

BURGLAR ALARM LICENSURE REVISIONS

2000 GENERAL SESSION

STATE OF UTAH

Sponsor: L. Alma Mansell

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

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

AMENDS:

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

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

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

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

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

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

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

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

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

RENUMBERS AND AMENDS:

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

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

REPEALS:

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

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

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

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

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

58-65-303, as enacted by Chapter 215, Laws of Utah 1995

58-65-304, as enacted by Chapter 215, Laws of Utah 1995

58-65-305, as enacted by Chapter 215, Laws of Utah 1995

58-65-306, as enacted by Chapter 215, Laws of Utah 1995

58-65-307, as enacted by Chapter 215, Laws of Utah 1995

58-65-309, as enacted by Chapter 215, Laws of Utah 1995

58-65-401, as enacted by Chapter 215, Laws of Utah 1995

58-65-501, as last amended by Chapter 227, Laws of Utah 1996

58-65-502, as enacted by Chapter 215, Laws of Utah 1995

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

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

58-55-102. Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) "Electrical trade" does not include:

(i) transporting or handling electrical materials;

(ii) preparing clearance for raceways for wiring; or

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

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

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

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

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

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

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

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

~~[(11)]~~ (14) "Financial responsibility" means a demonstration of a current and expected future condition of financial solvency evidencing a reasonable expectation to the division and the board that an applicant or licensee can successfully engage in business as a contractor without jeopardy to the public health, safety, and welfare. Financial responsibility may be determined by an evaluation of the

total history concerning the licensee or applicant including past, present, and expected condition and record of financial solvency and business conduct.

~~[(12)]~~ (15) "General building contractor" means a person licensed under this chapter as a general building contractor qualified by education, training, experience, and knowledge to perform or superintend construction of structures for the support, shelter, and enclosure of persons, animals, chattels, or movable property of any kind or any of the components of that construction except plumbing, electrical, and mechanical, for which the general building contractor shall employ the services of a contractor licensed in the particular specialty, except that a general building contractor engaged in the construction of single-family and multifamily residences up to four units may perform the mechanical and hire a licensed plumber or electrician as an employee. The division may by rule exclude general building contractors from engaging in the performance of other construction specialties in which there is represented a substantial risk to the public health, safety, and welfare, and for which a license is required unless that general building contractor holds a valid license in that specialty classification.

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

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

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

~~[(16)]~~ (19) "Journeyman electrician" means a person licensed under this chapter as a journeyman electrician having the qualifications, training, experience, and knowledge to wire, install,

and repair electrical apparatus and equipment for light, heat, power, and other purposes.

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

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

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

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

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

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

~~[(23)]~~ (26) "Ratio of apprentices" means, for the purpose of determining compliance with the

requirements for planned programs of training and electrician apprentice licensing applications, the shop ratio of apprentice electricians to journeyman or master electricians shall be one journeyman or master electrician to one apprentice on industrial and commercial work, and one journeyman or master electrician to three apprentices on residential work. All on-the-job training shall be under circumstances in which the ratio of apprentices to supervisors is in accordance with a ratio of one-to-one on nonresidential work and up to three apprentices to one supervisor on residential projects.

~~[(24)]~~ (27) "Residential and small commercial contractor" means a person licensed under this chapter as a residential and small commercial contractor qualified by education, training, experience, and knowledge to perform or superintend the construction of single-family residences, multifamily residences up to four units, and commercial construction of not more than three stories above ground and not more than 20,000 square feet, or any of the components of that construction except plumbing, electrical, and mechanical, for which the residential and small commercial contractor shall employ the services of a contractor licensed in the particular specialty, except that a residential and small commercial contractor engaged in the construction of single-family and multifamily residences up to four units may perform the mechanical work and hire a licensed plumber or electrician as an employee.

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

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

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

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

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

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

~~[(31)]~~ (34) "Specialty contractor" means a person licensed under this chapter under a specialty contractor classification established by rule, who is qualified by education, training, experience, and knowledge to perform those construction trades and crafts requiring specialized skill the regulation of which are determined by the division to be in the best interest of the public health, safety, and welfare. A specialty contractor may perform work in crafts or trades other than those in which he is licensed if they are incidental to the performance of his licensed craft or trade.

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

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

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

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

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

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

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

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

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

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

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

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

- (A) three individuals who are officers or owners of a licensed alarm business;
- (B) one individual from among nominees of the Utah Peace Officers Association; and
- (C) one individual representing the general public.

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

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

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

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

~~[(e)]~~ (d) The Electricians Licensing Board consists of five members as follows:

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

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

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

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

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

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

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

(1) (a) Any person engaged in the construction trades licensed under this chapter, ~~[or]~~ as a contractor regulated under this chapter, as an alarm business or company, or as an alarm company agent, shall become licensed under this chapter before engaging in that trade or contracting activity in this state unless specifically exempted from licensure under Section 58-1-307 or 58-55-305.

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

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

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

classifications:

- (a) general engineering contractor;
- (b) general building contractor;
- (c) residential and small commercial contractor;
- (d) specialty contractor;
- (e) journeyman plumber;
- (f) apprentice plumber;
- (g) residential journeyman plumber;
- (h) residential apprentice plumber;
- (i) master electrician;
- (j) residential master electrician;
- (k) journeyman electrician;
- (l) residential journeyman electrician;
- (m) apprentice electrician; [~~and~~]
- (n) construction trades instructor:
 - (i) general engineering classification;
 - (ii) general building classification;
 - (iii) electrical classification;
 - (iv) plumbing classification; and
 - (v) mechanical classification[-];
- (o) alarm company; and
- (p) alarm company agent.

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

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

58-55-302. Qualifications for licensure.

- (1) Each applicant for a license under this chapter shall:
 - (a) submit an application prescribed by the division;
 - (b) pay a fee as determined by the department under Section 63-38-3.2;
 - (c) (i) ~~[pass an]~~ meet the examination ~~[approved]~~ requirements established by rule by the division in collaboration with the appropriate board, except for the classifications of apprentice plumber, residential apprentice plumber, and apprentice electrician for whom no examination is required; or
 - (ii) the individual qualifier must pass the required examination if the applicant is a business entity;
 - (d) if an apprentice, identify the proposed supervisor of the apprenticeship;
 - (e) if an applicant for a contractor's license:
 - (i) produce satisfactory evidence of financial responsibility, except for construction trades instructor for whom evidence of financial responsibility is not required;
 - (ii) produce satisfactory evidence of knowledge and experience in the construction industry and knowledge of the principles of the conduct of business as a contractor, reasonably necessary for the protection of the public health, safety, and welfare; and
 - (iii) be a licensed master electrician if an applicant for an electrical contractor's license or a licensed master residential electrician if an applicant for a residential electrical contractor's license; or
 - (iv) be a journeyman plumber or residential journeyman plumber if an applicant for a plumbing contractor's license; and
 - (f) if an applicant for a construction trades instructor license, satisfy any additional requirements established by rule.
 - (2) After approval of an applicant for a contractor's license by the board and the division, the applicant shall file the following with the division before the division issues the license:
 - (a) proof of workers' compensation insurance which covers employees of the applicant in accordance with applicable Utah law;
 - (b) proof of public liability insurance in coverage amounts and form established by rule except

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

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

(i) Utah Department of Commerce;

(ii) Division of Corporations and Commercial Code;

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

(iv) State Tax Commission; and

(v) Internal Revenue Service.

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

(a) A journeyman plumber applicant shall produce:

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

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

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

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

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

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

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

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

(i) is a graduate electrical engineer of an accredited college or university approved by the

division and has one year of practical electrical experience as a licensed apprentice electrician;

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) has four years of practical experience in wiring, installing, and repairing electrical

apparatus and equipment for light, heat, and power under the supervision of a licensed master, journeyman, residential master, or residential journeyman electrician; or

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

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

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

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

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

(h) An alarm company applicant shall:

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

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

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

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

(ii) if a corporation, provide:

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

(B) the names, addresses, dates of birth, social security numbers, and fingerprint cards of all

shareholders owning 5% or more of the outstanding shares of the corporation, except this shall not be required if the stock is publicly listed and traded;

(iii) if a limited liability company, provide:

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

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

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

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

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

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

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

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

(A) comprehensive general liability insurance in form and in amounts to be established by rule by the division in collaboration with the board;

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

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

(I) Division of Corporations and Commercial Code;

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

(III) State Tax Commission; and

(IV) Internal Revenue Service; and

(x) meet with the division and board.

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

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

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

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

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

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

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

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

(5) To determine if an applicant meets the qualifications of Subsections (3)(h)(vi) and

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

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

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

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

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

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

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

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

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

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

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

(1) The division, in collaboration with the board, may adopt rules pursuant to Title 63,

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

(2) This section does not prohibit a licensed specialty contractor from accepting and entering into a contract involving the use of two or more crafts or trades if the performance of the work in the crafts or trades, other than that in which he is licensed, is incidental and supplemental to the work for which he is licensed.

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

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

An individual licensed as an alarm company agent shall:

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

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

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

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

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

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

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

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

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

58-55-402. Investigation of regulated activity.

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

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

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

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

(3) The division shall decline to proceed with investigation of the violation of any provisions of this chapter if the division finds there is no apparent material jeopardy to the public health, safety, and welfare.

(4) The division shall have no responsibility for the inspection of construction work performed in the state to determine compliance with applicable codes, or industry and workmanship standards, except as provided in Subsections 58-1-501(2)(g), 58-55-502(2), (3), and (4), and 58-55-501[~~(16)~~](18).

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

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

58-55-501. Unlawful conduct.

Unlawful conduct includes:

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

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

- (3) hiring or employing in any manner an unlicensed person, other than an employee for wages who is not required to be licensed under this chapter, to engage in a construction trade for which licensure is required or to act as a contractor or subcontractor in a construction trade requiring licensure;
- (4) applying for or obtaining a building permit either for oneself or another when not licensed or exempted from licensure as a contractor under this chapter;
- (5) issuing a building permit to any person for whom there is no evidence of a current license or exemption from licensure as a contractor under this chapter;
- (6) applying for or obtaining a building permit for the benefit of or on behalf of any other person who is required to be licensed under this chapter but who is not licensed or is otherwise not entitled to obtain or receive the benefit of the building permit;
- (7) failing to obtain a building permit when required by law or rule;
- (8) submitting a bid for any work for which a license is required under this chapter by a person not licensed or exempted from licensure as a contractor under this chapter;
- (9) willfully or deliberately misrepresenting or omitting a material fact in connection with an application to obtain or renew a license under this chapter;
- (10) allowing one's license to be used by another except as provided by statute or rule;
- (11) doing business under a name other than the name appearing on the license, except as permitted by statute or rule;
- (12) exceeding one's monetary limit as a licensed contractor, as the limit is defined by statute or rule;
- (13) if licensed as a contractor, submitting a bid on a single project in an amount exceeding his monetary limit, unless he first files with the division a notice of intent to request an increase of the monetary limit in compliance with Subsection 58-55-309(5);
- (14) if licensed as a journeyman plumber, residential journeyman plumber, journeyman electrician, master electrician, or residential electrician, failing to directly supervise an apprentice under one's supervision or exceeding the number of apprentices one is allowed to have under his supervision;

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

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

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

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

- (a) the building or construction laws of this state or any political subdivision;
- (b) the safety and labor laws applicable to a project;
- (c) any provision of the health laws applicable to a project;
- (d) the workers' compensation insurance laws of the state applicable to a project;
- (e) the laws governing withholdings for employee state and federal income taxes,

unemployment taxes, FICA, or other required withholdings; or

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

~~[(17)]~~ (19) aiding or abetting any person in evading the provisions of this chapter or rules established under the authority of the division to govern this chapter; or

~~[(18)]~~ (20) engaging in the construction trade or as a contractor for the construction of residences of up to two units when not currently registered or exempt from registration as a qualified beneficiary under Title 38, Chapter 11, Residence Lien Restriction and Lien Recovery Fund Act.

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

58-55-502. Unprofessional conduct.

Unprofessional conduct includes:

(1) failing to establish, maintain, or demonstrate financial responsibility while licensed as a contractor under this chapter;

- (2) disregarding or violating through gross negligence or a pattern of negligence:
 - (a) the building or construction laws of this state or any political subdivision;
 - (b) the safety and labor laws applicable to a project;
 - (c) any provision of the health laws applicable to a project;
 - (d) the workers' compensation insurance laws of this state applicable to a project;
 - (e) the laws governing withholdings for employee state and federal income taxes, unemployment taxes, FICA, or other required withholdings; or
 - (f) any reporting, notification, and filing laws of this state or the federal government;
- (3) any willful, fraudulent, or deceitful act by a licensee, caused by a licensee, or at a licensee's direction which causes material injury to another;
- (4) contract violations that pose a threat or potential threat to the public health, safety, and welfare including:
 - (a) willful, deliberate, or grossly negligent departure from or disregard for plans or specifications, or abandonment or failure to complete a project without the consent of the owner or his duly authorized representative or the consent of any other person entitled to have the particular project completed in accordance with the plans, specifications, and contract terms;
 - (b) failure to deposit funds to the benefit of an employee as required under any written contractual obligation the licensee has to the employee;
 - (c) failure to maintain in full force and effect any health insurance benefit to an employee that was extended as a part of any written contractual obligation or representation by the licensee, unless the employee is given written notice of the licensee's intent to cancel or reduce the insurance benefit at least 45 days before the effective date of the cancellation or reduction;
 - (d) failure to reimburse the Residence Lien Recovery Fund within 90 days after any disbursement from the fund resulting from the licensee's failure to pay qualified beneficiaries as provided in Title 38, Chapter 11, Residence Lien Restriction and Lien Recovery Fund Act;
 - (e) failure to provide, when applicable, the information required by Section 38-11-108; ~~or~~
 - (f) willfully or deliberately misrepresenting or omitting a material fact in connection with an application to claim recovery from the Residence Lien Recovery Fund under Section 38-11-204[-];

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

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

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

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

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

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

(2) Any person who violates the provisions of Subsection 58-55-501(15) is guilty of an infraction unless the violator did so with the intent to deprive the person to whom money is to be paid of the money received, in which case the violator is guilty of theft, as classified in Section 76-6-412.

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

(4) (a) If upon inspection or investigation, the division concludes that a [~~contractor~~] person has violated the provisions of Subsections 58-55-501(1), (2), (3), (16), or any rule or order issued with respect to these subsections, and that disciplinary action is appropriate, the director or his

designee from within the division for each alternative respectively, shall, promptly issue a citation to the [~~contractor~~] person according to this chapter and any pertinent rules, attempt to negotiate a stipulated settlement, or notify the [~~contractor~~] person to appear before an adjudicative proceeding conducted under Title 63, Chapter 46b, Administrative Procedures Act.

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

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

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

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

(d) Each citation issued under this section, or a copy of each citation, may be served upon any person upon whom a summons may be served in accordance with the Utah Rules of Civil Procedure and may be made personally or upon his agent by a division investigator or by any person specially designated by the director or by mail.

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

(f) The division may refuse to issue or renew, suspend, revoke, or place on probation the

license of a licensee who fails to comply with a citation after it becomes final.

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

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

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

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

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

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

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

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

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

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

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

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

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

(5) Any penalty imposed by the director under Subsection (4)(i) shall be deposited into the Commerce Service Fund. Any penalty which is not paid may be collected by the director by either referring the matter to a collection agency or bringing an action in the district court of the county in

which the person against whom the penalty is imposed resides or in the county where the office of the director is located. Any county attorney or the attorney general of the state is to provide legal assistance and advice to the director in any action to collect the penalty. In any action brought to enforce the provisions of this section, reasonable attorney's fees and costs shall be awarded.

Section 12. Repealer.

This act repeals:

Section 58-65-101, Title.

Section 58-65-102, Definitions.

Section 58-65-201, Board.

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

Section 58-65-302, Qualifications for licensure.

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

Section 58-65-304, Exemptions from licensure.

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

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

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

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

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

Section 58-65-501, Unlawful conduct.

Section 58-65-502, Unprofessional conduct.