

**CONTRACTOR LICENSING AMENDMENTS**

2013 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Wayne A. Harper**

House Sponsor: \_\_\_\_\_

---

---

**LONG TITLE**

**General Description:**

This bill modifies the Utah Construction Trades Licensing Act.

**Highlighted Provisions:**

This bill:

- ▶ establishes that the experience requirement for a contractor license includes two years of full-time paid employment;
  - ▶ removes continuing education requirements for a person licensed as a contractor;
- and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

- 58-55-102**, as last amended by Laws of Utah 2012, Chapter 25
- 58-55-302**, as last amended by Laws of Utah 2012, Chapter 192
- 58-55-303**, as last amended by Laws of Utah 2011, Chapter 367
- 58-55-305**, as last amended by Laws of Utah 2011, Chapter 14
- 58-55-501**, as last amended by Laws of Utah 2012, Chapter 278



28 58-55-503, as last amended by Laws of Utah 2011, Chapters 195, 340, and 413

29 REPEALS:

30 58-55-302.5, as enacted by Laws of Utah 2010, Chapter 53



31  
32 *Be it enacted by the Legislature of the state of Utah:*

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

34 **58-55-102. Definitions.**

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

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

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

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

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

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

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

51 (a) detecting and signaling unauthorized intrusion or entry into or onto certain  
52 premises; or

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

54 (4) "Apprentice electrician" means a person licensed under this chapter as an  
55 apprentice electrician who is learning the electrical trade under the immediate supervision of a  
56 master electrician, residential master electrician, a journeyman electrician, or a residential  
57 journeyman electrician.

58 (5) "Apprentice plumber" means a person licensed under this chapter as an apprentice

59 plumber who is learning the plumbing trade under the immediate supervision of a master  
60 plumber, residential master plumber, journeyman plumber, or a residential journeyman  
61 plumber.

62 ~~[(6) "Approved continuing education" means instruction provided through courses~~  
63 ~~under a program established under Subsection 58-55-302.5(2).]~~

64 [(7)] (6) "Board" means the Electrician Licensing Board, Alarm System Security and  
65 Licensing Board, or Plumbers Licensing Board created in Section 58-55-201.

66 [(8)] (7) "Combustion system" means an assembly consisting of:

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

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

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

73 [(9)] (8) "Commission" means the Construction Services Commission created under  
74 Section 58-55-103.

75 [(10)] (9) "Construction trade" means any trade or occupation involving:

76 (a) (i) construction, alteration, remodeling, repairing, wrecking or demolition, addition  
77 to, or improvement of any building, highway, road, railroad, dam, bridge, structure, excavation  
78 or other project, development, or improvement to other than personal property; and

79 (ii) constructing, remodeling, or repairing a manufactured home or mobile home as  
80 defined in Section 15A-1-302; or

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

83 [(11)] (10) "Construction trades instructor" means a person licensed under this chapter  
84 to teach one or more construction trades in both a classroom and project environment, where a  
85 project is intended for sale to or use by the public and is completed under the direction of the  
86 instructor, who has no economic interest in the project.

87 [(12)] (11) (a) "Contractor" means any person who for compensation other than wages  
88 as an employee undertakes any work in the construction, plumbing, or electrical trade for  
89 which licensure is required under this chapter and includes:

90 (i) a person who builds any structure on the person's own property for the purpose of  
91 sale or who builds any structure intended for public use on the person's own property;

92 (ii) any person who represents that the person is a contractor by advertising or any  
93 other means;

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

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

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

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

101 [~~13~~] (12) (a) "Electrical trade" means the performance of any electrical work involved  
102 in the installation, construction, alteration, change, repair, removal, or maintenance of facilities,  
103 buildings, or appendages or appurtenances.

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

105 (i) transporting or handling electrical materials;

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

107 (iii) work commonly done by unskilled labor on any installations under the exclusive  
108 control of electrical utilities.

109 (c) For purposes of Subsection [~~13~~] (12)(b):

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

112 (ii) a shop may not employ unlicensed persons in excess of the five-to-one ratio  
113 permitted by this Subsection [~~13~~] (12)(c).

114 [~~14~~] (13) "Elevator" has the same meaning as defined in Section 34A-7-202, except  
115 that for purposes of this chapter it does not mean a stair chair, a vertical platform lift, or an  
116 incline platform lift.

117 [~~15~~] (14) "Elevator contractor" means a sole proprietor, firm, or corporation licensed  
118 under this chapter that is engaged in the business of erecting, constructing, installing, altering,  
119 servicing, repairing, or maintaining an elevator.

120 [~~16~~] (15) "Elevator mechanic" means an individual who is licensed under this chapter

121 as an elevator mechanic and who is engaged in erecting, constructing, installing, altering,  
122 servicing, repairing, or maintaining an elevator under the immediate supervision of an elevator  
123 contractor.

124 ~~[(17)]~~ (16) "Employee" means an individual as defined by the division by rule giving  
125 consideration to the definition adopted by the Internal Revenue Service and the Department of  
126 Workforce Services.

127 ~~[(18)]~~ (17) "Engage in a construction trade" means to:

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

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

132 ~~[(19)]~~ (18) (a) "Financial responsibility" means a demonstration of a current and  
133 expected future condition of financial solvency evidencing a reasonable expectation to the  
134 division and the board that an applicant or licensee can successfully engage in business as a  
135 contractor without jeopardy to the public health, safety, and welfare.

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

139 ~~[(20)]~~ (19) "Gas appliance" means any device that uses natural gas to produce light,  
140 heat, power, steam, hot water, refrigeration, or air conditioning.

141 ~~[(21)]~~ (20) (a) "General building contractor" means a person licensed under this  
142 chapter as a general building contractor qualified by education, training, experience, and  
143 knowledge to perform or superintend construction of structures for the support, shelter, and  
144 enclosure of persons, animals, chattels, or movable property of any kind or any of the  
145 components of that construction except plumbing, electrical work, mechanical work, work  
146 related to the operating integrity of an elevator, and manufactured housing installation, for  
147 which the general building contractor shall employ the services of a contractor licensed in the  
148 particular specialty, except that a general building contractor engaged in the construction of  
149 single-family and multifamily residences up to four units may perform the mechanical work  
150 and hire a licensed plumber or electrician as an employee.

151 (b) The division may by rule exclude general building contractors from engaging in the

152 performance of other construction specialties in which there is represented a substantial risk to  
153 the public health, safety, and welfare, and for which a license is required unless that general  
154 building contractor holds a valid license in that specialty classification.

155 ~~[(22)]~~ (21) (a) "General engineering contractor" means a person licensed under this  
156 chapter as a general engineering contractor qualified by education, training, experience, and  
157 knowledge to perform construction of fixed works in any of the following: irrigation, drainage,  
158 water, power, water supply, flood control, inland waterways, harbors, railroads, highways,  
159 tunnels, airports and runways, sewers and bridges, refineries, pipelines, chemical and industrial  
160 plants requiring specialized engineering knowledge and skill, piers, and foundations, or any of  
161 the components of those works.

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

164 ~~[(23)]~~ (22) "Immediate supervision" means reasonable direction, oversight, inspection,  
165 and evaluation of the work of a person:

166 (a) as the division specifies in rule;

167 (b) by, as applicable, a qualified electrician or plumber;

168 (c) as part of a planned program of training; and

169 (d) to ensure that the end result complies with applicable standards.

170 ~~[(24)]~~ (23) "Individual" means a natural person.

171 ~~[(25)]~~ (24) "Journeyman electrician" means a person licensed under this chapter as a  
172 journeyman electrician having the qualifications, training, experience, and knowledge to wire,  
173 install, and repair electrical apparatus and equipment for light, heat, power, and other purposes.

174 ~~[(26)]~~ (25) "Journeyman plumber" means a person licensed under this chapter as a  
175 journeyman plumber having the qualifications, training, experience, and technical knowledge  
176 to engage in the plumbing trade.

177 ~~[(27)]~~ (26) "Master electrician" means a person licensed under this chapter as a master  
178 electrician having the qualifications, training, experience, and knowledge to properly plan,  
179 layout, and supervise the wiring, installation, and repair of electrical apparatus and equipment  
180 for light, heat, power, and other purposes.

181 ~~[(28)]~~ (27) "Master plumber" means a person licensed under this chapter as a master  
182 plumber having the qualifications, training, experience, and knowledge to properly plan and

183 layout projects and supervise persons in the plumbing trade.

184 ~~[(29)]~~ (28) "Person" means a natural person, sole proprietorship, joint venture,  
185 corporation, limited liability company, association, or organization of any type.

186 ~~[(30)]~~ (29) (a) "Plumbing trade" means the performance of any mechanical work  
187 pertaining to the installation, alteration, change, repair, removal, maintenance, or use in  
188 buildings, or within three feet beyond the outside walls of buildings of pipes, fixtures, and  
189 fittings for:

190 (i) delivery of the water supply;

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

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

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

197 ~~[(31)]~~ (30) (a) "Ratio of apprentices" means, for the purpose of determining  
198 compliance with the requirements for planned programs of training and electrician apprentice  
199 licensing applications, the shop ratio of apprentice electricians to journeyman or master  
200 electricians shall be one journeyman or master electrician to one apprentice on industrial and  
201 commercial work, and one journeyman or master electrician to three apprentices on residential  
202 work.

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

206 ~~[(32)]~~ (31) "Residential and small commercial contractor" means a person licensed  
207 under this chapter as a residential and small commercial contractor qualified by education,  
208 training, experience, and knowledge to perform or superintend the construction of  
209 single-family residences, multifamily residences up to four units, and commercial construction  
210 of not more than three stories above ground and not more than 20,000 square feet, or any of the  
211 components of that construction except plumbing, electrical work, mechanical work, and  
212 manufactured housing installation, for which the residential and small commercial contractor  
213 shall employ the services of a contractor licensed in the particular specialty, except that a

214 residential and small commercial contractor engaged in the construction of single-family and  
215 multifamily residences up to four units may perform the mechanical work and hire a licensed  
216 plumber or electrician as an employee.

217 ~~[(33)]~~ (32) "Residential building," as it relates to the license classification of residential  
218 journeyman plumber and residential master plumber, means a single or multiple family  
219 dwelling of up to four units.

220 ~~[(34)]~~ (33) "Residential journeyman electrician" means a person licensed under this  
221 chapter as a residential journeyman electrician having the qualifications, training, experience,  
222 and knowledge to wire, install, and repair electrical apparatus and equipment for light, heat,  
223 power, and other purposes on buildings using primarily nonmetallic sheath cable.

224 ~~[(35)]~~ (34) "Residential journeyman plumber" means a person licensed under this  
225 chapter as a residential journeyman plumber having the qualifications, training, experience, and  
226 knowledge to engage in the plumbing trade as limited to the plumbing of residential buildings.

227 ~~[(36)]~~ (35) "Residential master electrician" means a person licensed under this chapter  
228 as a residential master electrician having the qualifications, training, experience, and  
229 knowledge to properly plan, layout, and supervise the wiring, installation, and repair of  
230 electrical apparatus and equipment for light, heat, power, and other purposes on residential  
231 projects.

232 ~~[(37)]~~ (36) "Residential master plumber" means a person licensed under this chapter as  
233 a residential master plumber having the qualifications, training, experience, and knowledge to  
234 properly plan and layout projects and supervise persons in the plumbing trade as limited to the  
235 plumbing of residential buildings.

236 ~~[(38)]~~ (37) "Residential project," as it relates to an electrician or electrical contractor,  
237 means buildings primarily wired with nonmetallic sheathed cable, in accordance with standard  
238 rules and regulations governing this work, including the National Electrical Code, and in which  
239 the voltage does not exceed 250 volts line to line and 125 volts to ground.

240 ~~[(39)]~~ (38) (a) "Specialty contractor" means a person licensed under this chapter under  
241 a specialty contractor classification established by rule, who is qualified by education, training,  
242 experience, and knowledge to perform those construction trades and crafts requiring  
243 specialized skill, the regulation of which are determined by the division to be in the best  
244 interest of the public health, safety, and welfare.



245 (b) A specialty contractor may perform work in crafts or trades other than those in  
246 which the specialty contractor is licensed if they are incidental to the performance of the  
247 specialty contractor's licensed craft or trade.

248 [~~(40)~~] (39) "Unincorporated entity" means an entity that is not:

249 (a) an individual;

250 (b) a corporation; or

251 (c) publicly traded.

252 [~~(41)~~] (40) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-55-501.

253 [~~(42)~~] (41) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-55-502  
254 and as may be further defined by rule.

255 [~~(43)~~] (42) "Wages" means amounts due to an employee for labor or services whether  
256 the amount is fixed or ascertained on a time, task, piece, commission, or other basis for  
257 calculating the amount.

258 Section 2. Section **58-55-302** is amended to read:

259 **58-55-302. Qualifications for licensure.**

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

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

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

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

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

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

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

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

272 (ii) produce satisfactory evidence of knowledge and at least two years full-time paid  
273 employment experience in the construction industry and knowledge of the principles of the  
274 conduct of business as a contractor, reasonably necessary for the protection of the public  
275 health, safety, and welfare;

276 (iii) (A) be a licensed master electrician if an applicant for an electrical contractor's  
277 license or a licensed master residential electrician if an applicant for a residential electrical  
278 contractor's license;

279 (B) be a licensed master plumber if an applicant for a plumbing contractor's license or  
280 a licensed master residential plumber if an applicant for a residential plumbing contractor's  
281 license; or

282 (C) be a licensed elevator mechanic and produce satisfactory evidence of three years  
283 experience as an elevator mechanic if an applicant for an elevator contractor's license; and

284 (iv) when the applicant is an unincorporated entity, provide a list of the one or more  
285 individuals who hold an ownership interest in the applicant as of the day on which the  
286 application is filed that includes for each individual:

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

288 (B) whether the individual will engage in a construction trade; and

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

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

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

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

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

300 (i) Utah Department of Commerce;

301 (ii) Division of Corporations and Commercial Code;

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

304 (iv) State Tax Commission; and

305 (v) Internal Revenue Service.

306 (3) In addition to the general requirements for each applicant in Subsection (1),

307 applicants shall comply with the following requirements to be licensed in the following  
308 classifications:

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

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

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

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

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

323 (iii) An individual holding a valid plumbing contractor's license or residential  
324 plumbing contractor's license, in effect immediately prior to May 5, 2008, is on or after May 5,  
325 2008:

326 (A) considered to hold a current master plumber license under this chapter if licensed  
327 as a plumbing contractor and a journeyman plumber, and satisfies the requirements of this  
328 Subsection (3)(a) for purposes of renewal or reinstatement of that license under Section  
329 58-55-303; and

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

334 (b) A master residential plumber applicant shall produce satisfactory evidence that the  
335 applicant:

336 (i) has been a licensed residential journeyman plumber for at least two years and had  
337 two years of supervisory experience as a licensed residential journeyman plumber in

338 accordance with division rule; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

379 (g) A master residential electrician applicant shall produce satisfactory evidence that  
380 the applicant:

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

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

385 (h) A journeyman electrician applicant shall produce satisfactory evidence that the  
386 applicant:

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

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

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

394 (i) A residential journeyman electrician applicant shall produce satisfactory evidence  
395 that the applicant:

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

398 (ii) has four years of practical experience in wiring, installing, and repairing electrical  
399 apparatus and equipment for light, heat, and power under the supervision of a licensed master,

400 journeyman, residential master, or residential journeyman electrician; or

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

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

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

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

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

414 (k) An alarm company applicant shall:

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

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

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

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

422 (ii) if a corporation, provide:

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

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

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

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

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

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

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

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

449 (vii) be of good moral character in that officers, directors, shareholders described in  
450 Subsection (3)(k)(ii)(B), partners, proprietors, trustees, and responsible management personnel  
451 have not been convicted of a felony, a misdemeanor involving moral turpitude, or any other  
452 crime that when considered with the duties and responsibilities of an alarm company is  
453 considered by the board to indicate that the best interests of the public are served by granting  
454 the applicant a license;

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

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

- 462 (x) file and maintain with the division evidence of:
- 463 (A) comprehensive general liability insurance in form and in amounts to be established
- 464 by rule by the commission with the concurrence of the director;
- 465 (B) workers' compensation insurance that covers employees of the applicant in
- 466 accordance with applicable Utah law; and
- 467 (C) registration as is required by applicable law with the:
- 468 (I) Division of Corporations and Commercial Code;
- 469 (II) Unemployment Insurance Division in the Department of Workforce Services, for
- 470 purposes of Title 35A, Chapter 4, Employment Security Act;
- 471 (III) State Tax Commission; and
- 472 (IV) Internal Revenue Service; and
- 473 (xi) meet with the division and board.
- 474 (l) Each applicant for licensure as an alarm company agent shall:
- 475 (i) submit an application in a form prescribed by the division accompanied by
- 476 fingerprint cards;
- 477 (ii) pay a fee determined by the department under Section 63J-1-504;
- 478 (iii) be of good moral character in that the applicant has not been convicted of a felony,
- 479 a misdemeanor involving moral turpitude, or any other crime that when considered with the
- 480 duties and responsibilities of an alarm company agent is considered by the board to indicate
- 481 that the best interests of the public are served by granting the applicant a license;
- 482 (iv) not have been declared by any court of competent jurisdiction incompetent by
- 483 reason of mental defect or disease and not been restored;
- 484 (v) not be currently suffering from habitual drunkenness or from drug addiction or
- 485 dependence; and
- 486 (vi) meet with the division and board if requested by the division or the board.
- 487 (m) (i) Each applicant for licensure as an elevator mechanic shall:
- 488 (A) provide documentation of experience and education credits of not less than three
- 489 years work experience in the elevator industry, in construction, maintenance, or service and
- 490 repair; and
- 491 (B) satisfactorily complete a written examination administered by the division
- 492 established by rule under Section 58-1-203; or



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

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

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

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

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

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

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

513 (5) To determine if an applicant meets the qualifications of Subsections (3)(k)(vii) and  
514 (3)(l)(iii), the division shall provide an appropriate number of copies of fingerprint cards to the  
515 Department of Public Safety with the division's request to:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

571 (10) (a) (i) A licensee that is an unincorporated entity shall file an ownership status  
572 report with the division every 90 days after the day on which the license is issued if the licensee  
573 has more than five owners who are individuals who:

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

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

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

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

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

583 (i) list each addition or deletion of an owner:

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

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

588 (ii) be in a format prescribed by the division that includes the items on the list provided  
589 under Subsection (1)(e)(iv); and

590 (iii) be accompanied by a fee set by the division in accordance with Section 63J-1-504  
591 if the ownership status report indicates there is a change described in Subsection (10)(b)(i).

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

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

596 (ii) to determine compliance with Subsection 58-55-501(23) or (24) [~~or (25)~~] or  
597 Subsection 58-55-502(8) or (9).

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

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

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

605 (B) whether the individual will engage in a construction trade; and

606 (ii) every 90 days after the day on which the unincorporated entity provides the list  
607 described in Subsection (11)(a)(i), an ownership status report containing the information that  
608 would be required under Subsection (10) if the unincorporated entity were a licensed  
609 contractor.

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

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

617 (13) A Social Security number provided under Subsection (1)(e)(iv) is a private record  
618 under Subsection 63G-2-302(1)(h).

619 Section 3. Section **58-55-303** is amended to read:

620 **58-55-303. Term of license -- Expiration -- Renewal.**

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

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

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

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

627 [~~b) for a contractor licensee, completion of six hours of approved continuing  
628 education, as required in Section 58-55-302.5; and]~~

629 [~~(c)~~] (b) if the licensee is an apprentice electrician or plumber, journeyman electrician  
630 or plumber, master electrician or plumber, residential journeyman electrician or plumber, or  
631 residential master electrician or plumber, completion of the number of hours of continuing  
632 education specified under Section 58-55-302.7.

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

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

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

639 (a) shall pay in full all fines imposed by the division;

640 (b) resolve any outstanding citations or disciplinary actions with the division;

641 (c) satisfy any Section 58-55-503 judgment and sentence or nontrial resolution;

642 (d) complete a new financial responsibility review as required under Section  
643 58-55-306, using only titled assets; and

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

646 Section 4. Section **58-55-305** is amended to read:

647 **58-55-305. Exemptions from licensure.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

699 (A) work in the plumbing and electrical trades on a Subsection (1)(h)(i) project within  
700 any six-month period of time:

701 (I) must be performed by a licensed electrical or plumbing contractor, if the project  
702 involves an electrical or plumbing system; and

703 (II) may be performed by a licensed journeyman electrician or plumber or an individual  
704 referred to in Subsection (1)(h)(ii)(A)(I), if the project involves a component of the system  
705 such as a faucet, toilet, fixture, device, outlet, or electrical switch;

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

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

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

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

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

722 (G) installation, repair, or replacement of a radon mitigation system or a soil  
723 depressurization system must be performed by a licensed contractor; and

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

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

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

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

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

737 (k) (i) a person engaged in minor plumbing work that is incidental, as defined by the  
738 division by rule, to the replacement or repair of a fixture or an appliance in a residential or  
739 small commercial building, or structure used for agricultural use, as defined in Section  
740 15A-1-202, provided that no modification is made to:



- 741 (A) existing culinary water, soil, waste, or vent piping; or  
742 (B) a gas appliance or combustion system; and  
743 (ii) except as provided in Subsection (1)(e), installation for the first time of a fixture or  
744 an appliance is not included in the exemption provided under Subsection (1)(k)(i);  
745 (l) a person who ordinarily would be subject to the plumber licensure requirements  
746 under this chapter when installing or repairing a water conditioner or other water treatment  
747 apparatus if the conditioner or apparatus:  
748 (i) meets the appropriate state construction codes or local plumbing standards; and  
749 (ii) is installed or repaired under the direction of a person authorized to do the work  
750 under an appropriate specialty contractor license;  
751 (m) a person who ordinarily would be subject to the electrician licensure requirements  
752 under this chapter when employed by:  
753 (i) railroad corporations, telephone corporations or their corporate affiliates, elevator  
754 contractors or constructors, or street railway systems; or  
755 (ii) public service corporations, rural electrification associations, or municipal utilities  
756 who generate, distribute, or sell electrical energy for light, heat, or power;  
757 (n) a person involved in minor electrical work incidental to a mechanical or service  
758 installation;  
759 (o) a student participating in construction trade education and training programs  
760 approved by the commission with the concurrence of the director under the condition that:  
761 (i) all work intended as a part of a finished product on which there would normally be  
762 an inspection by a building inspector is, in fact, inspected and found acceptable by a licensed  
763 building inspector; and  
764 (ii) a licensed contractor obtains the necessary building permits;  
765 (p) a delivery person when replacing any of the following existing equipment with a  
766 new gas appliance, provided there is an existing gas shutoff valve at the appliance:  
767 (i) gas range;  
768 (ii) gas dryer;  
769 (iii) outdoor gas barbeque; or  
770 (iv) outdoor gas patio heater;  
771 (q) a person performing maintenance on an elevator as defined in ~~[Subsection]~~ Section

772 58-55-102[(14)], if the maintenance is not related to the operating integrity of the elevator; and

773 (r) an apprentice or helper of an elevator mechanic licensed under this chapter when  
774 working under the general direction of the licensed elevator mechanic.

775 (2) A compliance agency as defined in Section 15A-1-202 that issues a building permit  
776 to a person requesting a permit as a sole owner of property referred to in Subsection (1)(d) shall  
777 notify the division, in writing or through electronic transmission, of the issuance of the permit.

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

779 **58-55-501. Unlawful conduct.**

780 Unlawful conduct includes:

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

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

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

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

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

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

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

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

802 (9) willfully or deliberately misrepresenting or omitting a material fact in connection

803 with an application to obtain or renew a license under this chapter;

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

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

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

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

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

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

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

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

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

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

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

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

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

833 (17) aiding or abetting any person in evading the provisions of this chapter or rules

834 established under the authority of the division to govern this chapter;

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

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

841 (20) wrongfully filing a preconstruction or construction lien in violation of Section  
842 38-1a-308;

843 [~~(21) if licensed as a contractor, not completing the approved continuing education~~  
844 ~~required under Section 58-55-302.5;~~]

845 [~~(22)~~] (21) an alarm company allowing an employee with a temporary license under  
846 Section 58-55-312 to engage in conduct on behalf of the company outside the scope of the  
847 temporary license, as provided in Subsection 58-55-312(3)(a)(ii);

848 [~~(23)~~] (22) an alarm company agent under a temporary license under Section 58-55-312  
849 engaging in conduct outside the scope of the temporary license, as provided in Subsection  
850 58-55-312(3)(a)(ii);

851 [~~(24)~~] (23) (a) an unincorporated entity licensed under this chapter having an individual  
852 who owns an interest in the unincorporated entity engage in a construction trade in Utah while  
853 not lawfully present in the United States; or

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

857 [~~(25)~~] (24) an unincorporated entity failing to provide the following for an individual  
858 who engages, or will engage, in a construction trade in Utah for the unincorporated entity, or  
859 for an individual who engages, or will engage, in a construction trade in Utah for a separate  
860 entity for which the unincorporated entity provides the individual as labor:

861 (a) workers' compensation coverage:

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

864 (ii) that would be required under the chapters listed in Subsection [~~(25)~~] (24)(a)(i) if

865 the unincorporated entity were licensed under this chapter; and

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

870 [~~(26)~~] (25) the failure of a sign installation contractor or nonelectrical outdoor  
871 advertising sign contractor, as classified and defined in division rules, to:

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

873 (i) the contractor uses; and

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

875 (b) carry a copy of the contractor's license in any other vehicle that the contractor uses  
876 at a job site, whether or not the vehicle is owned by the contractor.

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

878 **58-55-503. Penalty for unlawful conduct -- Citations.**

879 (1) (a) (i) A person who violates Subsection 58-55-308(2), Subsection 58-55-501(1),  
880 (2), (3), (4), (5), (6), (7), (9), (10), (12), (14), (15), (21), (22), (23), (24), or (25), [~~or (26)~~] or  
881 Subsection 58-55-504(2), or who fails to comply with a citation issued under this section after  
882 it is final, is guilty of a class A misdemeanor.

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

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

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

892 (3) Grounds for immediate suspension of the licensee's license by the division and the  
893 commission include the issuance of a citation for violation of Subsection 58-55-308(2), Section  
894 58-55-501, or Subsection 58-55-504(2), or the failure by a licensee to make application to,  
895 report to, or notify the division with respect to any matter for which application, notification, or

896 reporting is required under this chapter or rules adopted under this chapter, including applying  
897 to the division for a new license to engage in a new specialty classification or to do business  
898 under a new form of organization or business structure, filing with the division current  
899 financial statements, notifying the division concerning loss of insurance coverage, or change in  
900 qualifier.

901 (4) (a) If upon inspection or investigation, the division concludes that a person has  
902 violated the provisions of Subsection 58-55-308(2) [~~or~~], Subsections 58-55-501(1), (2), (3),  
903 (9), (10), (12), (14), (19), (21), (22), (23), (24), or (25), [~~or~~(26),~~or~~] Subsection 58-55-504(2),  
904 or any rule or order issued with respect to these subsections, and that disciplinary action is  
905 appropriate, the director or the director's designee from within the division shall promptly issue  
906 a citation to the person according to this chapter and any pertinent rules, attempt to negotiate a  
907 stipulated settlement, or notify the person to appear before an adjudicative proceeding  
908 conducted under Title 63G, Chapter 4, Administrative Procedures Act.

909 (i) A person who is in violation of the provisions of Subsection 58-55-308(2),  
910 Subsection 58-55-501(1), (2), (3), (9), (10), (12), (14), (19), (21), (22), (23), (24), or (25), [~~or~~  
911 (26);] or Subsection 58-55-504(2), as evidenced by an uncontested citation, a stipulated  
912 settlement, or by a finding of violation in an adjudicative proceeding, may be assessed a fine  
913 pursuant to this Subsection (4) and may, in addition to or in lieu of, be ordered to cease and  
914 desist from violating Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9), (10),  
915 (12), (14), (19), (21), (23), (24), or (25), [~~or~~(26);] or Subsection 58-55-504(2).

916 (ii) Except for a cease and desist order, the licensure sanctions cited in Section  
917 58-55-401 may not be assessed through a citation.

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

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

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

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

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

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

932 (iii) by mail.

933 (d) (i) If within 20 calendar days from the service of a citation, the person to whom the  
934 citation was issued fails to request a hearing to contest the citation, the citation becomes the  
935 final order of the division and is not subject to further agency review.

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

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

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

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

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

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

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

947 and

948 (iii) for any subsequent offense handled pursuant to Subsection (4)(a), a fine of up to  
949 \$2,000 for each day of continued offense.

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

952 (A) the division previously issued a final order determining that a person committed a  
953 first or second offense in violation of Subsection 58-55-308(2), Subsection 58-55-501(1), (2),  
954 (3), (9), (10), (12), (14), (19), (23), (24), or (25), [~~or (26)~~], or Subsection 58-55-504(2); or

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

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

958 (III) the division determines during an investigation that occurred after the initiation of  
959 the action under Subsection (4)(i)(i)(B)(I) that the person committed a second or subsequent  
960 violation of the provisions of Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9),  
961 (10), (12), (14), (19), (23), (24), or (25), [~~or (26)~~]; or Subsection 58-55-504(2); and

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

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

967 (j) In addition to any other licensure sanction or fine imposed under this section, the  
968 division shall revoke the license of a licensee that violates Subsection 58-55-501(23) or (24)  
969 [~~or (25)~~] two or more times within a 12-month period, unless, with respect to a violation of  
970 Subsection 58-55-501[~~(24)~~] (23), the licensee can demonstrate that the licensee successfully  
971 verified the federal legal working status of the individual who was the subject of the violation  
972 using a status verification system, as defined in Section 13-47-102.

973 (k) For purposes of this Subsection (4), a violation of Subsection 58-55-501(23) or (24)  
974 [~~or (25)~~] for each individual is considered a separate violation.

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

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

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

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

985 **Section 7. Repealer.**

986 This bill repeals:

987 Section **58-55-302.5, Continuing education requirements of contractor licensees --**  
988 **Continuing education courses.**



---

---

**Legislative Review Note**  
as of 2-1-13 8:11 AM

**Office of Legislative Research and General Counsel**