

1 **BURGLAR ALARM LICENSURE REVISIONS**

2 2000 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: L. Alma Mansell**

5 AN ACT RELATING TO OCCUPATIONS AND PROFESSIONS; MOVING THE LICENSING
6 OF BURGLAR ALARM COMPANIES AND AGENTS UNDER CONSTRUCTION TRADES
7 LICENSING; AND MAKING TECHNICAL CHANGES.

8 This act affects sections of Utah Code Annotated 1953 as follows:

9 AMENDS:

10 **58-55-102**, as last amended by Chapter 240, Laws of Utah 1996

11 **58-55-201**, as renumbered and amended by Chapter 181, Laws of Utah 1994

12 **58-55-301**, as renumbered and amended by Chapter 181, Laws of Utah 1994

13 **58-55-302**, as last amended by Chapter 375, Laws of Utah 1997

14 **58-55-308**, as renumbered and amended by Chapter 181, Laws of Utah 1994

15 **58-55-402**, as renumbered and amended by Chapter 181, Laws of Utah 1994

16 **58-55-501**, as enacted by Chapter 181, Laws of Utah 1994

17 **58-55-502**, as last amended by Chapter 172, Laws of Utah 1995

18 **58-55-503**, as last amended by Chapter 10, Laws of Utah 1997

19 RENUMBERS AND AMENDS:

20 **58-55-311**, (Renumbered from 58-65-308, as enacted by Chapter 215, Laws of Utah 1995)

21 **58-55-312**, (Renumbered from 58-65-310, as enacted by Chapter 227, Laws of Utah 1996)

22 REPEALS:

23 **58-65-101**, as enacted by Chapter 215, Laws of Utah 1995

24 **58-65-102**, as last amended by Chapter 227, Laws of Utah 1996

25 **58-65-201**, as enacted by Chapter 215, Laws of Utah 1995

26 **58-65-301**, as last amended by Chapter 227, Laws of Utah 1996

27 **58-65-302**, as last amended by Chapter 21, Laws of Utah 1999

- 28 **58-65-303**, as enacted by Chapter 215, Laws of Utah 1995
- 29 **58-65-304**, as enacted by Chapter 215, Laws of Utah 1995
- 30 **58-65-305**, as enacted by Chapter 215, Laws of Utah 1995
- 31 **58-65-306**, as enacted by Chapter 215, Laws of Utah 1995
- 32 **58-65-307**, as enacted by Chapter 215, Laws of Utah 1995
- 33 **58-65-309**, as enacted by Chapter 215, Laws of Utah 1995
- 34 **58-65-401**, as enacted by Chapter 215, Laws of Utah 1995
- 35 **58-65-501**, as last amended by Chapter 227, Laws of Utah 1996
- 36 **58-65-502**, as enacted by Chapter 215, Laws of Utah 1995

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

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

39 **58-55-102. Definitions.**

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

41 (1) (a) "Alarm business or company" means a person engaged in the sale, installation,
42 maintenance, alteration, repair, replacement, servicing, or monitoring of an alarm system.

43 (b) "Alarm business or company" does not include the activities of:

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

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

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

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

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

56 or

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

58 [(+)] (4) "Apprentice electrician" means a person licensed under this chapter as an

59 apprentice electrician who is learning the electrical trade under approved supervision of a master
60 electrician, residential master electrician, a journeyman electrician, or a residential journeyman
61 electrician.

62 ~~[(2)]~~ (5) "Apprentice plumber" means a person licensed under this chapter as an apprentice
63 plumber who is learning the plumbing trade under approved supervision of a journeyman plumber.

64 ~~[(3)]~~ (6) "Approved supervision" means the immediate supervision of apprentices by
65 qualified licensed electricians or plumbers as a part of a planned program of training.

66 ~~[(4)]~~ (7) "Board" means the Contractors Licensing Board, Electrician Licensing Board,
67 Alarm System Security and Licensing Board, or Plumbers Licensing Board created in Section
68 58-55-201.

69 ~~[(5)]~~ (8) "Construction trade" means any trade or occupation involving construction,
70 alteration, remodeling, repairing, wrecking or demolition, addition to, or improvement of any
71 building, highway, road, railroad, dam, bridge, structure, excavation or other project, development,
72 or improvement to other than personal property.

73 ~~[(6)]~~ (9) "Construction trades instructor" means a person licensed under this chapter to
74 teach one or more construction trades in both a classroom and project environment, where a project
75 is intended for sale to or use by the public and is completed under the direction of an instructor
76 who has no economic interest in the project.

77 ~~[(7)]~~ (10) (a) "Contractor" means any person who for compensation other than wages as
78 an employee undertakes any work in the construction, plumbing, or electrical trade for which
79 licensure is required under this chapter and includes:

80 ~~[(a)]~~ (i) a person who builds any structure on his own property for the purpose of sale or
81 who builds any structure intended for public use on his own property;

82 ~~[(b)]~~ (ii) any person who represents himself to be a contractor by advertising or any other
83 means;

84 ~~[(c)]~~ (iii) any person engaged as a maintenance person, other than an employee, who
85 regularly engages in activities set forth under the definition of "construction trade";

86 ~~[(d)]~~ (iv) any person engaged in any construction trade for which licensure is required
87 under this chapter; or

88 ~~[(e)]~~ (v) a construction manager who performs management and counseling services on
89 a construction project for a fee.

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

91 [~~8~~] (11) (a) "Electrical trade" means the performance of any electrical work involved in
92 the installation, construction, alteration, change, repair, removal, or maintenance of facilities,
93 buildings, or appendages or appurtenances.

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

95 (i) transporting or handling electrical materials;

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

97 (iii) work commonly done by unskilled labor or any installations under the exclusive
98 control of electrical utilities.

99 (c) For purposes of Subsection [~~8~~] (11)(b):

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

102 (ii) a shop may not employ unlicensed persons in excess of the five-to-one ratio permitted
103 by this Subsection (11)(c).

104 [~~9~~] (12) "Employee" means an individual as defined by the division by rule giving
105 consideration to the definition adopted by the Internal Revenue Service and the Department of
106 Workforce Services.

107 [~~10~~] (13) "Engage in a construction trade" means to:

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

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

112 [~~11~~] (14) "Financial responsibility" means a demonstration of a current and expected
113 future condition of financial solvency evidencing a reasonable expectation to the division and the
114 board that an applicant or licensee can successfully engage in business as a contractor without
115 jeopardy to the public health, safety, and welfare. Financial responsibility may be determined by
116 an evaluation of the total history concerning the licensee or applicant including past, present, and
117 expected condition and record of financial solvency and business conduct.

118 [~~12~~] (15) "General building contractor" means a person licensed under this chapter as a
119 general building contractor qualified by education, training, experience, and knowledge to perform
120 or superintend construction of structures for the support, shelter, and enclosure of persons, animals,

121 chattels, or movable property of any kind or any of the components of that construction except
122 plumbing, electrical, and mechanical, for which the general building contractor shall employ the
123 services of a contractor licensed in the particular specialty, except that a general building
124 contractor engaged in the construction of single-family and multifamily residences up to four units
125 may perform the mechanical and hire a licensed plumber or electrician as an employee. The
126 division may by rule exclude general building contractors from engaging in the performance of
127 other construction specialties in which there is represented a substantial risk to the public health,
128 safety, and welfare, and for which a license is required unless that general building contractor
129 holds a valid license in that specialty classification.

130 ~~[(13)]~~ (16) "General engineering contractor" means a person licensed under this chapter
131 as a general engineering contractor qualified by education, training, experience, and knowledge
132 to perform construction of fixed works in any or all of the following: irrigation, drainage, water,
133 power, water supply, flood control, inland waterways, harbors, railroads, highways, tunnels,
134 airports and runways, sewers and bridges, refineries, pipelines, chemical and industrial plants
135 requiring specialized engineering knowledge and skill, piers, and foundations, or any of the
136 components of those works. However, a general engineering contractor may not perform
137 construction of structures built primarily for the support, shelter, and enclosure of persons,
138 animals, and chattels.

139 ~~[(14)]~~ (17) "Immediate supervision" means reasonable direction, oversight, inspection, and
140 evaluation of the work of a person, in or out of the immediate presence of the supervising person,
141 so as to ensure that the end result complies with applicable standards.

142 ~~[(15)]~~ (18) "Individual" means a natural person.

143 ~~[(16)]~~ (19) "Journeyman electrician" means a person licensed under this chapter as a
144 journeyman electrician having the qualifications, training, experience, and knowledge to wire,
145 install, and repair electrical apparatus and equipment for light, heat, power, and other purposes.

146 ~~[(17)]~~ (20) "Journeyman plumber" means a person licensed under this chapter as a
147 journeyman plumber having the qualifications, training, experience, and technical knowledge to
148 engage in the plumbing trade.

149 ~~[(18)]~~ (21) "Master electrician" means a person licensed under this chapter as a master
150 electrician having the qualifications, training, experience, and knowledge to properly plan, layout,
151 and supervise the wiring, installation, and repair of electrical apparatus and equipment for light,

152 heat, power, and other purposes.

153 ~~[(19)]~~ (22) "Monetary limit" means the limit established by the division under Section
154 58-55-309.

155 ~~[(20)]~~ (23) "Percentage of completion on a contract" is the percentage obtained by dividing
156 costs to date by total estimated costs and multiplying by 100. Unless otherwise specified by rule,
157 specific application of this definition shall be based upon the "cost-to-cost method" provided in
158 the 1990 edition of the "Audit and Accounting Guide for Construction Contractors," Appendix D,
159 published by the American Institute of Certified Public Accountants. The division may, upon
160 request or upon its own action, establish an alternate generally recognized method of calculation
161 to determine percentage of completion, if the method is appropriate to the licensee's or applicant's
162 accounting procedures.

163 ~~[(21)]~~ (24) "Person" means a natural person, sole proprietorship, joint venture, corporation,
164 limited liability company, association, or organization of any type.

165 ~~[(22)]~~ (25) "Plumbing trade" means the performance of any mechanical work pertaining
166 to the installation, alteration, change, repair, removal, maintenance, or use in buildings or within
167 three feet beyond the outside walls of buildings of pipes, fixtures, and fittings for delivery of the
168 water supply, discharge of liquid and water carried waste, or the building drainage system within
169 the walls of the building. It includes that work pertaining to the water supply, distribution pipes,
170 fixtures, and fixture traps, the soil, waste and vent pipes, and the building drain and roof drains
171 together with their devices, appurtenances, and connections where installed within the outside
172 walls of the building.

173 ~~[(23)]~~ (26) "Ratio of apprentices" means, for the purpose of determining compliance with
174 the requirements for planned programs of training and electrician apprentice licensing applications,
175 the shop ratio of apprentice electricians to journeyman or master electricians shall be one
176 journeyman or master electrician to one apprentice on industrial and commercial work, and one
177 journeyman or master electrician to three apprentices on residential work. All on-the-job training
178 shall be under circumstances in which the ratio of apprentices to supervisors is in accordance with
179 a ratio of one-to-one on nonresidential work and up to three apprentices to one supervisor on
180 residential projects.

181 ~~[(24)]~~ (27) "Residential and small commercial contractor" means a person licensed under
182 this chapter as a residential and small commercial contractor qualified by education, training,

183 experience, and knowledge to perform or superintend the construction of single-family residences,
184 multifamily residences up to four units, and commercial construction of not more than three stories
185 above ground and not more than 20,000 square feet, or any of the components of that construction
186 except plumbing, electrical, and mechanical, for which the residential and small commercial
187 contractor shall employ the services of a contractor licensed in the particular specialty, except that
188 a residential and small commercial contractor engaged in the construction of single-family and
189 multifamily residences up to four units may perform the mechanical work and hire a licensed
190 plumber or electrician as an employee.

191 ~~[(25)]~~ (28) "Residential apprentice plumber" means a person licensed under this chapter
192 as a residential apprentice plumber who is learning the residential plumbing trade while working
193 on residential buildings under the approved supervision of a residential journeyman plumber or
194 a journeyman plumber.

195 ~~[(26)]~~ (29) "Residential building," as it relates to the license classification of residential
196 apprentice plumber and residential journeyman plumber, means a single or multiple family
197 dwelling of up to four units.

198 ~~[(27)]~~ (30) "Residential journeyman electrician" means a person licensed under this
199 chapter as a residential journeyman electrician having the qualifications, training, experience, and
200 knowledge to wire, install, and repair electrical apparatus and equipment for light, heat, power, and
201 other purposes on buildings using primarily nonmetallic sheath cable.

202 ~~[(28)]~~ (31) "Residential journeyman plumber" means a person licensed under this chapter
203 as a residential journeyman plumber having the qualifications, training, experience, and knowledge
204 to engage in the plumbing trade as limited to the plumbing of residential buildings.

205 ~~[(29)]~~ (32) "Residential master electrician" means a person licensed under this chapter as
206 a residential master electrician having the qualifications, training, experience, and knowledge to
207 properly plan, layout, and supervise the wiring, installation, and repair of electrical apparatus and
208 equipment for light, heat, power, and other purposes on residential projects.

209 ~~[(30)]~~ (33) "Residential project," as it relates to an electrician or electrical contractor,
210 means buildings primarily wired with nonmetallic sheathed cable, in accordance with standard
211 rules and regulations governing this work, including the National Electrical Code, and in which
212 the voltage does not exceed 250 volts line to line and 125 volts to ground.

213 ~~[(31)]~~ (34) "Specialty contractor" means a person licensed under this chapter under a

214 specialty contractor classification established by rule, who is qualified by education, training,
215 experience, and knowledge to perform those construction trades and crafts requiring specialized
216 skill the regulation of which are determined by the division to be in the best interest of the public
217 health, safety, and welfare. A specialty contractor may perform work in crafts or trades other than
218 those in which he is licensed if they are incidental to the performance of his licensed craft or trade.

219 [~~(32)~~] (35) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-55-501.

220 [~~(33)~~] (36) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-55-502
221 and as may be further defined by rule.

222 [~~(34)~~] (37) "Wages" means all amounts due an employee for labor or services whether the
223 amount is fixed or ascertained on a time, task, piece, commission, or other basis for calculating the
224 amount.

225 [~~(35)~~] (38) "Work in process" means all unfinished work under verbal or written contract,
226 whether in or out of Utah, regardless of whether licensure is required under this chapter, for which
227 costs have accrued or been realized. The value of unfinished work on a contract shall be
228 determined by expressing the current percentage of completion as a decimal fraction, subtracting
229 it from 1.00 and multiplying the difference by the total dollar amount of the contract.

230 Section 2. Section **58-55-201** is amended to read:

231 **58-55-201. Board created -- Duties.**

232 (1) There is created a Contractors Licensing Board, a Plumbers Licensing Board, an Alarm
233 System Security and Licensing Board, and an Electricians Licensing Board. Members of the
234 boards shall be selected to provide representation as follows:

235 (a) The Contractors Licensing Board consists of seven members as follows:

- 236 (i) one member shall be a licensed general engineering contractor;
237 (ii) one member shall be a licensed general building contractor;
238 (iii) two members shall be licensed residential and small commercial contractors;
239 (iv) two members shall be licensed specialty contractors; and
240 (v) one member shall be a certified public accountant.

241 (b) The Plumbers Licensing Board consists of five members as follows:

- 242 (i) four members shall be licensed journeyman plumbers, of whom two shall be licensed
243 plumbing contractors; and
244 (ii) one member shall be from the public at large with no history of involvement in the

245 construction trades.

246 (c) (i) The Alarm System Security and Licensing Board consists of five members as
 247 follows:

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

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

250 (C) one individual representing the general public.

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

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

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

256 (iii) A board member who has, under Subsection (3), reviewed a complaint or advised in
 257 its investigation is disqualified from participating with the board when the board serves as a
 258 presiding officer in an adjudicative proceeding concerning the complaint.

259 ~~(c)~~ (d) The Electricians Licensing Board consists of five members as follows:

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

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

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

267 (2) The boards shall be appointed and serve in accordance with Section 58-1-201.

268 (3) The duties and responsibilities of the boards shall be in accordance with Sections
 269 58-1-202 and 58-1-203.

270 Section 3. Section **58-55-301** is amended to read:

271 **58-55-301. License required -- License classifications.**

272 (1) (a) Any person engaged in the construction trades licensed under this chapter, ~~or~~ as
 273 a contractor regulated under this chapter, as an alarm business or company, or as an alarm
 274 company agent, shall become licensed under this chapter before engaging in that trade or
 275 contracting activity in this state unless specifically exempted from licensure under Section

276 58-1-307 or 58-55-305.

277 (b) The license issued under this chapter and the business license issued by the local
278 jurisdiction in which the licensee has its principal place of business shall be the only licenses
279 required for the licensee to engage in a [~~construction~~] trade [~~or as a contractor~~] licensed by this
280 chapter, within the state.

281 (c) Neither the state nor any of its political subdivisions may require of a licensee any
282 additional business licenses, registrations, certifications, contributions, donations, or anything else
283 established for the purpose of qualifying a [~~licensed contractor~~] licensee under this chapter to do
284 business in that local jurisdiction, except for contract prequalification procedures required by state
285 agencies, or the payment of any fee for the license, registration, or certification established as a
286 condition to do business in that local jurisdiction.

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

- 289 (a) general engineering contractor;
- 290 (b) general building contractor;
- 291 (c) residential and small commercial contractor;
- 292 (d) specialty contractor;
- 293 (e) journeyman plumber;
- 294 (f) apprentice plumber;
- 295 (g) residential journeyman plumber;
- 296 (h) residential apprentice plumber;
- 297 (i) master electrician;
- 298 (j) residential master electrician;
- 299 (k) journeyman electrician;
- 300 (l) residential journeyman electrician;
- 301 (m) apprentice electrician; [~~and~~]
- 302 (n) construction trades instructor:
 - 303 (i) general engineering classification;
 - 304 (ii) general building classification;
 - 305 (iii) electrical classification;
 - 306 (iv) plumbing classification; and

307 (v) mechanical classification[-];

308 (o) alarm company; and

309 (p) alarm company agent.

310 (3) An applicant may apply for a license in one or more classification or specialty
311 contractor subclassification. A license shall be granted in each classification or subclassification
312 for which the applicant qualifies. A separate application and fee must be submitted for each
313 license classification or subclassification.

314 Section 4. Section **58-55-302** is amended to read:

315 **58-55-302. Qualifications for licensure.**

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

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

318 (b) pay a fee as determined by the department under Section 63-38-3.2;

319 (c) (i) [~~pass an~~] meet the examination [~~approved~~] requirements established by rule by the
320 division in collaboration with the appropriate board, except for the classifications of apprentice
321 plumber, residential apprentice plumber, and apprentice electrician for whom no examination is
322 required; or

323 (ii) the individual qualifier must pass the required examination if the applicant is a
324 business entity;

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

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

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

329 (ii) produce satisfactory evidence of knowledge and experience in the construction industry
330 and knowledge of the principles of the conduct of business as a contractor, reasonably necessary
331 for the protection of the public health, safety, and welfare; and

332 (iii) be a licensed master electrician if an applicant for an electrical contractor's license or
333 a licensed master residential electrician if an applicant for a residential electrical contractor's
334 license; or

335 (iv) be a journeyman plumber or residential journeyman plumber if an applicant for a
336 plumbing contractor's license; and

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

338 requirements established by rule.

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

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

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

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

346 (i) Utah Department of Commerce;

347 (ii) Division of Corporations and Commercial Code;

348 (iii) Division of Workforce Information and Payment Services in the Department of
349 Workforce Services, for purposes of Title 35A, Chapter 4, Employment Security Act;

350 (iv) State Tax Commission; and

351 (v) Internal Revenue Service.

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

354 (a) A journeyman plumber applicant shall produce:

355 (i) satisfactory evidence of successful completion of the equivalent of at least four years
356 of full-time training and instruction as a licensed apprentice plumber under supervision of a
357 licensed journeyman plumber and in accordance with a planned program of training approved by
358 the division;

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

361 (iii) satisfactory evidence of meeting the qualifications determined by the division and
362 board to be equivalent to Subsection (3)(a)(i) or (a)(ii).

363 (b) A residential journeyman plumber shall produce satisfactory evidence of completion
364 of:

365 (i) the equivalent of at least three years of full-time training and instruction as a licensed
366 apprentice plumber under the supervision of a licensed residential journeyman plumber or licensed
367 journeyman plumber in accordance with a planned program of training approved by the division;

368 (ii) at least six years of full-time experience in a maintenance or repair trade involving

369 substantial plumbing work; or

370 (iii) satisfactory evidence of meeting the qualifications determined by the division and
371 board to be equivalent to Subsection (3)(b)(i) or (b)(ii).

372 (c) A master electrician applicant shall produce satisfactory evidence that he either:

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

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

378 (iii) is a graduate of an electrical trade school, having received a certificate of completion
379 following successful completion of a course of study approved by the division, and has four years
380 of practical experience as a journeyman electrician;

381 (iv) has at least eight years of practical experience under the supervision of a licensed
382 journeyman or master electrician; or

383 (v) meets the qualifications determined by the division and board to be equivalent to these
384 qualifications.

385 (d) A master residential electrician applicant shall produce satisfactory evidence that he:

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

387 or

388 (ii) meets the qualifications determined by the division and board to be equivalent to this
389 practical experience.

390 (e) A journeyman electrician applicant shall produce satisfactory evidence that he either:

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

394 (ii) has six years of practical experience in wiring, installing, and repairing electrical
395 apparatus and equipment for light, heat, and power under the supervision of a licensed master or
396 journeyman electrician; or

397 (iii) meets the qualifications determined by the division and board to be equivalent to these
398 qualifications.

399 (f) A residential journeyman electrician applicant shall produce satisfactory evidence that

400 he:

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

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

406 (iii) meets the qualifications determined by the division and board to be equivalent to
407 Subsection (3)(f)(i) or (f)(ii).

408 (g) The conduct of licensed apprentice electricians and their licensed supervisors shall be
409 in accordance with the following:

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

414 (ii) A licensed master, journeyman, residential master, or residential journeyman
415 electrician may have under his immediate supervision on a residential project up to three licensed
416 apprentice electricians.

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

419 (h) An alarm company applicant shall:

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

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

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

425 (C) passes an examination component established by rule by the division in collaboration
426 with the board;

427 (ii) if a corporation, provide:

428 (A) the names, addresses, dates of birth, social security numbers, and fingerprint cards of
429 all corporate officers, directors, and those responsible management personnel employed within the
430 state or having direct responsibility for managing operations of the applicant within the state; and

431 (B) the names, addresses, dates of birth, social security numbers, and fingerprint cards of
432 all shareholders owning 5% or more of the outstanding shares of the corporation, except this shall
433 not be required if the stock is publicly listed and traded;

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

435 (A) the names, addresses, dates of birth, social security numbers, and fingerprint cards of
436 all company officers, and those responsible management personnel employed within the state or
437 having direct responsibility for managing operations of the applicant within the state; and

438 (B) the names, addresses, dates of birth, social security numbers, and fingerprint cards of
439 all individuals owning 5% or more of the equity of the company;

440 (iv) if a partnership, the names, addresses, dates of birth, social security numbers, and
441 fingerprint cards of all general partners, and those responsible management personnel employed
442 within the state or having direct responsibility for managing operations of the applicant within the
443 state;

444 (v) if a proprietorship, the names, addresses, dates of birth, social security numbers, and
445 fingerprint cards of the proprietor, and those responsible management personnel employed within
446 the state or having direct responsibility for managing operations of the applicant within the state;

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

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

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

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

461 (A) comprehensive general liability insurance in form and in amounts to be established

462 by rule by the division in collaboration with the board;

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

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

466 (I) Division of Corporations and Commercial Code;

467 (II) Division of Workforce Information and Payment Services in the Department of
468 Workforce Services, for purposes of Title 35A, Chapter 4, Employment Security Act;

469 (III) State Tax Commission; and

470 (IV) Internal Revenue Service; and

471 (x) meet with the division and board.

472 (i) Each applicant for licensure as an alarm company agent shall:

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

475 (ii) pay a fee determined by the department under Section 63-38-3.2;

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

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

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

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

485 (4) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
486 division may make rules establishing when Federal Bureau of Investigation records shall be
487 checked for applicants as an alarm company or alarm company agent.

488 (5) To determine if an applicant meets the qualifications of Subsections (3)(h)(vi) and
489 (3)(i)(iii), the division shall provide an appropriate number of copies of fingerprint cards to the
490 Department of Public Safety with the division's request to:

491 (a) conduct a search of records of the Department of Public Safety for criminal history
492 information relating to each applicant for licensure as an alarm company or alarm company agent

493 and each applicant's officers, directors, and shareholders described in Subsection (3)(h)(ii)(B),
494 partners, proprietors, and responsible management personnel; and

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

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

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

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

504 (7) (a) The division shall charge each applicant for licensure as an alarm company or alarm
505 company agent a fee, in accordance with Section 63-38-3.2, equal to the cost of performing the
506 records reviews under this section.

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

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

514 Section 5. Section **58-55-308** is amended to read:

515 **58-55-308. Scope of practice -- Rules.**

516 (1) The division, in collaboration with the board, may adopt rules pursuant to Title 63,
517 Chapter 46a, Utah Administrative Rulemaking Act, to define and limit the scope of practice and
518 operating standards of the classifications and subclassifications licensed under this chapter in a
519 manner consistent with established practice in the [~~construction trades~~] relevant industry. The
520 division and the board may limit the field and scope of operations of a licensee under this chapter
521 in accordance with the rules and the public health, safety, and welfare, based on the licensee's
522 education, training, experience, knowledge, and financial responsibility.

523 (2) This section does not prohibit a licensed specialty contractor from accepting and

524 entering into a contract involving the use of two or more crafts or trades if the performance of the
525 work in the crafts or trades, other than that in which he is licensed, is incidental and supplemental
526 to the work for which he is licensed.

527 Section 6. Section **58-55-311**, which is renumbered from Section 58-65-308 is renumbered
528 and amended to read:

529 ~~[58-65-308]~~. **58-55-311. Evidence of licensure.**

530 An individual licensed as an alarm company agent shall:

531 (1) carry a copy of the individual's license on the individual's person at all times while
532 acting as a licensee;

533 (2) display the license upon the request of a peace officer, a representative of the division,
534 or a representative of a customer of the alarm company.

535 Section 7. Section **58-55-312**, which is renumbered from Section 58-65-310 is renumbered
536 and amended to read:

537 ~~[58-65-310]~~. **58-55-312. Interim permits.**

538 (1) Upon receipt of a complete application for licensure in accordance with Section
539 ~~[58-65-302]~~ 58-55-302, an applicant for licensure as an alarm company agent may be issued an
540 interim permit.

541 (2) (a) Each interim permit shall expire 90 days after it is issued or on the date on which
542 the applicant is issued a license, whichever is earlier.

543 (b) The division may reissue an interim permit if the delay in approving a license is beyond
544 the control or influence of the interim permit holder.

545 (3) An interim permit holder may engage in the scope of an alarm company agent.

546 Section 8. Section **58-55-402** is amended to read:

547 **58-55-402. Investigation of regulated activity.**

548 (1) The division shall be responsible for the investigation of persons and activities in
549 violation of the provisions of this chapter.

550 (2) Investigation by the division shall include investigations of:

551 (a) licensees engaged in unlawful or unprofessional conduct; and

552 (b) unlicensed persons engaged in the conduct of activity or work regulated under this
553 chapter and for which a license is required.

554 (3) The division shall decline to proceed with investigation of the violation of any

555 provisions of this chapter if the division finds there is no apparent material jeopardy to the public
556 health, safety, and welfare.

557 (4) The division shall have no responsibility for the inspection of construction work
558 performed in the state to determine compliance with applicable codes, or industry and
559 workmanship standards, except as provided in Subsections 58-1-501(2)(g), 58-55-502(2), (3), and
560 (4), and 58-55-501[(+6)](18).

561 (5) Authorized representatives of the division shall be permitted to enter upon the premises
562 or site of work regulated under this chapter for the purpose of determining compliance with the
563 provisions of this chapter.

564 Section 9. Section **58-55-501** is amended to read:

565 **58-55-501. Unlawful conduct.**

566 Unlawful conduct includes:

567 (1) engaging in a construction trade, acting as a contractor, **§ AN ALARM BUSINESS OR**
567a **COMPANY, OR AN ALARM COMPANY AGENT,** § or representing oneself to be
568 engaged in a construction trade or to be acting as a contractor in a construction trade requiring
569 licensure, unless the person doing any of these is appropriately licensed or exempted from
570 licensure under this chapter;

571 (2) acting in a construction trade **§ , AS AN ALARM BUSINESS OR COMPANY, OR AS AN**
571a **ALARM COMPANY AGENT** § beyond the scope of the license held;

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

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

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

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

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

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

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

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

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

591 (12) exceeding one's monetary limit as a licensed contractor, as the limit is defined by
592 statute or rule;

593 (13) if licensed as a contractor, submitting a bid on a single project in an amount exceeding
594 his monetary limit, unless he first files with the division a notice of intent to request an increase
595 of the monetary limit in compliance with Subsection 58-55-309(5);

596 (14) if licensed as a journeyman plumber, residential journeyman plumber, journeyman
597 electrician, master electrician, or residential electrician, failing to directly supervise an apprentice
598 under one's supervision or exceeding the number of apprentices one is allowed to have under his
599 supervision;

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

606 (16) employing as an alarm company an unlicensed individual as an alarm company agent,
607 except as permitted under the exemption from licensure provisions under Section 58-1-307;

608 (17) if licensed as an alarm company or alarm company agent, filing with the division
609 fingerprint cards for an applicant which are not those of the applicant, or are in any other way false
610 or fraudulent and intended to mislead the division in its consideration of the applicant for
611 licensure;

612 [~~16~~] (18) if licensed under this chapter, willfully or deliberately disregarding or violating:

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

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

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

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

617 (e) the laws governing withholdings for employee state and federal income taxes,
618 unemployment taxes, FICA, or other required withholdings; or
619 (f) reporting, notification, and filing laws of this state or the federal government;
620 [~~17~~] (19) aiding or abetting any person in evading the provisions of this chapter or rules
621 established under the authority of the division to govern this chapter; or
622 [~~18~~] (20) engaging in the construction trade or as a contractor for the construction of
623 residences of up to two units when not currently registered or exempt from registration as a
624 qualified beneficiary under Title 38, Chapter 11, Residence Lien Restriction and Lien Recovery
625 Fund Act.

626 Section 10. Section **58-55-502** is amended to read:

627 **58-55-502. Unprofessional conduct.**

628 Unprofessional conduct includes:

- 629 (1) failing to establish, maintain, or demonstrate financial responsibility while licensed as
630 a contractor under this chapter;
- 631 (2) disregarding or violating through gross negligence or a pattern of negligence:
632 (a) the building or construction laws of this state or any political subdivision;
633 (b) the safety and labor laws applicable to a project;
634 (c) any provision of the health laws applicable to a project;
635 (d) the workers' compensation insurance laws of this state applicable to a project;
636 (e) the laws governing withholdings for employee state and federal income taxes,
637 unemployment taxes, FICA, or other required withholdings; or
638 (f) any reporting, notification, and filing laws of this state or the federal government;
- 639 (3) any willful, fraudulent, or deceitful act by a licensee, caused by a licensee, or at a
640 licensee's direction which causes material injury to another;
- 641 (4) contract violations that pose a threat or potential threat to the public health, safety, and
642 welfare including:
- 643 (a) willful, deliberate, or grossly negligent departure from or disregard for plans or
644 specifications, or abandonment or failure to complete a project without the consent of the owner
645 or his duly authorized representative or the consent of any other person entitled to have the
646 particular project completed in accordance with the plans, specifications, and contract terms;
647 (b) failure to deposit funds to the benefit of an employee as required under any written

648 contractual obligation the licensee has to the employee;

649 (c) failure to maintain in full force and effect any health insurance benefit to an employee
650 that was extended as a part of any written contractual obligation or representation by the licensee,
651 unless the employee is given written notice of the licensee's intent to cancel or reduce the insurance
652 benefit at least 45 days before the effective date of the cancellation or reduction;

653 (d) failure to reimburse the Residence Lien Recovery Fund within 90 days after any
654 disbursement from the fund resulting from the licensee's failure to pay qualified beneficiaries as
655 provided in Title 38, Chapter 11, Residence Lien Restriction and Lien Recovery Fund Act;

656 (e) failure to provide, when applicable, the information required by Section 38-11-108;
657 [or]

658 (f) willfully or deliberately misrepresenting or omitting a material fact in connection with
659 an application to claim recovery from the Residence Lien Recovery Fund under Section
660 38-11-204[;];

661 (5) failing as an alarm company to notify the division of the cessation of performance of
662 its qualifying agent, or failing to replace its qualifying agent as required under Section 58-55-304;

663 (6) failing as an alarm company agent to carry or display a copy of the licensee's license
664 as required under Section 58-55-311; or

665 (7) failing to comply with operating standards established by rule in accordance with
666 Section 58-55-308.

667 Section 11. Section **58-55-503** is amended to read:

668 **58-55-503. Penalty for unlawful conduct -- Citations.**

669 (1) Any person who violates Subsections 58-55-501(1) through (14), (16), (17) [or], (18)[;]
670 or (19) or who fails to comply with a citation issued under this section after it is final, is guilty of
671 a class A misdemeanor. Any person who violates the provisions of Subsection 58-55-501(8) or
672 (13) may not be awarded and may not accept a contract for the performance of the work. Any
673 licensee who submits a notice of intent to request an increase in the monetary limit under
674 Subsection 58-55-309(5), but who is not granted an increase sufficient to cover the award of a
675 contract upon which he has bid, may not be awarded and may not accept the contract.

676 (2) Any person who violates the provisions of Subsection 58-55-501(15) is guilty of an
677 infraction unless the violator did so with the intent to deprive the person to whom money is to be
678 paid of the money received, in which case the violator is guilty of theft, as classified in Section

679 76-6-412.

680 (3) Grounds for immediate suspension of the licensee's license by the division and the
 681 board include the failure by a licensee to make application to, report to, or notify the division with
 682 respect to any matter for which application, notification, or reporting is required under this chapter
 683 or rules adopted under this chapter, including applying to the division for a new license to engage
 684 in a new specialty classification or to do business under a new form of organization or business
 685 structure, filing with the division current financial statements, notifying the division concerning
 686 loss of insurance coverage, or change in qualifier.

687 (4) (a) If upon inspection or investigation, the division concludes that a **§ [contractor] PERSON §** has
 688 violated the provisions of Subsections 58-55-501(1), (2), (3), **§ (16), §** or any rule or order issued with
 689 respect to these subsections, and that disciplinary action is appropriate, the director or his designee
 690 from within the division for each alternative respectively, shall, promptly issue a citation to the
 691 **§ [contractor] PERSON §** according to this chapter and any pertinent rules, attempt to negotiate a
 691a stipulated

692 settlement, or notify the **§ [contractor] PERSON §** to appear before an adjudicative proceeding
 692a conducted under

693 Title 63, Chapter 46b, Administrative Procedures Act.

694 (i) Any person who is in violation of the provisions of Subsection 58-55-501(1), (2), **§ [or] §**
 695 (3), **§ OR (16), §** as evidenced by an uncontested citation, a stipulated settlement, or by a finding of violation
 696 in an adjudicative proceeding, may be assessed a fine pursuant to this Subsection (4) and may, in
 697 addition to or in lieu of, be ordered to cease and desist from violating Subsection 58-55-501(1),
 698 (2), **§ [or] §** (3) **§ ,OR (16) §** .

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

701 (b) Each citation shall be in writing and describe with particularity the nature of the
 702 violation, including a reference to the provision of the chapter, rule, or order alleged to have been
 703 violated. The citation shall clearly state that the recipient must notify the division in writing within
 704 20 calendar days of service of the citation if the recipient wishes to contest the citation at a hearing
 705 conducted under Title 63, Chapter 46b, Administrative Procedures Act. The citation shall clearly
 706 explain the consequences of failure to timely contest the citation or to make payment of any fines
 707 assessed by the citation within the time specified in the citation.

708 (c) The division may issue a notice in lieu of a citation.

709 (d) Each citation issued under this section, or a copy of each citation, may be served upon

710 any person upon whom a summons may be served in accordance with the Utah Rules of Civil
711 Procedure and may be made personally or upon his agent by a division investigator or by any
712 person specially designated by the director or by mail.

713 (e) If within 20 calendar days from the service of a citation, the person to whom the
714 citation was issued fails to request a hearing to contest the citation, the citation becomes the final
715 order of the division and is not subject to further agency review. The period to contest a citation
716 may be extended by the division for cause.

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

719 (g) The failure of an applicant for licensure to comply with a citation after it becomes final
720 is a ground for denial of license.

721 (h) No citation may be issued under this section after the expiration of six months
722 following the occurrence of any violation.

723 (i) Fines shall be assessed by the director or his designee according to the following:

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

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

726 (iii) for any subsequent offense handled pursuant to Subsection (4)(a), a fine of up to
727 \$2,000 for each day of continued offense.

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

730 (A) the division previously issued a final order determining that a person committed a first
731 or second offense in violation of Subsection 58-55-501(1), (2), ~~§ [or] § (3) § ,~~ **OR (16) §** ; or

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

733 (II) no final order has been issued by the division in the action initiated under Subsection
734 (4)(j)(i)(B)(I);

735 (III) the division determines during an investigation that occurred after the initiation of the
736 action under Subsection (4)(j)(i)(B)(I) that the person committed a second or subsequent violation
737 of the provisions of Subsection 58-55-501(1), (2), ~~§ [or] § (3) § ,~~ **OR (16) §** ; and

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

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

743 (5) Any penalty imposed by the director under Subsection (4)(i) shall be deposited into the
744 Commerce Service Fund. Any penalty which is not paid may be collected by the director by either
745 referring the matter to a collection agency or bringing an action in the district court of the county
746 in which the person against whom the penalty is imposed resides or in the county where the office
747 of the director is located. Any county attorney or the attorney general of the state is to provide
748 legal assistance and advice to the director in any action to collect the penalty. In any action
749 brought to enforce the provisions of this section, reasonable attorney's fees and costs shall be
750 awarded.

751 Section 12. **Repealer.**

752 This act repeals:

753 Section **58-65-101, Title.**

754 Section **58-65-102, Definitions.**

755 Section **58-65-201, Board.**

756 Section **58-65-301, Licensure required -- License classifications.**

757 Section **58-65-302, Qualifications for licensure.**

758 Section **58-65-303, Term of license -- Expiration -- Renewal.**

759 Section **58-65-304, Exemptions from licensure.**

760 Section **58-65-305, Status of licenses held on the effective date of this chapter.**

761 Section **58-65-306, Replacement of qualifying agent.**

762 Section **58-65-307, Preemption of other licensure.**

763 Section **58-65-309, Rulemaking -- Operating standards.**

764 Section **58-65-401, Grounds for denial of license -- Disciplinary proceedings.**

765 Section **58-65-501, Unlawful conduct.**

766 Section **58-65-502, Unprofessional conduct.**

Legislative Review Note
as of 2-14-00 3:13 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel