commercial gas appliance or a

90 combustion system on a Subsection (1)(h)(i) project must be performed by a person who has
91 received certification under Subsection 58-55-308(2) except as otherwise provided in
92 Subsection 58-55-308(2)(d) or 58-55-308(3);

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

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

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

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

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

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

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

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

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

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

121 to:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

148 (i) gas range;

149 (ii) gas dryer;

150 (iii) outdoor gas barbeque; or

151 (iv) outdoor gas patio heater.

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

Legislative Review Note
as of 2-3-09 9:03 AM

Office of Legislative Research and General Counsel

S.B. 163 - Construction Trade Exemption

Fiscal Note

2009 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for local governments. Individuals and business may be impacted by this change in statute.
