

Senator Karen Mayne proposes the following substitute bill:

CONSTRUCTION TRADES LICENSING REVISIONS

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Karen Mayne

House Sponsor: James A. Dunnigan

Cosponsors: John L. Valentine

Curtis S. Bramble

LONG TITLE

General Description:

This bill modifies the Utah Construction Trades Licensing Act.

Highlighted Provisions:

This bill:

- ▶ requires an unincorporated entity licensee to file an ownership status report and submit a license renewal application if the number of owners of the entity changes by a specified amount;
- ▶ requires an unincorporated entity providing labor to a licensed entity to file an ownership status report if the number of owners of the entity changes by a specified amount;
- ▶ provides that the license of an unincorporated entity is automatically suspended if the entity experiences a specified change in the number of owners unless the entity applies for renewal of the license and the division renews the license;
- ▶ modifies financial responsibility provisions;
- ▶ requires government entities to require a contractor to provide proof that the



25 contractor provides workers compensation insurance, pays into the unemployment insurance
26 fund, and withholds applicable taxes from worker pay;

27 ▶ makes it unlawful conduct for an unincorporated entity to have an individual who is
28 an owner of the unincorporated entity engage in a construction trade while using a
29 Social Security number that does not belong to the individual;

30 ▶ makes it unlawful conduct for an unincorporated entity that provides labor to a
31 licensed entity to provide an individual who is an owner of the unincorporated
32 entity to engage in a construction trade while the individual is using a Social
33 Security number that does not belong to the individual; and

34 ▶ makes technical changes.

35 **Money Appropriated in this Bill:**

36 None

37 **Other Special Clauses:**

38 None

39 **Utah Code Sections Affected:**

40 AMENDS:

41 **58-55-302**, as last amended by Laws of Utah 2012, Chapter 192

42 **58-55-303**, as last amended by Laws of Utah 2011, Chapter 367

43 **58-55-306**, as last amended by Laws of Utah 2012, Chapter 192

44 **58-55-310**, as renumbered and amended by Laws of Utah 1994, Chapter 181

45 **58-55-501**, as last amended by Laws of Utah 2012, Chapter 278

46 **58-55-503**, as last amended by Laws of Utah 2011, Chapters 195, 340, and 413



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

49 Section 1. Section **58-55-302** is amended to read:

50 **58-55-302. Qualifications for licensure.**

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

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

53 (b) pay a fee as determined by the department under Section 63J-1-504;

54 (c) (i) meet the examination requirements established by rule by the commission with
55 the concurrence of the director, except for the classifications of apprentice plumber and

56 apprentice electrician for whom no examination is required; or
57 (ii) if required in Section 58-55-304, the individual qualifier must pass the required
58 examination if the applicant is a business entity;
59 (d) if an apprentice, identify the proposed supervisor of the apprenticeship;
60 (e) if an applicant for a contractor's license:
61 (i) produce satisfactory evidence of financial responsibility, except for a construction
62 trades instructor for whom evidence of financial responsibility is not required;
63 (ii) produce satisfactory evidence of knowledge and experience in the construction
64 industry and knowledge of the principles of the conduct of business as a contractor, reasonably
65 necessary for the protection of the public health, safety, and welfare;
66 (iii) (A) be a licensed master electrician if an applicant for an electrical contractor's
67 license or a licensed master residential electrician if an applicant for a residential electrical
68 contractor's license;
69 (B) be a licensed master plumber if an applicant for a plumbing contractor's license or
70 a licensed master residential plumber if an applicant for a residential plumbing contractor's
71 license; or
72 (C) be a licensed elevator mechanic and produce satisfactory evidence of three years
73 experience as an elevator mechanic if an applicant for an elevator contractor's license; and
74 (iv) when the applicant is an unincorporated entity, provide a list of the one or more
75 individuals who hold an ownership interest in the applicant as of the day on which the
76 application is filed that includes for each individual:
77 (A) the individual's name, address, birthdate, and Social Security number; and
78 (B) whether the individual will engage in a construction trade; and
79 (f) if an applicant for a construction trades instructor license, satisfy any additional
80 requirements established by rule.
81 (2) After approval of an applicant for a contractor's license by the applicable board and
82 the division, the applicant shall file the following with the division before the division issues
83 the license:
84 (a) proof of workers' compensation insurance which covers employees of the applicant
85 in accordance with applicable Utah law;
86 (b) proof of public liability insurance in coverage amounts and form established by rule

87 except for a construction trades instructor for whom public liability insurance is not required;
88 and

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

90 (i) Utah Department of Commerce;

91 (ii) Division of Corporations and Commercial Code;

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

94 (iv) State Tax Commission; and

95 (v) Internal Revenue Service.

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

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

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

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

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

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

113 (iii) An individual holding a valid plumbing contractor's license or residential
114 plumbing contractor's license, in effect immediately prior to May 5, 2008, is on or after May 5,
115 2008:

116 (A) considered to hold a current master plumber license under this chapter if licensed
117 as a plumbing contractor and a journeyman plumber, and satisfies the requirements of this

118 Subsection (3)(a) for purposes of renewal or reinstatement of that license under Section
119 58-55-303; and

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

124 (b) A master residential plumber applicant shall produce satisfactory evidence that the
125 applicant:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

169 (g) A master residential electrician applicant shall produce satisfactory evidence that
170 the applicant:

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

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

175 (h) A journeyman electrician applicant shall produce satisfactory evidence that the
176 applicant:

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

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

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

184 (i) A residential journeyman electrician applicant shall produce satisfactory evidence
185 that the applicant:

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

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

191 (iii) meets the qualifications determined by the division and applicable board to be
192 equivalent to Subsection (3)(i)(i) or (ii).

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

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

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

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

204 (k) An alarm company applicant shall:

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

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

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

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

211 concurrence of the director;

212 (ii) if a corporation, provide:

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

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

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

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

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

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

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

235 (vi) if a trust, provide the names, addresses, dates of birth, Social Security numbers,
236 and fingerprint cards of the trustee, and those responsible management personnel employed
237 within the state or having direct responsibility for managing operations of the applicant within
238 the state;

239 (vii) be of good moral character in that officers, directors, shareholders described in
240 Subsection (3)(k)(ii)(B), partners, proprietors, trustees, and responsible management personnel
241 have not been convicted of a felony, a misdemeanor involving moral turpitude, or any other

242 crime that when considered with the duties and responsibilities of an alarm company is
243 considered by the board to indicate that the best interests of the public are served by granting
244 the applicant a license;

245 (viii) document that none of the applicant's officers, directors, shareholders described
246 in Subsection (3)(k)(ii)(B), partners, proprietors, trustees, and responsible management
247 personnel have been declared by any court of competent jurisdiction incompetent by reason of
248 mental defect or disease and not been restored;

249 (ix) document that none of the applicant's officers, directors, shareholders described in
250 Subsection (3)(k)(ii)(B), partners, proprietors, and responsible management personnel are
251 currently suffering from habitual drunkenness or from drug addiction or dependence;

252 (x) file and maintain with the division evidence of:

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

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

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

258 (I) Division of Corporations and Commercial Code;

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

261 (III) State Tax Commission; and

262 (IV) Internal Revenue Service; and

263 (xi) meet with the division and board.

264 (l) Each applicant for licensure as an alarm company agent shall:

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

267 (ii) pay a fee determined by the department under Section 63J-1-504;

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

272 (iv) not have been declared by any court of competent jurisdiction incompetent by

273 reason of mental defect or disease and not been restored;

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

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

277 (m) (i) Each applicant for licensure as an elevator mechanic shall:

278 (A) provide documentation of experience and education credits of not less than three
279 years work experience in the elevator industry, in construction, maintenance, or service and
280 repair; and

281 (B) satisfactorily complete a written examination administered by the division
282 established by rule under Section 58-1-203; or

283 (C) provide certificates of completion of an apprenticeship program for elevator
284 mechanics, having standards substantially equal to those of this chapter and registered with the
285 United States Department of Labor Bureau Apprenticeship and Training or a state
286 apprenticeship council.

287 (ii) (A) If an elevator contractor licensed under this chapter cannot find a licensed
288 elevator mechanic to perform the work of erecting, constructing, installing, altering, servicing,
289 repairing, or maintaining an elevator, the contractor may:

290 (I) notify the division of the unavailability of licensed personnel; and

291 (II) request the division issue a temporary elevator mechanic license to an individual
292 certified by the contractor as having an acceptable combination of documented experience and
293 education to perform the work described in this Subsection (3)(m)(ii)(A).

294 (B) (I) The division may issue a temporary elevator mechanic license to an individual
295 certified under Subsection (3)(m)(ii)(A)(II) upon application by the individual, accompanied by
296 the appropriate fee as determined by the department under Section 63J-1-504.

297 (II) The division shall specify the time period for which the license is valid and may
298 renew the license for an additional time period upon its determination that a shortage of
299 licensed elevator mechanics continues to exist.

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

303 (5) To determine if an applicant meets the qualifications of Subsections (3)(k)(vii) and

304 (3)(l)(iii), the division shall provide an appropriate number of copies of fingerprint cards to the
305 Department of Public Safety with the division's request to:

306 (a) conduct a search of records of the Department of Public Safety for criminal history
307 information relating to each applicant for licensure as an alarm company or alarm company
308 agent and each applicant's officers, directors, shareholders described in Subsection
309 (3)(k)(ii)(B), partners, proprietors, and responsible management personnel; and

310 (b) forward to the Federal Bureau of Investigation a fingerprint card of each applicant
311 requiring a check of records of the Federal Bureau of Investigation for criminal history
312 information under this section.

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

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

318 (b) the results of the Federal Bureau of Investigation review concerning an applicant in
319 a timely manner after receipt of information from the Federal Bureau of Investigation.

320 (7) (a) The division shall charge each applicant for licensure as an alarm company or
321 alarm company agent a fee, in accordance with Section 63J-1-504, equal to the cost of
322 performing the records reviews under this section.

323 (b) The division shall pay the Department of Public Safety the costs of all records
324 reviews, and the Department of Public Safety shall pay the Federal Bureau of Investigation the
325 costs of records reviews under this section.

326 (8) Information obtained by the division from the reviews of criminal history records of
327 the Department of Public Safety and the Federal Bureau of Investigation shall be used or
328 disseminated by the division only for the purpose of determining if an applicant for licensure as
329 an alarm company or alarm company agent is qualified for licensure.

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

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

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

334 (B) any corporate officer, director, shareholder holding 25% or more of the stock in the

335 applicant, partner, member, agent acting as a qualifier, or any person occupying a similar
336 status, performing similar functions, or directly or indirectly controlling the applicant has
337 served in any similar capacity with any person or entity which has had a previous license,
338 which was issued under this chapter, suspended or revoked within one year prior to the date of
339 the applicant's application; [~~or~~]

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

341 (B) any owner or agent acting as a qualifier has served in any capacity listed in
342 Subsection (9)(a)(ii)(B) in any entity which has had a previous license, which was issued under
343 this chapter, suspended or revoked within one year prior to the date of the applicant's
344 application[-]; or

345 (iv) (A) the applicant is an individual who held an ownership interest in an
346 unincorporated entity at the time the entity's license under this chapter was revoked; and

347 (B) the individual's application for licensure is filed within 60 months after the
348 revocation of the unincorporated entity's license.

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

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

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

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

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

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

365 (10) (a) (i) A licensee that is an unincorporated entity shall file an ownership status

366 report with the division every 90 days after the day on which the license is issued if the licensee
367 has more than five owners who are individuals who:

368 (A) own an interest in the contractor that is an unincorporated entity;

369 (B) own, directly or indirectly, less than an 8% interest in the unincorporated entity, as
370 defined by rule made by the division in accordance with Title 63G, Chapter 3, Utah
371 Administrative Rulemaking Act; and

372 (C) engage, or will engage, in a construction trade in Utah as an owner of the
373 contractor described in Subsection (10)(a)(i)(A).

374 (ii) If the licensee has five or fewer owners described in Subsection (10)(a)(i), the
375 licensee shall provide the ownership status report with an application for renewal of licensure.

376 (iii) An unincorporated entity licensee that has an increase or decrease in the number of
377 owners described in Subsection (10)(a)(i) equal to 13 or more since the date the licensee last
378 filed an ownership status report shall, within 10 days after the increase or decrease:

379 (A) file an ownership status report with the division; and

380 (B) submit to the division an application for renewal of the licensee's license.

381 (b) An ownership status report required under this Subsection (10) shall:

382 (i) ~~[list]~~ specify each addition or deletion of an owner:

383 (A) for the first ownership status report, after the day on which the unincorporated
384 entity is licensed under this chapter; and

385 (B) for a subsequent ownership status report, after the day on which the previous
386 ownership status report is filed;

387 (ii) be in a format prescribed by the division that includes ~~[the items on the list~~
388 ~~provided under]~~ for each owner, regardless of the owner's percentage ownership in the
389 unincorporated entity, the information described in Subsection(1)(e)(iv); ~~[and]~~

390 (iii) list the name of:

391 (A) each officer or manager of the unincorporated entity; and

392 (B) each other individual involved in the operation, supervision, or management of the
393 unincorporated entity; and

394 ~~[(iii)]~~ (iv) be accompanied by a fee set by the division in accordance with Section
395 63J-1-504 if the ownership status report indicates there is a change described in Subsection
396 (10)(b)(i).

397 (c) The division may, at any time, audit an ownership status report under this
398 Subsection (10):

399 (i) to determine if financial responsibility has been demonstrated or maintained as
400 required under Section 58-55-306; and

401 (ii) to determine compliance with Subsection 58-55-501(24) [~~or~~], (25), or (27) or
402 Subsection 58-55-502(8) or (9).

403 (11) (a) An unincorporated entity that provides labor to an entity licensed under this
404 chapter by providing an individual who owns an interest in the unincorporated entity to engage
405 in a construction trade in Utah shall file with the division:

406 (i) before the individual who owns an interest in the unincorporated entity engages in a
407 construction trade in Utah, a current list of the one or more individuals who hold an ownership
408 interest in the unincorporated entity that includes for each individual:

409 (A) the individual's name, address, birthdate, and Social Security number; and

410 (B) whether the individual will engage in a construction trade; [~~and~~]

411 (ii) every 90 days after the day on which the unincorporated entity provides the list
412 described in Subsection (11)(a)(i), an ownership status report containing the information that
413 would be required under Subsection (10) if the unincorporated entity were a licensed
414 contractor[~~;~~]; and

415 (iii) an ownership status report described in Subsection (11)(a)(ii), within 10 days after
416 an increase or decrease in the number of owners of the unincorporated entity, if the
417 unincorporated entity has an increase or decrease in the number of owners of the
418 unincorporated entity equal to 13 or more since the date the licensee last filed a list under
419 Subsection (11)(a)(i) or an ownership status report under Subsection (11)(a)(ii).

420 (b) When filing an ownership list described in Subsection (11)(a)(i) or an ownership
421 status report described in Subsection (11)(a)(ii) or (iii) an unincorporated entity shall pay a fee
422 set by the division in accordance with Section 63J-1-504.

423 (12) This chapter may not be interpreted to create or support an express or implied
424 independent contractor relationship between an unincorporated entity described in Subsection
425 (10) or (11) and the owners of the unincorporated entity for any purpose, including income tax
426 withholding.

427 (13) A Social Security number provided under Subsection (1)(e)(iv) is a private record

428 under Subsection 63G-2-302(1)(h).

429 Section 2. Section **58-55-303** is amended to read:

430 **58-55-303. Term of license -- Expiration -- Renewal.**

431 (1) (a) Each license issued under this chapter shall be issued in accordance with a
432 two-year renewal cycle established by rule.

433 (b) The division may by rule extend or shorten a renewal period by as much as one year
434 to stagger the renewal cycle it administers.

435 (c) (i) Notwithstanding a renewal cycle under Subsection (1)(a) or (b), and
436 notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, the license of an
437 unincorporated entity is automatically suspended 90 days after the unincorporated entity has an
438 increase or decrease in the number of owners as described in Subsection 58-55-302(10)(a)(iii)
439 unless:

440 (A) the licensee submits an application for renewal of the license, as required under
441 Subsection 58-55-302(10)(a)(iii)(B); and

442 (B) the division renews the licensee's license pursuant to the licensee's application for
443 renewal.

444 (ii) Within 30 days after the effective date of a suspension under Subsection (1)(c)(i),
445 the commission shall, in accordance with Title 63G, Chapter 4, Administrative Procedures Act,
446 make a final determination concerning the suspension.

447 (2) At the time of renewal, the licensee shall show satisfactory evidence of:

448 (a) continuing financial responsibility as required under Section 58-55-306;

449 (b) for a contractor licensee, completion of six hours of approved continuing education,
450 as required in Section 58-55-302.5; and

451 (c) if the licensee is an apprentice electrician or plumber, journeyman electrician or
452 plumber, master electrician or plumber, residential journeyman electrician or plumber, or
453 residential master electrician or plumber, completion of the number of hours of continuing
454 education specified under Section 58-55-302.7.

455 (3) Each license automatically expires on the expiration date shown on the license
456 unless the licensee renews the license in accordance with Section 58-1-308.

457 (4) The requirements of Subsection 58-55-302(9) shall also apply to applicants seeking
458 to renew or reinstate a license.

459 (5) In addition to any other requirements imposed by law, if a license has been
460 suspended or revoked for any reason, the applicant:

- 461 (a) shall pay in full all fines imposed by the division;
- 462 (b) resolve any outstanding citations or disciplinary actions with the division;
- 463 (c) satisfy any Section 58-55-503 judgment and sentence or nontrial resolution;
- 464 (d) complete a new financial responsibility review as required under Section
465 58-55-306, using only titled assets; and

466 (e) pay in full any reimbursement amount as provided in Title 38, Chapter 11,
467 Residence Lien Restriction and Lien Recovery Fund Act.

468 Section 3. Section **58-55-306** is amended to read:

469 **58-55-306. Financial responsibility.**

470 (1) An applicant for licensure as a contractor, and a licensee applying for renewal or
471 reinstatement of a contractor's license shall demonstrate to the division and the commission the
472 applicant's or licensee's financial responsibility before the issuance of or the renewal or
473 reinstatement of a license by:

- 474 (a) (i) completing a questionnaire developed by the division; and
- 475 (ii) signing the questionnaire, certifying that the information provided is true and
476 accurate; or
- 477 (b) submitting a bond in an amount and form determined by the commission with the
478 concurrence of the director.

479 (2) A licensee, including an individual who holds an ownership interest in an
480 unincorporated entity licensee, shall maintain financial responsibility throughout the period of
481 licensure.

482 [~~(2)~~] (3) The division may audit [~~an applicant's or licensee's demonstration of~~] the
483 financial responsibility of an applicant or licensee on a random basis or upon finding of a
484 reasonable need.

485 [~~(3)~~] (4) The burden to demonstrate financial responsibility is upon the applicant [~~or~~],
486 licensee, or owner of an unincorporated entity licensee, as the case may be.

487 [~~(4)~~] (a) ~~If an applicant for licensure as a contractor or a licensee applying for renewal~~
488 ~~or reinstatement of a contractor's license is an unincorporated entity, the~~ The ~~division may~~
489 ~~require each individual who holds an ownership interest in the~~ an unincorporated entity

490 applicant or licensee to demonstrate financial responsibility to the division and the
491 commission.}]

492 [~~(b) In accordance with Subsection (2), the division may audit an owner's~~
493 ~~demonstration of financial responsibility under Subsection (4)(a) at any time including~~
494 ~~requesting:]~~

495 [~~(i) the applicant or licensee to provide a current list of owners meeting the~~
496 ~~requirements of Subsection 58-55-302(1)(c)(iv); and]~~

497 [~~(ii) a credit report for each owner.}]~~

498 [~~(c) If an owner described in Subsection (4) (a) fails to demonstrate financial~~
499 ~~responsibility under this section, the division may:]~~

500 [~~(i) prohibit the licensee or owner from engaging in a construction trade; or]~~

501 (5) (a) In determining the financial responsibility of an applicant or licensee described
502 in Subsection (1) that is an unincorporated entity, the division:

503 (i) shall consider the personal financial information of each individual who holds an
504 ownership interest in the unincorporated entity; and

505 (ii) may, at any time:

506 (A) audit the personal financial information of any individual who holds an ownership
507 interest in the unincorporated entity; or

508 (B) request and obtain a credit report on the individual.

509 (b) If, based on the personal financial information of one or more individuals who hold
510 an ownership interest in the unincorporated entity, the division determines that the applicant or
511 licensee lacks financial responsibility to engage successfully in business as a contractor, the
512 division may:

513 (i) prohibit the individual or individuals from engaging in a construction trade;

514 (ii) prohibit the applicant or licensee from engaging in a construction trade, unless the
515 individual or individuals dissociate from the applicant or licensee within 10 days after the
516 division makes the determination of a lack of financial responsibility; or

517 [~~(†)~~ (iii) require the [owner] individual or individuals, applicant, or licensee to submit
518 a bond in an amount and form determined by the commission with the concurrence of the
519 director.

520 Section 4. Section **58-55-310** is amended to read:

521 **58-55-310. Requirements when working for political subdivision or state agency.**

522 Each political subdivision and agency of the state and each board of education which
523 requires the issuance of a permit or license as a precondition to the construction, alteration,
524 improvement, demolition, or other repairs for which a contractor's license is also required
525 under this chapter shall:

526 (1) require that each applicant for a permit or license file a signed statement that the
527 applicant has a current contractor's license with the license number included in the application;

528 (2) require that any representation of exemption from the contractor's licensing law be
529 included in the signed statement and that if that exempt person, firm, corporation, association,
530 or other organization intends to hire a contractor to perform any work under the permit or
531 license, that the license number of that contractor be included in the application, but if a
532 contractor has not been selected at the time of the application for a permit or license, the permit
533 or license shall be issued only on the condition that a currently licensed contractor will be
534 selected and that the license number of the contractor will be given to the issuing public body
535 and displayed on the permit or license; [~~and~~]

536 (3) require that, upon issuance of a permit or license, the contractor affix the
537 contractor's license number to that permit or license for public display[-]; and

538 (4) require the contractor to provide proof that the contractor provides workers'
539 compensation insurance, pays into the unemployment insurance fund, provides health
540 insurance as required under federal or state law, and withholds applicable taxes from worker
541 pay.

542 Section 5. Section **58-55-501** is amended to read:

543 **58-55-501. Unlawful conduct.**

544 Unlawful conduct includes:

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

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

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

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

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

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

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

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

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

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

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

571 (12) if licensed as a specialty contractor in the electrical trade or plumbing trade,
572 journeyman plumber, residential journeyman plumber, journeyman electrician, master
573 electrician, or residential electrician, failing to directly supervise an apprentice under one's
574 supervision or exceeding the number of apprentices one is allowed to have under the speciality
575 contractor's supervision;

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

582 (14) employing an unlicensed alarm business or company or an unlicensed individual

583 as an alarm company agent, except as permitted under the exemption from licensure provisions
584 under Section 58-1-307;

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

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

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

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

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

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

594 (e) the laws governing withholdings for employee state and federal income taxes,
595 unemployment taxes, Social Security payroll taxes, or other required withholdings; or

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

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

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

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

605 (20) wrongfully filing a preconstruction or construction lien in violation of Section
606 38-1a-308;

607 (21) if licensed as a contractor, not completing the approved continuing education
608 required under Section 58-55-302.5;

609 (22) an alarm company allowing an employee with a temporary license under Section
610 58-55-312 to engage in conduct on behalf of the company outside the scope of the temporary
611 license, as provided in Subsection 58-55-312(3)(a)(ii);

612 (23) an alarm company agent under a temporary license under Section 58-55-312
613 engaging in conduct outside the scope of the temporary license, as provided in Subsection

614 58-55-312(3)(a)(ii);

615 (24) (a) an unincorporated entity licensed under this chapter having an individual who
616 owns an interest in the unincorporated entity engage in a construction trade in Utah while not
617 lawfully present in the United States; or

618 (b) an unincorporated entity providing labor to an entity licensed under this chapter by
619 providing an individual who owns an interest in the unincorporated entity to engage in a
620 construction trade in Utah while not lawfully present in the United States;

621 (25) an unincorporated entity failing to provide the following for an individual who
622 engages, or will engage, in a construction trade in Utah for the unincorporated entity, or for an
623 individual who engages, or will engage, in a construction trade in Utah for a separate entity for
624 which the unincorporated entity provides the individual as labor:

625 (a) workers' compensation coverage:

626 (i) to the extent required by Title 34A, Chapter 2, Workers' Compensation Act, and
627 Title 34A, Chapter 3, Utah Occupational Disease Act; or

628 (ii) that would be required under the chapters listed in Subsection (25)(a)(i) if the
629 unincorporated entity were licensed under this chapter; and

630 (b) unemployment compensation in accordance with Title 35A, Chapter 4,
631 Employment Security Act, for an individual who owns, directly or indirectly, less than an 8%
632 interest in the unincorporated entity, as defined by rule made by the division in accordance with
633 Title 63G, Chapter 3, Utah Administrative Rulemaking Act; [or]

634 (26) the failure of a sign installation contractor or nonelectrical outdoor advertising
635 sign contractor, as classified and defined in division rules, to:

636 (a) display the contractor's license number prominently on a vehicle that:

637 (i) the contractor uses; and

638 (ii) displays the contractor's business name; or

639 (b) carry a copy of the contractor's license in any other vehicle that the contractor uses
640 at a job site, whether or not the vehicle is owned by the contractor[-];

641 (27) (a) an unincorporated entity licensed under this chapter having an individual who
642 owns an interest in the unincorporated entity engage in a construction trade in the state while
643 the individual is using a Social Security number that does not belong to that individual; or

644 (b) an unincorporated entity providing labor to an entity licensed under this chapter by

645 providing an individual, who owns an interest in the unincorporated entity, to engage in a
646 construction trade in the state while the individual is using a Social Security number that does
647 not belong to that individual; or

648 (28) a contractor failing to comply with a requirement imposed by a political
649 subdivision, state agency, or board of education under Section 58-55-310.

650 Section 6. Section **58-55-503** is amended to read:

651 **58-55-503. Penalty for unlawful conduct -- Citations.**

652 (1) (a) (i) A person who violates Subsection 58-55-308(2), Subsection 58-55-501(1),
653 (2), (3), (4), (5), (6), (7), (9), (10), (12), (14), (15), (22), (23), (24), (25), [or] (26), (27), or (28),
654 or Subsection 58-55-504(2), or who fails to comply with a citation issued under this section
655 after it is final, is guilty of a class A misdemeanor.

656 (ii) As used in this section in reference to Subsection 58-55-504(2), "person" means an
657 individual and does not include a sole proprietorship, joint venture, corporation, limited
658 liability company, association, or organization of any type.

659 (b) A person who violates the provisions of Subsection 58-55-501(8) may not be
660 awarded and may not accept a contract for the performance of the work.

661 (2) A person who violates the provisions of Subsection 58-55-501(13) is guilty of an
662 infraction unless the violator did so with the intent to deprive the person to whom money is to
663 be paid of the money received, in which case the violator is guilty of theft, as classified in
664 Section 76-6-412.

665 (3) Grounds for immediate suspension of the licensee's license by the division and the
666 commission include the issuance of a citation for violation of Subsection 58-55-308(2), Section
667 58-55-501, or Subsection 58-55-504(2), or the failure by a licensee to make application to,
668 report to, or notify the division with respect to any matter for which application, notification, or
669 reporting is required under this chapter or rules adopted under this chapter, including applying
670 to the division for a new license to engage in a new specialty classification or to do business
671 under a new form of organization or business structure, filing with the division current
672 financial statements, notifying the division concerning loss of insurance coverage, or change in
673 qualifier.

674 (4) (a) If upon inspection or investigation, the division concludes that a person has
675 violated the provisions of Subsection 58-55-308(2) or Subsections 58-55-501(1), (2), (3), (9),

676 (10), (12), (14), (19), (21), (22), (23), (24), (25), [or] (26), (27), or (28), or Subsection
677 58-55-504(2), or any rule or order issued with respect to these subsections, and that disciplinary
678 action is appropriate, the director or the director's designee from within the division shall
679 promptly issue a citation to the person according to this chapter and any pertinent rules, attempt
680 to negotiate a stipulated settlement, or notify the person to appear before an adjudicative
681 proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

682 (i) A person who is in violation of the provisions of Subsection 58-55-308(2),
683 Subsection 58-55-501(1), (2), (3), (9), (10), (12), (14), (19), (21), (22), (23), (24), (25), [or]
684 (26), (27), or (28), or Subsection 58-55-504(2), as evidenced by an uncontested citation, a
685 stipulated settlement, or by a finding of violation in an adjudicative proceeding, may be
686 assessed a fine pursuant to this Subsection (4) and may, in addition to or in lieu of, be ordered
687 to cease and desist from violating Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3),
688 (9), (10), (12), (14), (19), (21), (24), (25), [or] (26), (27), or (28), or Subsection 58-55-504(2).

689 (ii) Except for a cease and desist order, the licensure sanctions cited in Section
690 58-55-401 may not be assessed through a citation.

691 (b) (i) A citation shall be in writing and describe with particularity the nature of the
692 violation, including a reference to the provision of the chapter, rule, or order alleged to have
693 been violated.

694 (ii) A citation shall clearly state that the recipient must notify the division in writing
695 within 20 calendar days of service of the citation if the recipient wishes to contest the citation
696 at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act.

697 (iii) A citation shall clearly explain the consequences of failure to timely contest the
698 citation or to make payment of any fines assessed by the citation within the time specified in
699 the citation.

700 (c) A citation issued under this section, or a copy of a citation, may be served upon a
701 person upon whom a summons may be served:

702 (i) in accordance with the Utah Rules of Civil Procedure;

703 (ii) personally or upon the person's agent by a division investigator or by a person
704 specially designated by the director; or

705 (iii) by mail.

706 (d) (i) If within 20 calendar days from the service of a citation, the person to whom the

707 citation was issued fails to request a hearing to contest the citation, the citation becomes the
708 final order of the division and is not subject to further agency review.

709 (ii) The period to contest a citation may be extended by the division for cause.

710 (e) The division may refuse to issue or renew, suspend, revoke, or place on probation
711 the license of a licensee who fails to comply with a citation after it becomes final.

712 (f) The failure of an applicant for licensure to comply with a citation after it becomes
713 final is a ground for denial of license.

714 (g) A citation may not be issued under this section after the expiration of six months
715 following the occurrence of a violation.

716 (h) The director or the director's designee shall assess a fine in accordance with the
717 following:

718 (i) for a first offense handled pursuant to Subsection (4)(a), a fine of up to \$1,000;

719 (ii) for a second offense handled pursuant to Subsection (4)(a), a fine of up to \$2,000;

720 and

721 (iii) for any subsequent offense handled pursuant to Subsection (4)(a), a fine of up to
722 \$2,000 for each day of continued offense.

723 (i) (i) For purposes of issuing a final order under this section and assessing a fine under
724 Subsection (4)(h), an offense constitutes a second or subsequent offense if:

725 (A) the division previously issued a final order determining that a person committed a
726 first or second offense in violation of Subsection 58-55-308(2), Subsection 58-55-501(1), (2),
727 (3), (9), (10), (12), (14), (19), (24), (25), [~~or~~] (26), (27), or (28), or Subsection 58-55-504(2); or

728 (B) (I) the division initiated an action for a first or second offense;

729 (II) a final order has not been issued by the division in the action initiated under
730 Subsection (4)(i)(i)(B)(I);

731 (III) the division determines during an investigation that occurred after the initiation of
732 the action under Subsection (4)(i)(i)(B)(I) that the person committed a second or subsequent
733 violation of the provisions of Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9),
734 (10), (12), (14), (19), (24), (25), [~~or~~] (26), (27), or (28), or Subsection 58-55-504(2); and

735 (IV) after determining that the person committed a second or subsequent offense under
736 Subsection (4)(i)(i)(B)(III), the division issues a final order on the action initiated under
737 Subsection (4)(i)(i)(B)(I).

738 (ii) In issuing a final order for a second or subsequent offense under Subsection
739 (4)(i)(i), the division shall comply with the requirements of this section.

740 (j) In addition to any other licensure sanction or fine imposed under this section, the
741 division shall revoke the license of a licensee that violates Subsection 58-55-501(24) or (25)
742 two or more times within a 12-month period, unless, with respect to a violation of Subsection
743 58-55-501(24), the licensee can demonstrate that the licensee successfully verified the federal
744 legal working status of the individual who was the subject of the violation using a status
745 verification system, as defined in Section 13-47-102.

746 (k) For purposes of this Subsection (4), a violation of Subsection 58-55-501(24) or (25)
747 for each individual is considered a separate violation.

748 (5) (a) A penalty imposed by the director under Subsection (4)(h) shall be deposited
749 into the Commerce Service Account created by Section 13-1-2.

750 (b) A penalty that is not paid may be collected by the director by either referring the
751 matter to a collection agency or bringing an action in the district court of the county in which
752 the person against whom the penalty is imposed resides or in the county where the office of the
753 director is located.

754 (c) A county attorney or the attorney general of the state is to provide legal assistance
755 and advice to the director in any action to collect the penalty.

756 (d) In an action brought to enforce the provisions of this section, reasonable attorney
757 fees and costs shall be awarded.