

Senator Wayne A. Harper proposes the following substitute bill:

CONTRACTOR LICENSING AMENDMENTS

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne A. Harper

House Sponsor: Kay J. Christofferson

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;

▶ requires that before a course may be included in the program of approved continuing education for contractors, the Construction Services Commission shall invite and consider written input regarding the proposed course from:

- the Associated General Contractors of Utah;
- the Homebuilders Association of Utah; and
- the Utah Subcontractors Council; and

▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:



26 AMENDS:

27 **58-55-302**, as last amended by Laws of Utah 2012, Chapter 192

28 **58-55-302.5**, as enacted by Laws of Utah 2010, Chapter 53

29

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

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

32 **58-55-302. Qualifications for licensure.**

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

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

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

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

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

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

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

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

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

49 (iii) (A) be a licensed master electrician if an applicant for an electrical contractor's
50 license or a licensed master residential electrician if an applicant for a residential electrical
51 contractor's license;

52 (B) be a licensed master plumber if an applicant for a plumbing contractor's license or
53 a licensed master residential plumber if an applicant for a residential plumbing contractor's
54 license; or

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

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

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

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

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

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

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

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

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

73 (i) Utah Department of Commerce;

74 (ii) Division of Corporations and Commercial Code;

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

77 (iv) State Tax Commission; and

78 (v) Internal Revenue Service.

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

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

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

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

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

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

96 (iii) An individual holding a valid plumbing contractor's license or residential
97 plumbing contractor's license, in effect immediately prior to May 5, 2008, is on or after May 5,
98 2008:

99 (A) considered to hold a current master plumber license under this chapter if licensed
100 as a plumbing contractor and a journeyman plumber, and satisfies the requirements of this
101 Subsection (3)(a) for purposes of renewal or reinstatement of that license under Section
102 58-55-303; and

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

107 (b) A master residential plumber applicant shall produce satisfactory evidence that the
108 applicant:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

152 (g) A master residential electrician applicant shall produce satisfactory evidence that
153 the applicant:

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

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

158 (h) A journeyman electrician applicant shall produce satisfactory evidence that the
159 applicant:

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

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

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

167 (i) A residential journeyman electrician applicant shall produce satisfactory evidence
168 that the applicant:

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

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

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

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

178 (i) A licensed apprentice electrician shall be under the immediate supervision of a
179 licensed master, journeyman, residential master, or residential journeyman electrician. An
180 apprentice in the fourth year of training may work without supervision for a period not to

181 exceed eight hours in any 24-hour period.

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

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

187 (k) An alarm company applicant shall:

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

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

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

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

195 (ii) if a corporation, provide:

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

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

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

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

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

210 (iv) if a partnership, provide the names, addresses, dates of birth, Social Security
211 numbers, and fingerprint cards of all general partners, and those responsible management

212 personnel employed within the state or having direct responsibility for managing operations of
213 the applicant within the state;

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

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

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

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

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

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

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

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

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

241 (I) Division of Corporations and Commercial Code;

242 (II) Unemployment Insurance Division in the Department of Workforce Services, for

243 purposes of Title 35A, Chapter 4, Employment Security Act;

244 (III) State Tax Commission; and

245 (IV) Internal Revenue Service; and

246 (xi) meet with the division and board.

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

248 (i) submit an application in a form prescribed by the division accompanied by

249 fingerprint cards;

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

251 (iii) be of good moral character in that the applicant has not been convicted of a felony,

252 a misdemeanor involving moral turpitude, or any other crime that when considered with the

253 duties and responsibilities of an alarm company agent is considered by the board to indicate

254 that the best interests of the public are served by granting the applicant a license;

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

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

257 (v) not be currently suffering from habitual drunkenness or from drug addiction or

258 dependence; and

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

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

261 (A) provide documentation of experience and education credits of not less than three

262 years work experience in the elevator industry, in construction, maintenance, or service and

263 repair; and

264 (B) satisfactorily complete a written examination administered by the division

265 established by rule under Section 58-1-203; or

266 (C) provide certificates of completion of an apprenticeship program for elevator

267 mechanics, having standards substantially equal to those of this chapter and registered with the

268 United States Department of Labor Bureau Apprenticeship and Training or a state

269 apprenticeship council.

270 (ii) (A) If an elevator contractor licensed under this chapter cannot find a licensed

271 elevator mechanic to perform the work of erecting, constructing, installing, altering, servicing,

272 repairing, or maintaining an elevator, the contractor may:

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

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

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

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

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

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

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

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

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

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

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

303 (7) (a) The division shall charge each applicant for licensure as an alarm company or
304 alarm company agent a fee, in accordance with Section 63J-1-504, equal to the cost of

305 performing the records reviews under this section.

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

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

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

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

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

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

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

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

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

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

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

333 (B) any corporate officer, director, shareholder holding 25% or more of the stock in the
334 applicant, partner, member, agent acting as a qualifier, or any person occupying a similar
335 status, performing similar functions, or directly or indirectly controlling the applicant has

336 served in any similar capacity with any person or entity which has had a previous license,
337 which was issued under this chapter, suspended or revoked more than one year prior to the date
338 of the applicant's application; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

369 (ii) to determine compliance with Subsection 58-55-501(24) or (25) or Subsection
370 58-55-502(8) or (9).

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

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

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

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

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

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

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

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

392 Section 2. Section **58-55-302.5** is amended to read:

393 **58-55-302.5. Continuing education requirements of contractor licensees --**
394 **Continuing education courses.**

395 (1) Each contractor licensee under a license issued under this chapter shall complete
396 six hours of approved continuing education during each two-year renewal cycle established by
397 rule under Subsection 58-55-303(1).

398 (2) (a) The commission shall, with the concurrence of the division, establish by rule a
399 program of approved continuing education for contractor licensees.

400 (b) Before a new course or a course being considered for reapproval may be included
401 in the program of approved continuing education for contractor licensees, the commission and
402 the division shall invite and consider written input, received within 30 days of the invitation,
403 regarding the course from:

404 (i) the Associated General Contractors of Utah;

405 (ii) the Homebuilders Association of Utah; and

406 (iii) the Utah Subcontractors Council.

407 (3) The division may contract with a person to establish and maintain a continuing
408 education registry to include:

409 (a) an online application for a continuing education course provider to apply to the
410 division for approval of the course for inclusion in the program of approved continuing
411 education;

412 (b) a list of courses that the division has approved for inclusion in the program of
413 approved continuing education; and

414 (c) a list of courses that:

415 (i) a contractor licensee has completed under the program of approved continuing
416 education; and

417 (ii) the licensee may access to monitor the licensee's compliance with the continuing
418 education requirement established under Subsection (1).

419 (4) The division may charge a fee, as established by the division under Section
420 63J-1-504, to administer the requirements of this section.