

1 **DIVISION OF CONSTRUCTION SERVICES**

2 2002 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: Stephen D. Clark**

5 **This act creates the Division of Construction Services within the Department of Commerce.**
6 **The act eliminates licensing boards for construction trades. The act creates the Construction**
7 **Services Commission as a policy and licensing board for the division. The act sets forth the**
8 **manner of appointment and the authority, duties, and responsibilities of the division and its**
9 **director. The act sets forth the composition of the commission, the manner of appointment,**
10 **qualifications, and terms of commission members, and the duties of the commission. The act**
11 **describes adjudicative proceedings. The act sets forth licensure requirements and**
12 **exemptions, disciplinary procedures, grounds for denial of license, and civil penalties. The**
13 **act eliminates the requirement that a licensee business entity have a qualifier licensee if the**
14 **business entity has maintained its license and not violated the requirements of this chapter**
15 **and certain predecessor statutory provisions for ten consecutive years. The act renumbers**
16 **and amends all of Title 58, Chapter 55, to transfer the regulation of construction trades from**
17 **the Division of Professional Licensing to the newly created Division of Construction Services.**
18 **The act makes technical changes.**

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

20 ENACTS:

21 **13-34-101**, Utah Code Annotated 1953

22 **13-34-102**, Utah Code Annotated 1953

23 **13-34-103**, Utah Code Annotated 1953

24 **13-34-104**, Utah Code Annotated 1953

25 **13-34-105**, Utah Code Annotated 1953

26 **13-34-106**, Utah Code Annotated 1953

27 **13-34-107**, Utah Code Annotated 1953



- 28 **13-34-108**, Utah Code Annotated 1953
- 29 **13-34-109**, Utah Code Annotated 1953
- 30 **13-34-110**, Utah Code Annotated 1953
- 31 **13-34-111**, Utah Code Annotated 1953
- 32 **13-34-112**, Utah Code Annotated 1953
- 33 **13-34-113**, Utah Code Annotated 1953
- 34 **13-34-114**, Utah Code Annotated 1953
- 35 **13-34-115**, Utah Code Annotated 1953
- 36 **13-34-116**, Utah Code Annotated 1953
- 37 **13-34-117**, Utah Code Annotated 1953
- 38 **13-34-118**, Utah Code Annotated 1953
- 39 **13-34-119**, Utah Code Annotated 1953
- 40 **13-34-120**, Utah Code Annotated 1953
- 41 **13-34-121**, Utah Code Annotated 1953
- 42 **13-34-122**, Utah Code Annotated 1953
- 43 **13-34-123**, Utah Code Annotated 1953
- 44 **13-34-124**, Utah Code Annotated 1953
- 45 **13-34-125**, Utah Code Annotated 1953
- 46 **13-34-126**, Utah Code Annotated 1953
- 47 **13-34-127**, Utah Code Annotated 1953

48 RENUMBERS AND AMENDS:

- 49 **13-34-201**, (Renumbered from 58-55-101, as renumbered and amended by Chapter 181,
- 50 Laws of Utah 1994)
- 51 **13-34-202**, (Renumbered from 58-55-102, as last amended by Chapters 233 and 317, Laws
- 52 of Utah 2000)
- 53 **13-34-203**, (Renumbered from 58-55-301, as last amended by Chapter 317, Laws of Utah
- 54 2000)
- 55 **13-34-204**, (Renumbered from 58-55-302, as last amended by Chapter 198, Laws of Utah
- 56 2001)
- 57 **13-34-205**, (Renumbered from 58-55-303, as last amended by Chapter 198, Laws of Utah
- 58 2001)

59 **13-34-206**, (Renumbered from 58-55-304, as renumbered and amended by Chapter 181,
60 Laws of Utah 1994)

61 **13-34-207**, (Renumbered from 58-55-305, as last amended by Chapter 227, Laws of Utah
62 2001)

63 **13-34-208**, (Renumbered from 58-55-306, as last amended by Chapter 233, Laws of Utah
64 2000)

65 **13-34-209**, (Renumbered from 58-55-307, as renumbered and amended by Chapter 181,
66 Laws of Utah 1994)

67 **13-34-210**, (Renumbered from 58-55-308, as last amended by Chapter 317, Laws of Utah
68 2000)

69 **13-34-211**, (Renumbered from 58-55-310, as renumbered and amended by Chapter 181,
70 Laws of Utah 1994)

71 **13-34-212**, (Renumbered from 58-55-311, as renumbered and amended by Chapter 317,
72 Laws of Utah 2000)

73 **13-34-213**, (Renumbered from 58-55-312, as renumbered and amended by Chapter 317,
74 Laws of Utah 2000)

75 **13-34-214**, (Renumbered from 58-55-401, as renumbered and amended by Chapters 181
76 and 308, Laws of Utah 1994)

77 **13-34-215**, (Renumbered from 58-55-402, as last amended by Chapters 233 and 317, Laws
78 of Utah 2000)

79 **13-34-216**, (Renumbered from 58-55-403, as last amended by Chapter 233, Laws of Utah
80 2000)

81 **13-34-217**, (Renumbered from 58-55-501, as last amended by Chapters 198 and 257, Laws
82 of Utah 2001)

83 **13-34-218**, (Renumbered from 58-55-502, as last amended by Chapter 198, Laws of Utah
84 2001)

85 **13-34-219**, (Renumbered from 58-55-503, as last amended by Chapters 198 and 361, Laws
86 of Utah 2001)

87 **13-34-220**, (Renumbered from 58-55-601, as renumbered and amended by Chapter 181,
88 Laws of Utah 1994)

89 **13-34-221**, (Renumbered from 58-55-602, as last amended by Chapter 365, Laws of Utah

90 1999)

91 **13-34-222**, (Renumbered from 58-55-603, as renumbered and amended by Chapter 181,
92 Laws of Utah 1994)

93 **13-34-223**, (Renumbered from 58-55-604, as renumbered and amended by Chapter 181,
94 Laws of Utah 1994)

95 REPEALS:

96 **58-55-201**, as last amended by Chapter 317, Laws of Utah 2000

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

98 Section 1. Section **13-34-101** is enacted to read:

99 **CHAPTER 34. DIVISION OF CONSTRUCTION SERVICES LICENSING ACT**

100 **Part 1. Division of Construction Services**

101 **13-34-101. Title.**

102 (1) This chapter is known as the "Division of Construction Services Licensing Act."

103 (2) This part is known as the "Division of Construction Services."

104 Section 2. Section **13-34-102** is enacted to read:

105 **13-34-102. Applicability -- Relationship to specific chapters under title.**

106 The provisions of this part uniformly apply to the administration and enforcement of this
107 chapter. However, unless expressly prohibited in this chapter, any provision of this chapter may
108 be supplemented or altered by specific parts of this chapter.

109 Section 3. Section **13-34-103** is enacted to read:

110 **13-34-103. Definitions.**

111 For purposes of this chapter:

112 (1) "Commission" means the Construction Services Commission created in Section
113 13-34-109

114 (2) "Department" means the Department of Commerce.

115 (3) "Director" means the director of the division.

116 (4) "Division" means the Division of Construction Services created in Section 13-34-104.

117 (5) "Executive director" means the executive director of the department.

118 (6) "Individual" means a natural person.

119 (7) "Licensee" includes any holder of a license, certificate, registration, permit, student
120 card, or apprentice card authorized under this chapter.

121 (8) "Unlawful conduct" has the meaning given in Section 13-34-123.

122 (9) "Unprofessional conduct" has the meaning given in Section 13-34-123.

123 Section 4. Section **13-34-104** is enacted to read:

124 **13-34-104. Creation of division.**

125 There is created within the Department of Commerce the Division of Construction
126 Services. The division shall administer and enforce all licensing laws of this chapter.

127 Section 5. Section **13-34-105** is enacted to read:

128 **13-34-105. Director of division -- Appointment -- Duties.**

129 (1) The division shall be under the supervision, direction, and control of a director. The
130 director shall be appointed by the executive director with the approval of the governor. The
131 director shall hold office at the pleasure of the governor.

132 (2) The director shall perform all duties, functions, and responsibilities assigned to the
133 division by law or rule and, where provided, with the collaboration and assistance of the
134 commission.

135 Section 6. Section **13-34-106** is enacted to read:

136 **13-34-106. Employment of staff.**

137 The director, with the approval of the executive director, may employ necessary staff,
138 including specialists and professionals, to assist the director in performing the duties, functions,
139 and responsibilities of the division.

140 Section 7. Section **13-34-107** is enacted to read:

141 **13-34-107. Division -- Duties, functions, and responsibilities.**

142 The duties, functions, and responsibilities of the division include the following:

143 (1) collaborating with the commission to adopt and enforce rules to administer this
144 chapter;

145 (2) investigating the activities of any person whose occupation or profession is regulated
146 or governed by the laws and rules administered and enforced by the division;

147 (3) subpoenaing witnesses, taking evidence, and requiring by subpoena duces tecum the
148 production of any books, papers, documents, records, contracts, recordings, tapes, correspondence,
149 or information relevant to an investigation upon a finding of sufficient need by the director or by
150 the director's designee;

151 (4) taking administrative and judicial action against persons in violation of the laws and

152 rules administered and enforced by the division, including the issuance of cease and desist orders;
153 (5) seeking injunctions and temporary restraining orders to restrain unauthorized activity;
154 (6) giving public notice of commission meetings;
155 (7) keeping records of commission meetings, proceedings, and actions and making those
156 records available for public inspection upon request;
157 (8) issuing, refusing to issue, revoking, suspending, renewing, refusing to renew, or
158 otherwise acting upon any license;
159 (9) establishing the time and place for the administration of examinations; and
160 (10) preparing lists of licensees and making these lists available to the public at cost upon
161 request unless otherwise prohibited by state or federal law.

162 Section 8. Section **13-34-108** is enacted to read:

163 **13-34-108. Annual report -- Budget.**

164 (1) On or before the 1st day of October each year, the director shall report to the governor
165 and the Business and Labor Interim Committee of the Legislature for the preceding fiscal year on
166 the operations, activities, and goals of the division.

167 (2) The director shall prepare and submit to the executive director a budget of the
168 administrative expenses for the division.

169 Section 9. Section **13-34-109** is enacted to read:

170 **13-34-109. Construction Services Commission created -- Functions -- Appointment**
171 **-- Qualifications and terms of members -- Expenses -- Meetings.**

172 (1) There is created within the division the Construction Services Commission. The
173 commission shall:

174 (a) with the concurrence of the director, make reasonable rules to administer and enforce
175 this chapter which are not inconsistent with this chapter including:

176 (i) licensing of various licensees;

177 (ii) prelicensing and postlicensing education curricula, examination procedures, and the
178 certification and conduct of construction trade schools, course providers, and instructors;

179 (iii) proper handling of funds received by construction trade licensees, office procedures,
180 and recordkeeping requirements; and

181 (iv) standards of conduct for various licensees;

182 (b) with the concurrence of the division, adopt a schedule of fees as provided in Section

183 63-38-3.2;

184 (c) except as otherwise provided in Section 13-34-219, conduct all administrative hearings
185 not delegated to an administrative law judge relating to the licensing of any applicant or the
186 conduct or discipline of any licensee;

187 (d) except as otherwise provided in Section 13-34-219, with the concurrence of the
188 director, impose sanctions against licensees and certificate holders as provided in Section
189 13-34-121;

190 (e) advise the director on the administration and enforcement of any matters affecting the
191 division and the construction industry;

192 (f) advise the director on matters affecting the division budget;

193 (g) advise and assist the director in conducting construction trade seminars and industry
194 education and promotion; and

195 (h) perform other duties as provided by this chapter.

196 (2) (a) The commission shall be comprised of 11 members, ten of whom shall be appointed
197 by the executive director with the approval of the governor from the following groups:

198 (i) one member shall be a licensed general engineering contractor, as defined in Section
199 13-34-202;

200 (ii) one member shall be a licensed general building contractor, as defined in Section
201 13-34-202;

202 (iii) two members shall be licensed residential and small commercial contractors, as
203 defined in Section 13-34-202;

204 (iv) one member shall be a licensed journeyman plumber, as defined in Section 13-34-202;

205 (v) one member shall be a licensed master electrician, as defined in Section 13-34-202;

206 (vi) one member shall be a licensed specialty contractor, as defined in Section 13-34-202;

207 (vii) one member shall be a representative of contractors in the electrical trade, as defined
208 in Section 13-34-202;

209 (viii) one member shall be a representative of mechanical contractors, as defined in
210 Section 13-34-202; and

211 (ix) one member shall be a certified public accountant or an individual from a financial
212 institution or surety company.

213 (b) The eleventh member of the commission shall be the director of the Division of

214 Facilities and Construction Management, as a standing member of the commission.

215 (3) (a) Except as required by Subsection (3)(b), as terms of current commission members
216 expire, the governor shall appoint each new member or reappointed member to a four-year term
217 ending June 30.

218 (b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the time
219 of appointment or reappointment, adjust the length of terms to ensure that the terms of commission
220 members are staggered so that approximately 1/2 of the commission members are appointed every
221 two years.

222 (c) A commission member may not serve more than two consecutive terms.

223 (4) The commission shall elect annually one of its members as chair, for a term of one
224 year.

225 (5) When a vacancy occurs in the membership for any reason, the replacement shall be
226 appointed for the unexpired term.

227 (6) (a) Members shall receive no compensation or benefits for their services, but may
228 receive per diem and expenses incurred in the performance of the member's official duties at the
229 rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

230 (b) Members may decline to receive per diem and expenses for their service.

231 (7) The commission shall meet at least monthly. The director may call additional meetings
232 at the director's discretion, upon the request of the chair, or upon the written request of three or
233 more commission members.

234 (8) Six members constitute a quorum for the transaction of business. If a quorum is
235 present when a vote is taken, the affirmative vote of commission members present is the act of the
236 commission.

237 Section 10. Section **13-34-110** is enacted to read:

238 **13-34-110. Adjudicative proceedings.**

239 (1) The division and the commission shall comply with the procedures and requirements
240 of Title 13, Chapter 1, Department of Commerce, and Title 63, Chapter 46b, Administrative
241 Procedures Act, in all of their adjudicative proceedings as defined by Section 63-46b-2.

242 (2) Before issuing an emergency order under Section 63-46b-20, the division shall review
243 the proposed action with a committee of no less than three licensees appointed by the chair of the
244 commission from the trade of the person against whom the action is proposed.

245 (3) Notwithstanding Title 63, Chapter 46b, Administrative Procedures Act, a warning or
246 final disposition letter which does not constitute disciplinary action against the addressee, issued
247 in response to a complaint of unprofessional or unlawful conduct under this chapter, does not
248 constitute an adjudicative proceeding.

249 Section 11. Section **13-34-111** is enacted to read:

250 **13-34-111. Presiding officers -- Content of orders -- Recommended orders -- Final**
251 **orders -- Appeal of orders.**

252 (1) Unless otherwise specified by statute or rule, the presiding officer for adjudicative
253 proceedings before the division and the commission shall be the director.

254 (2) Unless otherwise specified by the director and the commission, an administrative law
255 judge shall be designated as the presiding officer to conduct formal adjudicative proceedings in
256 accordance with Subsection 63-46b-1(4), Sections 63-46b-6 through 63-46b-9, and Section
257 63-46b-11. The commission shall act as the finder of fact.

258 (3) At the close of an evidentiary hearing in an adjudicative proceeding, unless otherwise
259 specified by the director, the presiding officer who served as the fact finder at the hearing shall
260 issue a recommended order based upon the record developed at the hearing, determining all issues
261 pending before the division.

262 (4) (a) The director shall issue a final order affirming the recommended order or modifying
263 or rejecting all or any part of the recommended order and entering new findings of fact,
264 conclusions of law, statement of reasons, and order based upon the director's personal attendance
265 at the hearing or a review of the record developed at the hearing. Before modifying or rejecting
266 a recommended order, the director shall consult with the presiding officer who issued the
267 recommended order.

268 (b) If the director issues a final order modifying or rejecting a recommended order, the
269 commission may petition the executive director or designee within the department to review the
270 director's final order. The executive director's decision shall become the final order of the division.
271 This Subsection (4)(b) does not limit the right of the parties to appeal the director's final order by
272 filing a request for agency review under Subsection (7).

273 (5) If the director is unable for any reason to rule upon a recommended order of a presiding
274 officer, the director may designate another person within the division to issue a final order.

275 (6) If the director or the director's designee does not issue a final order within 20 calendar

276 days after the date of the recommended order of the presiding officer, the recommended order
277 becomes the final order of the director or his designee.

278 (7) The final order of the director may be appealed by filing a request for agency review
279 with the executive director or the director's designee within the department.

280 (8) The content of all orders shall comply with the requirements of Subsection
281 63-46b-5(1)(i) and Sections 63-46b-10 and 63-46b-11.

282 Section 12. Section **13-34-112** is enacted to read:

283 **13-34-112. Duties, functions, and responsibilities of division in collaboration with**
284 **commission.**

285 The following duties, functions, and responsibilities of the division shall be performed by
286 the division with the collaboration and assistance of the commission:

287 (1) defining educational prerequisites for licensure;

288 (2) prescribing license qualifications;

289 (3) prescribing reasonable rules governing applications for licenses;

290 (4) providing for a fair and impartial method of examination of applicants;

291 (5) defining unprofessional conduct, by rule, to supplement the definitions under this
292 chapter;

293 (6) establishing advisory peer committees to the commission and prescribing their scope
294 of authority; and

295 (7) establishing conditions for reinstatement and renewal of licenses.

296 Section 13. Section **13-34-113** is enacted to read:

297 **13-34-113. License application -- Licensing procedure.**

298 (1) (a) Each license applicant shall apply to the division in writing upon forms available
299 from the division. Each completed application shall contain documentation of the particular
300 qualifications required of the applicant, shall include the applicant's social security number, shall
301 be verified by the applicant, and shall be accompanied by the appropriate fees.

302 (b) An applicant's social security number is a private record under Section 63-2-302.

303 (2) (a) A license shall be issued to an applicant who submits a complete application if the
304 division determines that the applicant meets the qualifications of licensure.

305 (b) A written notice of additional proceedings shall be provided to an applicant who
306 submits a complete application, but who has been, is, or will be placed under investigation by the

307 division for conduct directly bearing upon the applicant's qualifications for licensure, if the
308 outcome of additional proceedings is required to determine the division's response to the
309 application.

310 (c) A written notice of denial of licensure shall be provided to an applicant who submits
311 a complete application if the division determines that the applicant does not meet the qualifications
312 of licensure.

313 (d) A written notice of incomplete application and conditional denial of licensure shall be
314 provided to an applicant who submits an incomplete application. This notice shall advise the
315 applicant that the application is incomplete and that the application is denied, unless the applicant
316 corrects the deficiencies within the time period specified in the notice and otherwise meets all
317 qualifications for licensure.

318 (3) Before any person is issued a license under this chapter, all requirements for that
319 license as established under this chapter and by reasonable rule shall be met.

320 (4) If all requirements are met for the specific license, the division shall issue the license.

321 Section 14. Section **13-34-114** is enacted to read:

322 **13-34-114. License by endorsement.**

323 The division may issue a license without examination to a person who has been licensed
324 in any state, district, or territory of the United States or in any foreign country, whose education,
325 experience, and examination requirements are, or were at the time the license was issued, equal
326 to those of this state. Before any person may be issued a license under this section, the person shall
327 produce satisfactory evidence of qualifications, identity, and good standing in the person's
328 occupation or trade.

329 Section 15. Section **13-34-115** is enacted to read:

330 **13-34-115. Restricted license.**

331 (1) The division may issue a restricted license to an applicant for licensure, renewal, or
332 reinstatement of licensure if:

333 (a) the applicant appears to meet the qualifications for licensure, but has engaged in
334 unlawful, unprofessional, or other conduct bearing upon the applicant's qualifications; and

335 (b) the division determines the need to observe the applicant in a monitored or supervised
336 practice of the applicant's occupation or trade or to attach other reasonable restrictions upon the
337 applicant in order to accommodate licensure, while protecting the public health, safety, and

338 welfare.

339 (2) Issuance of a restricted license is considered a partial denial of licensure that is subject
340 to agency review.

341 Section 16. Section **13-34-116** is enacted to read:

342 **13-34-116. Inactive license.**

343 (1) The division may adopt reasonable rules permitting inactive licensure. The rules shall
344 specify the requirements and procedures for placing a license on inactive status, the length of time
345 a license may remain on inactive status, and the requirements and procedures to activate an
346 inactive license.

347 (2) Except as otherwise specified by rule, an inactive licensee has no right or privilege to
348 engage in the practice of the licensed occupation or profession.

349 Section 17. Section **13-34-117** is enacted to read:

350 **13-34-117. Surrender of license.**

351 (1) The division may, by written agreement, accept the voluntary surrender of a license.

352 (2) Unless otherwise stated in the written agreement, tender and acceptance of a voluntary
353 surrender of a license does not foreclose the division from pursuing additional disciplinary or other
354 action authorized under this chapter or in reasonable rules adopted under this chapter.

355 (3) Unless otherwise stated in the written agreement, tender and acceptance of a voluntary
356 surrender of a license terminates all rights and privileges associated with the license.

357 (4) Unless otherwise stated in the written agreement, the surrendered rights and privileges
358 of licensure may be reacquired only by reapplying for licensure and meeting the requirements for
359 a new or reinstated license set forth under this chapter or in rules adopted under this chapter.

360 (5) Unless otherwise stated in the written agreement, documentation of tender and
361 acceptance of a voluntary surrender of a license is a public record.

362 (6) Unless otherwise stated in the written agreement, when a tender and acceptance of a
363 voluntary surrender of a license occurs while adjudicative proceedings are pending against the
364 licensee for unprofessional or unlawful conduct, the division may report the surrender of license
365 to appropriate state and federal agencies and licensing data banks.

366 Section 18. Section **13-34-118** is enacted to read:

367 **13-34-118. Exemptions from licensure.**

368 (1) Except as otherwise provided by statute or reasonable rule, the following persons may

369 engage in the practice of their occupation or trade, subject to the stated circumstances and
370 limitations, without being licensed under this chapter:

371 (a) a person serving in the armed forces of the United States, the United States Public
372 Health Service, the United States Department of Veterans Affairs, or other federal agencies while
373 engaged in activities regulated under this chapter as a part of employment with that federal agency
374 if the person holds a valid license to practice a regulated occupation or trade issued by any other
375 state or jurisdiction recognized by the division;

376 (b) a student engaged in activities constituting the practice of a regulated occupation or
377 trade while in training in a recognized school approved by the division to the extent the activities
378 are supervised by qualified faculty, staff, or designee and the activities are a defined part of the
379 training program; and

380 (c) an individual licensed under the laws of this state, other than under this chapter, to
381 practice or engage in an occupation or trade, while engaged in the lawful, professional, and
382 competent practice of that occupation or trade.

383 (2) An individual who is licensed under a specific chapter of this chapter to practice or
384 engage in an occupation or trade may engage in the lawful, professional, and competent practice
385 of that occupation or trade without additional licensure under other parts of this chapter, except
386 as otherwise provided by this chapter.

387 (3) Upon the declaration of a national, state, or local emergency, the division in
388 collaboration with the commission may suspend the requirements for permanent or temporary
389 licensure of persons who are licensed in another state. Persons exempt under this Subsection (3)
390 shall be exempt from licensure for the duration of the emergency while engaged in the scope of
391 practice for which they are licensed in the other state.

392 Section 19. Section **13-34-119** is enacted to read:

393 **13-34-119. Term of license -- Expiration of license -- Renewal of license --**
394 **Reinstatement of license -- Application procedures.**

395 (1) Each license issued under this chapter shall be issued in accordance with a two-year
396 renewal cycle established by rule. A renewal period may be extended or shortened by as much as
397 one year to maintain established renewal cycles or to change an established renewal cycle.

398 (2) The expiration date of a license shall be shown on the license. A license that is not
399 renewed prior to the expiration date shown on the license automatically expires.

400 (a) A license automatically expires prior to the expiration date shown on the license upon
401 the death of a licensee who is a natural person, or upon the dissolution of a licensee that is a
402 partnership, corporation, or other business entity.

403 (b) If the existence of a dissolved partnership, corporation, or other business entity is
404 reinstated prior to the expiration date shown upon the entity's expired license issued by the
405 division, the division shall, upon written application, reinstate the applicant's license, unless it
406 finds that the applicant no longer meets the qualifications for licensure.

407 (c) Expiration of licensure is not an adjudicative proceeding under Title 63, Chapter 46b,
408 Administrative Procedures Act.

409 (3) (a) The division shall notify each licensee in accordance with reasonable procedures
410 established by rule that the licensee's license is due for renewal and that unless an application for
411 renewal is received by the division by the expiration date shown on the license, together with the
412 appropriate renewal fee and documentation showing completion of or compliance with renewal
413 qualifications, the license will not be renewed.

414 (b) Examples of renewal qualifications which by statute or rule the commission in
415 collaboration with the division may require the licensee to document completion of or compliance
416 with include:

417 (i) continuing education;

418 (ii) continuing competency;

419 (iii) quality assurance;

420 (iv) utilization plan and protocol;

421 (v) financial responsibility;

422 (vi) certification renewal;

423 (vii) calibration of equipment; and

424 (viii) adequacy of bonding or errors and omission insurance coverage, for the protection
425 of the public.

426 (4) (a) An application for renewal that complies with Subsection (3) is complete. A
427 renewed license shall be issued to applicants who submit a complete application, unless it is
428 apparent to the division that the applicant no longer meets the qualifications for continued
429 licensure.

430 (b) The division may evaluate or verify documentation showing completion of or

431 compliance with renewal requirements on an entire population on a random sample basis, and may
432 be assisted by advisory peer committees. If necessary, the division may complete its evaluation
433 or verification subsequent to renewal and, if appropriate, pursue action to suspend or revoke the
434 license of a licensee who no longer meets the qualifications for continued licensure.

435 (c) The application procedures specified in Subsection 13-34-113(2), apply to renewal
436 applications to the extent they are not in conflict with this section.

437 (5) Any license that is not renewed may be reinstated at any time within two years after
438 nonrenewal upon submission of an application for reinstatement, payment of the renewal fee
439 together with a reinstatement fee determined by the department under Section 63-38-3.2, and upon
440 submission of documentation showing completion of or compliance with renewal qualifications.
441 The application procedures specified in Subsection 13-34-113(2) apply to the reinstatement
442 applications to the extent they are not in conflict with this section.

443 (6) (a) If not reinstated within two years, the holder may obtain a license only if the holder
444 meets requirements provided by the division by rule or by statute for a new license.

445 (b) Each licensee under this chapter who has been active in the licensed occupation or
446 trade while in the full-time employ of the United States government or under license to practice
447 that occupation or trade in any other state or territory of the United States may reinstate the license
448 without taking an examination by submitting an application for reinstatement, paying the current
449 annual renewal fee and the reinstatement fee, and submitting documentation showing completion
450 of or compliance with any renewal qualifications at any time within six months after reestablishing
451 domicile within Utah or terminating full-time government service.

452 Section 20. Section **13-34-120** is enacted to read:

453 **13-34-120. Laws and rules examination.**

454 In addition to qualifications for licensure or renewal of licensure enumerated in specific
455 practice parts under this chapter, the division may by rule require an applicant to pass an
456 examination of the laws and rules relevant to the occupation or trade to ensure familiarity with
457 these laws and rules.

458 Section 21. Section **13-34-121** is enacted to read:

459 **13-34-121. Grounds for denial of license -- Disciplinary proceedings -- Time**
460 **limitations -- Sanctions.**

461 (1) The division shall refuse to issue a license to an applicant and shall refuse to renew or

462 shall revoke, suspend, restrict, place on probation, or otherwise act upon the license of a licensee
463 who does not meet the qualifications for licensure under this chapter.

464 (2) The division may refuse to issue a license to an applicant and may refuse to renew or
465 may revoke, suspend, restrict, place on probation, issue a public or private reprimand to, or
466 otherwise act upon the license of any licensee in any of the following cases:

467 (a) the applicant or licensee has engaged in unprofessional conduct, as defined in this
468 chapter;

469 (b) the applicant or licensee has engaged in unlawful conduct as defined in this chapter;

470 (c) the applicant or licensee has been determined to be mentally incompetent for any
471 reason by a court of competent jurisdiction; or

472 (d) the applicant or licensee is unable to practice the occupation or trade with reasonable
473 skill and safety because of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or
474 any other type of material, or as a result of any other mental or physical condition, when the
475 licensee's condition demonstrates a threat or potential threat to the public health, safety, or welfare.

476 (3) Any licensee whose license to practice an occupation or trade regulated by this chapter
477 has been suspended, revoked, or restricted may apply for reinstatement of the license at reasonable
478 intervals and upon compliance with any conditions imposed upon the licensee by statute, rule, or
479 terms of the license suspension, revocation, or restriction.

480 (4) The division may issue cease and desist orders:

481 (a) to a licensee or applicant who may be disciplined under Subsection (1) or (2);

482 (b) to any person who engages in, or represents to others that the person is engaged in, an
483 occupation or trade regulated under this chapter; and

484 (c) to any person who otherwise violates this chapter or any rules adopted under this
485 chapter.

486 (5) (a) The division may not take disciplinary action against any person for unprofessional
487 or unlawful conduct under this chapter, unless the division initiates an adjudicative proceeding
488 regarding the conduct within four years after the conduct is reported to the division, except under
489 Subsection (5)(b).

490 (b) The division may not take disciplinary action against any person for unprofessional or
491 unlawful conduct more than ten years after the occurrence of the conduct, unless the proceeding
492 is in response to a civil or criminal judgment or settlement and the proceeding is initiated within

493 one year following the judgment or settlement.

494 Section 22. Section **13-34-122** is enacted to read:

495 **13-34-122. Administrative review.**

496 Any applicant who has been denied a license to practice on the basis of credentials,
497 character, or failure to pass a required examination, or who has been refused renewal or
498 reinstatement of a license to practice on the basis that the applicant does not meet qualifications
499 for continued licensure in any occupation or trade under the jurisdiction of the division may submit
500 a request for agency review to the executive director within 30 days following notification of the
501 denial of a license or refusal to renew or reinstate a license.

502 Section 23. Section **13-34-123** is enacted to read:

503 **13-34-123. Minimum 90-day suspension.**

504 A license may not be reinstated subsequent to action taken under Section 13-34-121 within
505 90 days after the action has been taken, unless the division in collaboration with the commission
506 imposes other conditions.

507 Section 24. Section **13-34-124** is enacted to read:

508 **13-34-124. Unlawful and unprofessional conduct.**

509 (1) "Unlawful conduct" means conduct, by any person, that is defined as unlawful under
510 this chapter and includes:

511 (a) practicing or engaging in, representing oneself to be practicing or engaging in, or
512 attempting to practice or engage in any occupation or trade requiring licensure under this chapter
513 if the person is:

514 (i) not licensed to do so or not exempted from licensure under this chapter; or

515 (ii) restricted from doing so by a suspended, revoked, restricted, temporary, probationary,
516 or inactive license;

517 (b) impersonating another licensee or practicing an occupation or trade under a false or
518 assumed name, except as permitted by law;

519 (c) knowingly employing any other person to practice or engage in or attempt to practice
520 or engage in any occupation or trade licensed under this chapter if the employee is not licensed to
521 do so under this chapter;

522 (d) knowingly permitting the person's authority to practice or engage in any occupation or
523 trade licensed under this chapter to be used by another, except as permitted by law; or

524 (e) obtaining a passing score on a licensure examination, applying for or obtaining a
525 license, or otherwise dealing with the division or a licensing board through the use of fraud,
526 forgery, or intentional deception, misrepresentation, misstatement, or omission.

527 (2) "Unprofessional conduct" means conduct, by a licensee or applicant, that is defined as
528 unprofessional conduct under this chapter or under any rule adopted under this chapter and
529 includes:

530 (a) violating, or aiding or abetting any other person to violate, any statute, rule, or order
531 regulating an occupation or trade under this chapter;

532 (b) violating, or aiding or abetting any other person to violate, any generally accepted
533 professional or ethical standard applicable to an occupation or trade regulated under this chapter;

534 (c) engaging in conduct that results in conviction, a plea of nolo contendere, or a plea of
535 guilty or nolo contendere which is held in abeyance pending the successful completion of
536 probation with respect to a crime of moral turpitude or any other crime that, when considered with
537 the functions and duties of the occupation or trade for which the license was issued or is to be
538 issued, bears a reasonable relationship to the licensee's or applicant's ability to safely or
539 competently practice the occupation or trade;

540 (d) engaging in conduct that results in disciplinary action, including reprimand, censure,
541 diversion, probation, suspension, or revocation, by any other licensing or regulatory authority
542 having jurisdiction over the licensee or applicant in the same occupation or trade if the conduct
543 would, in this state, constitute grounds for denial of licensure or disciplinary proceedings under
544 Section 13-34-121;

545 (e) engaging in conduct, including the use of intoxicants, drugs, narcotics, or similar
546 chemicals, to the extent that the conduct does, or might reasonably be considered to, impair the
547 ability of the licensee or applicant to safely engage in the occupation or trade;

548 (f) practicing or attempting to practice an occupation or trade regulated under this chapter
549 despite being physically or mentally unfit to do so;

550 (g) practicing or attempting to practice an occupation or trade regulated under this chapter
551 through gross incompetence, gross negligence, or a pattern of incompetency or negligence;

552 (h) practicing or attempting to practice an occupation or trade requiring licensure under
553 this chapter by any form of action or communication which is false, misleading, deceptive, or
554 fraudulent;

555 (i) practicing or attempting to practice an occupation or trade regulated under this chapter
 556 beyond the scope of the licensee's competency, abilities, or education;

557 (j) practicing or attempting to practice an occupation or trade regulated under this chapter
 558 beyond the scope of the licensee's license;

559 (k) verbally, physically, mentally, or sexually abusing or exploiting any person through
 560 conduct connected with the licensee's practice under this chapter or otherwise facilitated by the
 561 licensee's license; or

562 (l) acting as a supervisor without meeting the qualification requirements for that position
 563 that are defined by statute or rule.

564 Section 25. Section **13-34-125** is enacted to read:

565 **13-34-125. Unlawful conduct -- Penalty.**

566 Unless otherwise specified in this chapter, any person who violates the unlawful conduct
 567 provisions defined in this chapter is guilty of a class A misdemeanor.

568 Section 26. Section **13-34-126** is enacted to read:

569 **13-34-126. Maximum civil penalty for violation of court order.**

570 (1) If any written order issued under this chapter or if an injunction or temporary
 571 restraining order issued by a court of competent jurisdiction relating to this chapter is violated, the
 572 court may impose a civil penalty of not more than \$2,000 for each day the written order,
 573 injunction, or temporary restraining order is violated, if the person in violation has received notice
 574 of the written order, injunction, or temporary restraining order.

575 (2) All penalties ordered under this section shall be deposited into the General Fund.

576 Section 27. Section **13-34-127** is enacted to read:

577 **13-34-127. Court-ordered discipline.**

578 The division shall promptly withhold, suspend, restrict, or reinstate the use of a license
 579 issued under this chapter if so ordered by a court.

580 Section 28. Section **13-34-201**, which is renumbered from Section 58-55-101 is
 581 renumbered and amended to read:

582 **Part 2. Utah Construction Trades Licensing**

583 **[58-55-101]. 13-34-201. Title.**

584 This ~~chapter~~ part is known as the "Utah Construction Trades Licensing Act."

585 Section 29. Section **13-34-202**, which is renumbered from Section 58-55-102 is

586 renumbered and amended to read:

587 ~~[58-55-102].~~ 13-34-202. Definitions.

588 In addition to the definitions in Section ~~[58-1-102]~~ 13-34-102, as used in this ~~[chapter]~~
589 part:

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

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

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

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

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

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

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

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

607 (4) "Apprentice electrician" means a person licensed under this chapter as an apprentice
608 electrician who is learning the electrical trade under approved supervision of a master electrician,
609 residential master electrician, a journeyman electrician, or a residential journeyman electrician.

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

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

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

616 ~~[(8)]~~ (7) "Construction trade" means any trade or occupation involving construction,

617 alteration, remodeling, repairing, wrecking or demolition, addition to, or improvement of any
618 building, highway, road, railroad, dam, bridge, structure, excavation or other project, development,
619 or improvement to other than personal property.

620 ~~[(9)]~~ (8) "Construction trades instructor" means a person licensed under this chapter to
621 teach one or more construction trades in both a classroom and project environment, where a project
622 is intended for sale to or use by the public and is completed under the direction of an instructor
623 who has no economic interest in the project.

624 ~~[(10)]~~ (9) (a) "Contractor" means any person who for compensation other than wages as
625 an employee undertakes any work in the construction, plumbing, or electrical trade for which
626 licensure is required under this chapter and includes:

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

629 (ii) any person who represents ~~[himself to be]~~ to others that the person is a contractor by
630 advertising or any other means;

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

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

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

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

638 ~~[(11)]~~ (10) (a) "Electrical trade" means the performance of any electrical work involved
639 in the installation, construction, alteration, change, repair, removal, or maintenance of facilities,
640 buildings, or appendages or appurtenances.

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

642 (i) transporting or handling electrical materials;

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

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

646 (c) For purposes of Subsection ~~[(11)]~~ (10)(b):

647 (i) no more than one unlicensed person may be so employed unless more than five licensed

648 electricians are employed by the shop; and

649 (ii) a shop may not employ unlicensed persons in excess of the five-to-one ratio permitted
650 by this Subsection [~~(11)~~] (10)(c).

651 [~~(12)~~] (13) "Employee" means an individual as defined by the division by rule giving
652 consideration to the [~~definition~~] definitions adopted by the Internal Revenue Service and the
653 Department of Workforce Services.

654 [~~(13)~~] (14) "Engage in a construction trade" means to:

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

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

659 [~~(14)~~] (15) "Financial responsibility" means a demonstration of a current and expected
660 future condition of financial solvency evidencing a reasonable expectation to the division and the
661 [~~board~~] commission that an applicant or licensee can successfully engage in business as a
662 contractor without jeopardy to the public health, safety, and welfare. Financial responsibility may
663 be determined by an evaluation of the total history concerning the licensee or applicant including
664 past, present, and expected condition and record of financial solvency and business conduct.

665 [~~(15)~~] (16) "General building contractor" means a person licensed under this chapter as a
666 general building contractor qualified by education, training, experience, and knowledge to perform
667 or superintend construction of structures for the support, shelter, and enclosure of persons, animals,
668 chattels, or movable property of any kind or any of the components of that construction except
669 plumbing, electrical, and mechanical, for which the general building contractor shall employ the
670 services of a contractor licensed in the particular specialty, except that a general building
671 contractor engaged in the construction of single-family and multifamily residences up to four units
672 may perform the mechanical and hire a licensed plumber or electrician as an employee. The
673 division may by rule exclude general building contractors from engaging in the performance of
674 other construction specialties in which there is represented a substantial risk to the public health,
675 safety, and welfare, and for which a license is required unless that general building contractor
676 holds a valid license in that specialty classification.

677 [~~(16)~~] (17) "General engineering contractor" means a person licensed under this chapter
678 as a general engineering contractor qualified by education, training, experience, and knowledge

679 to perform construction of fixed works in any or all of the following: irrigation, drainage, water,
680 power, water supply, flood control, inland waterways, harbors, railroads, highways, tunnels,
681 airports and runways, sewers and bridges, refineries, pipelines, chemical and industrial plants
682 requiring specialized engineering knowledge and skill, piers, and foundations, or any of the
683 components of those works. However, a general engineering contractor may not perform
684 construction of structures built primarily for the support, shelter, and enclosure of persons,
685 animals, and chattels.

686 ~~[(17)]~~ (18) "Immediate supervision" means reasonable direction, oversight, inspection, and
687 evaluation of the work of a person, in or out of the immediate presence of the supervising person,
688 so as to ensure that the end result complies with applicable standards.

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

690 ~~[(19)]~~ (19) "Journeyman electrician" means a person licensed under this chapter as a
691 journeyman electrician having the qualifications, training, experience, and knowledge to wire,
692 install, and repair electrical apparatus and equipment for light, heat, power, and other purposes.

693 ~~[(20)]~~ (20) "Journeyman plumber" means a person licensed under this chapter as a
694 journeyman plumber having the qualifications, training, experience, and technical knowledge to
695 engage in the plumbing trade.

696 ~~[(21)]~~ (21) "Master electrician" means a person licensed under this chapter as a master
697 electrician having the qualifications, training, experience, and knowledge to properly plan, layout,
698 and supervise the wiring, installation, and repair of electrical apparatus and equipment for light,
699 heat, power, and other purposes.

700 ~~[(22)]~~ (22) "Mechanical contractor" means a contractor in the plumbing trade or the heating and
701 air conditioning trade.

702 ~~[(23)]~~ (23) "Person" means a natural person, sole proprietorship, joint venture, corporation,
703 limited liability company, association, or organization of any type.

704 ~~[(24)]~~ (24) "Plumbing trade" means the performance of any mechanical work pertaining
705 to the installation, alteration, change, repair, removal, maintenance, or use in buildings or within
706 three feet beyond the outside walls of buildings of pipes, fixtures, and fittings for delivery of the
707 water supply, discharge of liquid and water carried waste, or the building drainage system within
708 the walls of the building. It includes that work pertaining to the water supply, distribution pipes,
709 fixtures, and fixture traps, the soil, waste and vent pipes, and the building drain and roof drains

710 together with their devices, appurtenances, and connections where installed within the outside
711 walls of the building.

712 [~~(24)~~] (25) "Ratio of apprentices" means, for the purpose of determining compliance with
713 the requirements for planned programs of training and electrician apprentice licensing applications,
714 the shop ratio of apprentice electricians to journeyman or master electricians shall be one
715 journeyman or master electrician to one apprentice on industrial and commercial work, and one
716 journeyman or master electrician to three apprentices on residential work. All on-the-job training
717 shall be under circumstances in which the ratio of apprentices to supervisors is in accordance with
718 a ratio of one-to-one on nonresidential work and up to three apprentices to one supervisor on
719 residential projects.

720 [~~(25)~~] (26) "Residential and small commercial contractor" means a person licensed under
721 this chapter as a residential and small commercial contractor qualified by education, training,
722 experience, and knowledge to perform or superintend the construction of single-family residences,
723 multifamily residences up to four units, and commercial construction of not more than three stories
724 above ground and not more than 20,000 square feet, or any of the components of that construction
725 except plumbing, electrical, and mechanical, for which the residential and small commercial
726 contractor shall employ the services of a contractor licensed in the particular specialty, except that
727 a residential and small commercial contractor engaged in the construction of single-family and
728 multifamily residences up to four units may perform the mechanical work and hire a licensed
729 plumber or electrician as an employee.

730 [~~(26)~~] (27) "Residential apprentice plumber" means a person licensed under this chapter
731 as a residential apprentice plumber who is learning the residential plumbing trade while working
732 on residential buildings under the approved supervision of a residential journeyman plumber or
733 a journeyman plumber.

734 [~~(27)~~] (28) "Residential building," as it relates to the license classification of residential
735 apprentice plumber and residential journeyman plumber, means a single or multiple family
736 dwelling of up to four units.

737 [~~(28)~~] (29) "Residential journeyman electrician" means a person licensed under this
738 chapter as a residential journeyman electrician having the qualifications, training, experience, and
739 knowledge to wire, install, and repair electrical apparatus and equipment for light, heat, power, and
740 other purposes on buildings using primarily nonmetallic sheath cable.

741 ~~[(29)]~~ (30) "Residential journeyman plumber" means a person licensed under this chapter
742 as a residential journeyman plumber having the qualifications, training, experience, and knowledge
743 to engage in the plumbing trade as limited to the plumbing of residential buildings.

744 ~~[(30)]~~ (31) "Residential master electrician" means a person licensed under this chapter as
745 a residential master electrician having the qualifications, training, experience, and knowledge to
746 properly plan, layout, and supervise the wiring, installation, and repair of electrical apparatus and
747 equipment for light, heat, power, and other purposes on residential projects.

748 ~~[(31)]~~ (32) "Residential project," as it relates to an electrician or electrical contractor,
749 means buildings primarily wired with nonmetallic sheathed cable, in accordance with standard
750 rules and regulations governing this work, including the National Electrical Code, and in which
751 the voltage does not exceed 250 volts line to line and 125 volts to ground.

752 ~~[(32)]~~ (33) "Specialty contractor" means a person licensed under this chapter under a
753 specialty contractor classification established by rule, who is qualified by education, training,
754 experience, and knowledge to perform those construction trades and crafts requiring specialized
755 skill the regulation of which are determined by the division to be in the best interest of the public
756 health, safety, and welfare. A specialty contractor may perform work in crafts or trades other than
757 those in which he is licensed if they are incidental to the performance of his licensed craft or trade.

758 ~~[(33)]~~ (34) "Unlawful conduct" is as defined in Sections ~~[58-1-501]~~ 13-34-124 and
759 ~~[58-55-501]~~ 13-34-217.

760 ~~[(34)]~~ (35) "Unprofessional conduct" is as defined in Sections ~~[58-1-501]~~ 13-34-124 and
761 ~~[58-55-502]~~ 13-34-218 and as may be further defined by rule.

762 ~~[(35)]~~ (36) "Wages" means all amounts due an employee for labor or services whether the
763 amount is fixed or ascertained on a time, task, piece, commission, or other basis for calculating the
764 amount.

765 Section 30. Section **13-34-203**, which is renumbered from Section 58-55-301 is
766 renumbered and amended to read:

767 ~~[58-55-301]~~. **13-34-203. License required -- License classifications.**

768 (1) (a) Any person engaged in the construction trades licensed under this ~~[chapter]~~ part,
769 as a contractor regulated under this ~~[chapter]~~ part, as an alarm business or company, or as an alarm
770 company agent, shall become licensed under this ~~[chapter]~~ part before engaging in that trade or
771 contracting activity in this state unless specifically exempted from licensure under Section

772 [~~58-1-307 or 58-55-305~~] 13-34-118.

773 (b) The license issued under this chapter and the business license issued by the local
774 jurisdiction in which the licensee has its principal place of business shall be the only licenses
775 required for the licensee to engage in a trade licensed by this chapter[;] within the state.

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

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

- 784 (a) general engineering contractor;
- 785 (b) general building contractor;
- 786 (c) residential and small commercial contractor;
- 787 (d) specialty contractor;
- 788 (e) journeyman plumber;
- 789 (f) apprentice plumber;
- 790 (g) residential journeyman plumber;
- 791 (h) residential apprentice plumber;
- 792 (i) master electrician;
- 793 (j) residential master electrician;
- 794 (k) journeyman electrician;
- 795 (l) residential journeyman electrician;
- 796 (m) apprentice electrician;
- 797 (n) construction trades instructor:
 - 798 (i) general engineering classification;
 - 799 (ii) general building classification;
 - 800 (iii) electrical classification;
 - 801 (iv) plumbing classification; and
 - 802 (v) mechanical classification;

- 803 (o) alarm company; and
804 (p) alarm company agent.

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

809 Section 31. Section ~~13-34-204~~, which is renumbered from Section 58-55-302 is
810 renumbered and amended to read:

811 ~~[58-55-302].~~ **13-34-204. Qualifications for licensure.**

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

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

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

815 (c) (i) meet the examination requirements established by rule by the ~~[division in~~
816 ~~collaboration with the appropriate board]~~ commission with the concurrence of the director, except
817 for the classifications of apprentice plumber, residential apprentice plumber, and apprentice
818 electrician for whom no examination is required; or

819 (ii) if required in Section 13-34-206, the individual qualifier must pass the required
820 examination if the applicant is a business entity;

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

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

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

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

828 (iii) be a licensed master electrician if an applicant for an electrical contractor's license or
829 a licensed master residential electrician if an applicant for a residential electrical contractor's
830 license; or

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

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

834 requirements established by rule.

835 (2) After approval of an applicant for a contractor's license by the ~~[board]~~ commission and
836 the division, the applicant shall file the following with the division before the division issues the
837 license:

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

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

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

843 (i) Utah Department of Commerce;

844 (ii) Division of Corporations and Commercial Code;

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

847 (iv) State Tax Commission; and

848 (v) Internal Revenue Service.

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

851 (a) A journeyman plumber applicant shall produce satisfactory evidence of:

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

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

858 (iii) satisfactory evidence of meeting the qualifications determined by the ~~[division and~~
859 ~~board]~~ commission with the concurrence of the director to be equivalent to Subsection (3)(a)(i) or
860 (a)(ii).

861 (b) A residential journeyman plumber shall produce satisfactory evidence of ~~[completion~~
862 ~~of]~~:

863 (i) completion of the equivalent of at least three years of full-time training and instruction
864 as a licensed apprentice plumber under the supervision of a licensed residential journeyman

865 plumber or licensed journeyman plumber in accordance with a planned program of training
866 approved by the division;

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

869 (iii) [~~satisfactory evidence of~~] meeting the qualifications determined by the [~~division and~~
870 ~~board~~] commission with the concurrence of the director to be equivalent to Subsection (3)(b)(i)
871 or (b)(ii).

872 (c) A master electrician applicant shall produce satisfactory evidence that [~~he either~~] the
873 applicant:

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

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

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

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

884 (v) meets the qualifications determined by the [~~division and board~~] commission with the
885 concurrence of the director to be equivalent to these qualifications.

886 (d) A master residential electrician applicant shall produce satisfactory evidence that [~~he~~]
887 the applicant:

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

890 (ii) meets the qualifications determined by the [~~division and board~~] commission with the
891 concurrence of the director to be equivalent to this practical experience.

892 (e) A journeyman electrician applicant shall produce satisfactory evidence that [~~he either~~]
893 the applicant:

894 (i) has successfully completed at least four years of full-time training and instruction as
895 a licensed apprentice electrician under the supervision of a master electrician or journeyman

896 electrician and in accordance with a planned training program approved by the division;

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

900 (iii) meets the qualifications determined by the ~~[division and board]~~ commission with the
901 concurrence of the director to be equivalent to these qualifications.

902 (f) A residential journeyman electrician applicant shall produce satisfactory evidence that
903 ~~[he]~~ the applicant:

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

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

909 (iii) meets the qualifications determined by the division and ~~[board]~~ the commission to be
910 equivalent to Subsection (3)(f)(i) or (f)(ii).

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

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

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

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

922 (h) An alarm company applicant shall:

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

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

926 (B) demonstrates 2,000 hours of experience as a manager or administrator in the alarm

927 company business or in a construction business; and

928 (C) passes an examination component established by rule by the [~~division in collaboration~~
929 ~~with the board~~] commission with the concurrence of the director;

930 (ii) if a corporation, provide:

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

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

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

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

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

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

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

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

956 (vii) document that none of the applicant's officers, directors, shareholders described in
957 Subsection (3)(h)(ii)(B), partners, proprietors, and responsible management personnel have been

958 declared by any court of competent jurisdiction incompetent by reason of mental defect or disease
959 and not been restored;

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

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

964 (A) comprehensive general liability insurance in form and in amounts to be established
965 by rule by the [~~division in collaboration with the board~~] commission with the concurrence of the
966 director;

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

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

970 (I) Division of Corporations and Commercial Code;

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

973 (III) State Tax Commission; and

974 (IV) Internal Revenue Service; and

975 (x) meet with the division and [~~board~~] commission.

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

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

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

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

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

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

989 (vi) meet with the division and [~~board~~] commission if requested by the division or the
990 [~~board~~] commission.

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

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

997 (a) conduct a search of records of the Department of Public Safety for criminal history
998 information relating to each applicant for licensure as an alarm company or alarm company agent
999 and each applicant's officers, directors, [~~and~~] shareholders described in Subsection (3)(h)(ii)(B),
1000 partners, proprietors, and responsible management personnel; and

1001 (b) forward to the Federal Bureau of Investigation a fingerprint card of each applicant
1002 requiring a check of records of the F.B.I. for criminal history information under this section.

1003 (6) The Department of Public Safety shall send to the division:

1004 (a) a written record of criminal history, or certification of no criminal history record, as
1005 contained in the records of the Department of Public Safety in a timely manner after receipt of a
1006 fingerprint card from the division and a request for review of Department of Public Safety records;
1007 and

1008 (b) the results of the F.B.I. review concerning an applicant in a timely manner after receipt
1009 of information from the F.B.I.

1010 (7) (a) The division shall charge each applicant for licensure as an alarm company or alarm
1011 company agent a fee, in accordance with Section 63-38-3.2, equal to the cost of performing the
1012 records reviews under this section.

1013 (b) The division shall pay the Department of Public Safety the costs of all records reviews,
1014 and the Department of Public Safety shall pay the F.B.I. the costs of records reviews under this
1015 section.

1016 (8) Information obtained by the division from the reviews of criminal history records of
1017 the Department of Public Safety and the F.B.I. shall be used or disseminated by the division only
1018 for the purpose of determining if an applicant for licensure as an alarm company or alarm company
1019 agent is qualified for licensure.

1020 (9) (a) An application for licensure under this chapter shall be denied if:
1021 (i) the applicant has had a previous license, which was issued under this chapter,
1022 suspended or revoked within one year prior to the date of the applicant's application;
1023 (ii) (A) the applicant is a partnership, corporation, or limited liability company; and
1024 (B) any corporate officer, director, shareholder holding 25% or more of the stock in the
1025 applicant, partner, member, agent acting as a qualifier, or any person occupying a similar status,
1026 performing similar functions, or directly or indirectly controlling the applicant has served in any
1027 similar capacity with any person or entity which has had a previous license, which was issued
1028 under this chapter, suspended or revoked within one year prior to the date of the applicant's
1029 application; or
1030 (iii) (A) the applicant is an individual or sole proprietorship; and
1031 (B) any owner or agent acting as a qualifier has served in any capacity listed in Subsection
1032 (9)(a)(ii)(B) in any entity which has had a previous license, which was issued under this chapter,
1033 suspended or revoked within one year prior to the date of the applicant's application.
1034 (b) An application for licensure under this chapter shall be reviewed by the [~~appropriate~~
1035 ~~licensing board~~] commission prior to approval if:
1036 (i) the applicant has had a previous license, which was issued under this chapter,
1037 suspended or revoked more than one year prior to the date of the applicant's application;
1038 (ii) (A) the applicant is a partnership, corporation, or limited liability company; and
1039 (B) any corporate officer, director, shareholder holding 25% or more of the stock in the
1040 applicant, partner, member, agent acting as a qualifier, or any person occupying a similar status,
1041 performing similar functions, or directly or indirectly controlling the applicant has served in any
1042 similar capacity with any person or entity which has had a previous license, which was issued
1043 under this chapter, suspended or revoked more than one year prior to the date of the applicant's
1044 application; or
1045 (iii) (A) the applicant is an individual or sole proprietorship; and
1046 (B) any owner or agent acting as a qualifier has served in any capacity listed in Subsection
1047 (9)(b)(ii)(B) in any entity which has had a previous license, which was issued under this chapter,
1048 suspended or revoked more than one year prior to the date of the applicant's application.
1049 Section 32. Section **13-34-205**, which is renumbered from Section 58-55-303 is
1050 renumbered and amended to read:

1051 ~~[58-55-303].~~ **13-34-205. Term of license -- Expiration -- Renewal.**

1052 (1) Each license issued under this chapter shall be issued in accordance with a two-year
1053 renewal cycle established by rule. The division may by rule extend or shorten a renewal period
1054 by as much as one year to stagger the renewal cycle it administers.

1055 (2) At the time of renewal, the licensee shall show satisfactory evidence of continuing
1056 financial responsibility as required under Section ~~[58-55-306]~~ 13-34-208.

1057 (3) Each license automatically expires on the expiration date shown on the license unless
1058 the licensee renews the license in accordance with Section ~~[58-1-308]~~ 13-34-119.

1059 (4) The requirements of Subsection ~~[58-55-302]~~ 13-34-204(9) shall also apply to
1060 applicants seeking to renew or reinstate a license.

1061 (5) In addition to any other requirements imposed by law, if a license has been suspended
1062 or revoked for any reason, the applicant must pay in full all fines imposed by the division, resolve
1063 any outstanding citations or disciplinary actions with the division, satisfy any Section ~~[58-55-503]~~
1064 13-34-219 judgment and sentence or nontrial resolution, complete a new financial responsibility
1065 review as required under Section ~~[58-55-306]~~ 13-34-208, using only titled assets, and pay in full
1066 any reimbursement amount as provided in Title 38, Chapter 11, Residence Lien Restriction and
1067 Lien Recovery Fund Act.

1068 Section 33. Section **13-34-206**, which is renumbered from Section 58-55-304 is
1069 renumbered and amended to read:

1070 ~~[58-55-304].~~ **13-34-206. Licensee names -- License number use -- License**
1071 **qualifier.**

1072 (1) No license may be issued by the division in a name that is identical to or so resembles
1073 the name of another licensee that the division determines that it may result in confusion or mistake.

1074 (2) The contractor's license number shall be made a part of all permit applications,
1075 contracts, agreements, or bids when a license is required.

1076 (3) The division may issue a license in the name of an individual [~~person~~] or the name of
1077 a business entity for which the individual [~~person~~] acts as a qualifier, in accordance with the
1078 following:

1079 (a) An individual shall:

1080 (i) submit an application in [~~his~~] the individual's name;

1081 (ii) demonstrate [~~his~~] the individual's own financial responsibility; and

- 1082 (iii) pass the required examination and meet all other requirements of this chapter.
- 1083 (b) A business entity shall:
- 1084 (i) submit the application in the name of and on behalf of the business entity;
- 1085 (ii) list the individual as the qualifier;
- 1086 (iii) demonstrate financial responsibility of the business entity if applying for a contractor's
- 1087 license;
- 1088 (iv) provide evidence that the individual qualifier has passed the required examination; and
- 1089 (v) meet all other requirements of this chapter.
- 1090 (4) A person acting as a qualifier for a business entity licensee must demonstrate to the
- 1091 division that ~~he~~ the individual is an owner, officer, or manager within that business entity who
- 1092 exercises material authority in the conduct of that business entity's contracting business by:
- 1093 (a) making substantive technical and administrative decisions relating to the work
- 1094 performed for which a license is required under this chapter;
- 1095 (b) hiring, promoting, transferring, laying off, disciplining, directing, or discharging
- 1096 employees of the licensee either by himself or through others; and
- 1097 (c) not being involved in any other employment or activity which conflicts with ~~his~~ the
- 1098 individual's duties and responsibilities to ensure the licensee's performance of work regulated
- 1099 under this chapter does not jeopardize the public health, safety, and welfare.
- 1100 (5) ~~It~~ (a) Except as provided in Subsection (5)(b), it is the duty and responsibility of the
- 1101 licensee and the qualifier to comply with the provisions of this section. Failure to comply with the
- 1102 requirements of this section may be considered unprofessional conduct by the licensee, the
- 1103 qualifier, or both.
- 1104 (b) If a licensee business entity has maintained its license and has not violated the
- 1105 requirements of this chapter or former Sections 58-55-101 through 58-55-604 for a period of ten
- 1106 consecutive years, the business entity may maintain its license under this chapter without having
- 1107 to comply with the individual qualifier requirements of this section. However, this Subsection
- 1108 (5)(b) shall not apply if more than 50% of the ownership of the business entity has been transferred
- 1109 at any time during the ten-year period.
- 1110 (6) If an individual qualifying on behalf of a business entity issued a license under this
- 1111 chapter ceases association with that entity as required in Subsection (4), the licensee shall notify
- 1112 the division in writing within ten days after cessation of association or employment. If notice is

1113 given, the license shall remain in force for 60 days after the date of cessation of association or
1114 employment. The licensee shall replace the original qualifier with another individual qualifier
1115 within the 60-day period or the license shall be automatically suspended.

1116 (7) Failure to notify the division of cessation of association or employment of a qualifier
1117 as required in Subsection (6) may result in immediate suspension of the license upon a finding of
1118 good cause.

1119 Section 34. Section ~~13-34-207~~, which is renumbered from Section 58-55-305 is
1120 renumbered and amended to read:

1121 ~~[58-55-305].~~ **13-34-207. Exemptions from licensure.**

1122 In addition to the exemptions from licensure in Section ~~[58-1-307]~~ 13-34-118, the
1123 following persons may engage in acts or practices included within the practice of construction
1124 trades subject to the stated circumstances and limitations without being licensed under this chapter:

1125 (1) an authorized representative of the United States government or an authorized
1126 employee of the state or any of its political subdivisions when working on construction work of
1127 the state or the subdivision, and when acting within the terms of his trust, office, or employment;

1128 (2) a person engaged in construction or operation incidental to the construction and repair
1129 of irrigation and drainage ditches of regularly constituted irrigation districts, reclamation districts,
1130 and drainage districts or construction and repair relating to farming, dairying, agriculture, livestock
1131 or poultry raising, metal and coal mining, quarries, sand and gravel excavations, well drilling,
1132 hauling to and from construction sites, and lumbering;

1133 (3) public utilities operating under the rules of the Public Service Commission on
1134 construction work incidental to their own business;

1135 (4) sole owners of property engaged in building:

1136 (a) no more than one residential structure per year and no more than three residential
1137 structures per five years on their property for their own noncommercial, nonpublic use; except, any
1138 person, other than the property owner or individuals described in Subsection (5), who engages in
1139 building the structure must be licensed under this chapter if he is otherwise required to be licensed
1140 under this chapter; or

1141 (b) structures on their property for their own noncommercial, nonpublic use which are
1142 incidental to a residential structure on the property, including sheds, carports, or detached garages;

1143 (5) (a) an individual engaged in construction or renovation of a residential building for

1144 noncommercial, nonpublic use if that person:

1145 (i) works without compensation other than token compensation that is not considered
1146 salary or wages; and

1147 (ii) works under the direction of the property owner who engages in building the structure;

1148 (b) for purposes of this Subsection (5), "token compensation" means compensation paid
1149 by a sole owner of property exempted from licensure under Subsection (4) to an individual
1150 exempted from licensure under this Subsection (5), that is:

1151 (i) minimal in value when compared with the fair market value of the services provided
1152 by the individual;

1153 (ii) not related to the fair market value of the services provided by the individual; and

1154 (iii) is incidental to providing of services by the individual including paying for or
1155 providing meals or refreshment while services are being provided, or paying reasonable
1156 transportation costs incurred by the individual in travel to the site of construction;

1157 (6) a person engaged in the sale or merchandising of personal property that by its design
1158 or manufacture may be attached, installed, or otherwise affixed to real property who has contracted
1159 with a person, firm, or corporation licensed under this chapter to install, affix, or attach that
1160 property;

1161 (7) a contractor submitting a bid on a federal aid highway project, if, before undertaking
1162 any construction under that bid, the contractor is licensed under this chapter;

1163 (8) (a) a person engaged in the alteration, repair, remodeling, or addition to or
1164 improvement of any building with a contracted or agreed value of less than \$1,000, including both
1165 labor and materials, and including all changes or additions to the contracted or agreed upon work;

1166 (b) notwithstanding Subsection (8)(a), work in the plumbing and electrical trades must be
1167 performed by a licensed electrician or plumber except as otherwise provided in this section;

1168 (9) a person practicing a specialty contractor classification or construction trade which is
1169 not classified by rule by the director as significantly impacting the public's health, safety, and
1170 welfare;

1171 (10) owners and lessees of property and persons regularly employed for wages by owners
1172 or lessees of property or their agents for the purpose of maintaining the property, are exempt from
1173 this chapter when doing work upon the property;

1174 (11) (a) a person engaged in minor plumbing work incidental to the replacement or repair

1175 of a fixture or an appliance in a residential or small commercial building, or structure used for
1176 agricultural use, as defined in Section 58-56-4, provided that no modification is made to existing
1177 culinary water, soil, waste, or vent piping;

1178 (b) except as provided in Subsection (5), installation for the first time of a fixture or an
1179 appliance is not included in the exemption provided under Subsection (11)(a);

1180 (12) a person who ordinarily would be subject to the plumber licensure requirements set
1181 forth in this chapter when installing or repairing a water conditioner or other water treatment
1182 apparatus if the conditioner or apparatus:

1183 (a) meets the appropriate state construction codes or local plumbing standards; and

1184 (b) is installed or repaired under the direction of a person authorized to do such work under
1185 an appropriate specialty contractor license;

1186 (13) a person who ordinarily would be subject to the electrician licensure requirements set
1187 forth in this chapter when employed by or under contract with:

1188 (a) railroad corporations, telephone corporations or their corporate affiliates, elevator
1189 contractors or constructors, or street railway systems; or

1190 (b) public service corporations, rural electrification associations, or municipal utilities who
1191 generate, distribute, or sell electrical energy for light, heat, or power;

1192 (14) a person involved in minor electrical work incidental to a mechanical or service
1193 installation; and

1194 (15) a student participating in construction trade education and training programs approved
1195 by the [~~division in collaboration with the board~~] commission with the concurrence of the director
1196 under the condition that:

1197 (a) all work intended as a part of a finished product on which there would normally be an
1198 inspection by a building inspector is, in fact, inspected and found acceptable by a licensed building
1199 inspector; and

1200 (b) a licensed contractor obtains the necessary building permits.

1201 Section 35. Section **13-34-208**, which is renumbered from Section 58-55-306 is
1202 renumbered and amended to read:

1203 ~~[58-55-306].~~ **13-34-208. Financial responsibility.**

1204 (1) An applicant for licensure as a contractor, and a licensee applying for renewal or
1205 reinstatement of a contractor's license shall demonstrate to the division and the [~~board~~]

1206 commission the applicant's or licensee's financial responsibility before the issuance of or the
1207 renewal or reinstatement of a license by:

1208 (a) (i) completing a questionnaire developed by the division; and
1209 (ii) signing the questionnaire, certifying that the information provided is true and accurate;

1210 or

1211 (b) submitting a bond in an amount and form determined by the [~~division~~] commission
1212 with the concurrence of the director.

1213 (2) The division may audit an applicant's or licensee's demonstration of financial
1214 responsibility on a random basis or upon finding of a reasonable need.

1215 (3) The burden to demonstrate financial responsibility is upon the applicant or licensee.

1216 Section 36. Section **13-34-209**, which is renumbered from Section 58-55-307 is
1217 renumbered and amended to read:

1218 ~~[58-55-307].~~ **13-34-209. Confidentiality of records and reports.**

1219 [~~Notwithstanding Title 63, Chapter 2, Government Records Access and Management Act,~~
1220 ~~credit]~~

1221 (1) Credit reports, financial statements, and other information submitted to the division
1222 by or at the request and direction of an applicant or licensee for the purpose of supporting a
1223 representation of financial responsibility [~~are confidential and~~] constitute protected records under
1224 Title 63, Chapter 2, Government Records Access and Management Act.

1225 (2) Notwithstanding Title 63, Chapter 2, Government Records Access and Management
1226 Act, the records described in Subsection (1) are not open for public inspection and are not subject
1227 to discovery in civil or administrative proceedings.

1228 Section 37. Section **13-34-210**, which is renumbered from Section 58-55-308 is
1229 renumbered and amended to read:

1230 ~~[58-55-308].~~ **13-34-210. Scope of practice -- Rules.**

1231 (1) The [~~division, in collaboration with the board~~] commission, with the concurrence of
1232 the director, may adopt reasonable rules pursuant to Title 63, Chapter 46a, Utah Administrative
1233 Rulemaking Act, to define and limit the scope of practice and operating standards of the
1234 classifications and subclassifications licensed under this chapter in a manner consistent with
1235 established practice in the relevant industry. The [~~division and the board~~] commission and the
1236 director may limit the field and scope of operations of a licensee under this chapter in accordance

1237 with the rules and the public health, safety, and welfare, based on the licensee's education, training,
1238 experience, knowledge, and financial responsibility.

1239 (2) This section does not prohibit a licensed specialty contractor from accepting and
1240 entering into a contract involving the use of two or more crafts or trades if the performance of the
1241 work in the crafts or trades, other than that in which ~~he~~ the contractor is licensed, is incidental
1242 and supplemental to the work for which ~~he~~ the contractor is licensed.

1243 Section 38. Section **13-34-211**, which is renumbered from Section 58-55-310 is
1244 renumbered and amended to read:

1245 ~~[58-55-310]~~. **13-34-211. Requirements when working for political subdivision**
1246 **or state agency.**

1247 Each political subdivision and agency of the state and each board of education which
1248 requires the issuance of a permit or license as a precondition to the construction, alteration,
1249 improvement, demolition, or other repairs for which a contractor's license is also required under
1250 this chapter shall:

1251 (1) require that each applicant for a permit or license file a signed statement that the
1252 applicant has a current contractor's license with the license number included in the application;

1253 (2) require that any representation of exemption from the contractor's licensing law be
1254 included in the signed statement and that if that exempt person, firm, corporation, association, or
1255 other organization intends to hire a contractor to perform any work under the permit or license, that
1256 the license number of that contractor be included in the application, but if a contractor has not been
1257 selected at the time of the application for a permit or license, the permit or license shall be issued
1258 only on the condition that a currently licensed contractor will be selected and that the license
1259 number of the contractor will be given to the issuing public body and displayed on the permit or
1260 license; and

1261 (3) upon issuance of a permit or license affix the contractor's license number to that permit
1262 or license for public display.

1263 Section 39. Section **13-34-212**, which is renumbered from Section 58-55-311 is
1264 renumbered and amended to read:

1265 ~~[58-55-311]~~. **13-34-212. Evidence of licensure.**

1266 An individual licensed as an alarm company agent shall:

1267 (1) carry a copy of the individual's license on the individual's person at all times while

1268 acting as a licensee; and

1269 (2) display the license upon the request of a peace officer, a representative of the division,
1270 or a representative of a customer of the alarm company.

1271 Section 40. Section **13-34-213**, which is renumbered from Section 58-55-312 is
1272 renumbered and amended to read:

1273 ~~[58-55-312]~~. **13-34-213. Interim permits.**

1274 (1) Upon receipt of a complete application for licensure in accordance with Section
1275 ~~[58-55-302]~~ 13-34-204, an applicant for licensure as an alarm company agent may be issued an
1276 interim permit.

1277 (2) (a) Each interim permit shall expire 90 days after it is issued or on the date on which
1278 the applicant is issued a license, whichever is earlier.

1279 (b) The division may reissue an interim permit if the delay in approving a license is beyond
1280 the control or influence of the interim permit holder.

1281 (3) An interim permit holder may engage in the scope of an alarm company agent.

1282 Section 41. Section **13-34-214**, which is renumbered from Section 58-55-401 is
1283 renumbered and amended to read:

1284 ~~[58-55-401]~~. **13-34-214. Grounds for denial of license and disciplinary**
1285 **proceedings.**

1286 The division may refuse to issue a license to an applicant; refuse to renew the license of
1287 a licensee; revoke the right of a licensee to recover from the Residence Lien Recovery Fund
1288 created by Section 38-11-201; revoke, suspend, restrict, or place on probation the license of a
1289 licensee; issue a public or private reprimand to a licensee; and issue a cease and desist orders order,
1290 in accordance with Section ~~[58-1-401]~~ 13-34-121.

1291 Section 42. Section **13-34-215**, which is renumbered from Section 58-55-402 is
1292 renumbered and amended to read:

1293 ~~[58-55-402]~~. **13-34-215. Investigation of regulated activity.**

1294 (1) The division shall be responsible for the investigation of persons and activities in
1295 violation of the provisions of this chapter.

1296 (2) Investigation by the division shall include investigations of:

1297 (a) licensees engaged in unlawful or unprofessional conduct; and

1298 (b) unlicensed persons engaged in the conduct of activity or work regulated under this

1299 chapter and for which a license is required.

1300 (3) The division shall decline to proceed with investigation of the violation of any
1301 provisions of this chapter if the division finds there is no apparent material jeopardy to the public
1302 health, safety, and welfare.

1303 (4) The division shall have no responsibility for the inspection of construction work
1304 performed in the state to determine compliance with applicable codes, or industry and
1305 workmanship standards, except as provided in Subsections ~~[58-1-501]~~ 13-34-124(2)(g),
1306 ~~[58-55-502]~~ 13-34-218(2), (3), and (4), and ~~[58-55-501]~~ 13-34-217(16).

1307 (5) Authorized representatives of the division shall be permitted to enter upon the premises
1308 or site of work regulated under this chapter for the purpose of determining compliance with the
1309 provisions of this chapter.

1310 Section 43. Section **13-34-216**, which is renumbered from Section 58-55-403 is
1311 renumbered and amended to read:

1312 ~~[58-55-403]~~. **13-34-216. Minimum time for division action.**

1313 The division has at least five working days after receiving an application for licensure to
1314 determine whether to issue a license under this chapter.

1315 Section 44. Section **13-34-217**, which is renumbered from Section 58-55-501 is
1316 renumbered and amended to read:

1317 ~~[58-55-501]~~. **13-34-217. Unlawful conduct.**

1318 Unlawful conduct means conduct, by any person, that is defined as unlawful under this
1319 chapter and includes:

1320 (1) engaging in a construction trade, acting as a contractor, an alarm business or company,
1321 or an alarm company agent, or representing oneself to be engaged in a construction trade or to be
1322 acting as a contractor in a construction trade requiring licensure, unless the person doing any of
1323 these is appropriately licensed or exempted from licensure under this chapter;

1324 (2) acting in a construction trade, as an alarm business or company, or as an alarm
1325 company agent beyond the scope of the license held;

1326 (3) hiring or employing in any manner an unlicensed person, other than an employee for
1327 wages who is not required to be licensed under this chapter, to engage in a construction trade for
1328 which licensure is required or to act as a contractor or subcontractor in a construction trade
1329 requiring licensure;

- 1330 (4) applying for or obtaining a building permit either for oneself or another when not
1331 licensed or exempted from licensure as a contractor under this chapter;
- 1332 (5) issuing a building permit to any person for whom there is no evidence of a current
1333 license or exemption from licensure as a contractor under this chapter;
- 1334 (6) applying for or obtaining a building permit for the benefit of or on behalf of any other
1335 person who is required to be licensed under this chapter but who is not licensed or is otherwise not
1336 entitled to obtain or receive the benefit of the building permit;
- 1337 (7) failing to obtain a building permit when required by law or rule;
- 1338 (8) submitting a bid for any work for which a license is required under this chapter by a
1339 person not licensed or exempted from licensure as a contractor under this chapter;
- 1340 (9) willfully or deliberately misrepresenting or omitting a material fact in connection with
1341 an application to obtain or renew a license under this chapter;
- 1342 (10) allowing one's license to be used by another except as provided by statute or rule;
- 1343 (11) doing business under a name other than the name appearing on the license, except as
1344 permitted by statute or rule;
- 1345 (12) if licensed as a specialty contractor in the electrical trade or plumbing trade,
1346 journeyman plumber, residential journeyman plumber, journeyman electrician, master electrician,
1347 or residential electrician, failing to directly supervise an apprentice under one's supervision or
1348 exceeding the number of apprentices one is allowed to have under his supervision;
- 1349 (13) if licensed as a contractor or representing oneself to be a contractor, receiving any
1350 funds in payment for a specific project from an owner or any other person, which funds are to pay
1351 for work performed or materials and services furnished for that specific project, and after receiving
1352 the funds to exercise unauthorized control over the funds by failing to pay the full amounts due and
1353 payable to persons who performed work or furnished materials or services within a reasonable
1354 period of time;
- 1355 (14) employing as an alarm company an unlicensed individual as an alarm company agent,
1356 except as permitted under the exemption from licensure provisions under Section ~~[58-1-307]~~
1357 13-34-117;
- 1358 (15) if licensed as an alarm company or alarm company agent, filing with the division
1359 fingerprint cards for an applicant which are not those of the applicant, or are in any other way false
1360 or fraudulent and intended to mislead the division in its consideration of the applicant for

- 1361 licensure;
- 1362 (16) if licensed under this chapter, willfully or deliberately disregarding or violating:
- 1363 (a) the building or construction laws of this state or any political subdivision;
- 1364 (b) the safety and labor laws applicable to a project;
- 1365 (c) any provision of the health laws applicable to a project;
- 1366 (d) the workers' compensation insurance laws of the state applicable to a project;
- 1367 (e) the laws governing withholdings for employee state and federal income taxes,
- 1368 unemployment taxes, FICA, or other required withholdings; or
- 1369 (f) reporting, notification, and filing laws of this state or the federal government;
- 1370 (17) aiding or abetting any person in evading the provisions of this chapter or rules
- 1371 established under the authority of the division to govern this chapter;
- 1372 (18) engaging in the construction trade or as a contractor for the construction of residences
- 1373 of up to two units when not currently registered or exempt from registration as a qualified
- 1374 beneficiary under Title 38, Chapter 11, Residence Lien Restriction and Lien Recovery Fund Act;
- 1375 (19) failing, as an original contractor, as defined in Section 38-11-102, to include in a
- 1376 written contract the notification required in Section 38-11-108; or
- 1377 (20) wrongfully filing a mechanics' lien in violation of Section 38-1-25.
- 1378 Section 45. Section **13-34-218**, which is renumbered from Section 58-55-502 is
- 1379 renumbered and amended to read:
- 1380 **[58-55-502]. 13-34-218. Unprofessional conduct.**
- 1381 Unprofessional conduct includes:
- 1382 (1) failing to establish, maintain, or demonstrate financial responsibility while licensed as
- 1383 a contractor under this chapter;
- 1384 (2) disregarding or violating through gross negligence or a pattern of negligence:
- 1385 (a) the building or construction laws of this state or any political subdivision;
- 1386 (b) the safety and labor laws applicable to a project;
- 1387 (c) any provision of the health laws applicable to a project;
- 1388 (d) the workers' compensation insurance laws of this state applicable to a project;
- 1389 (e) the laws governing withholdings for employee state and federal income taxes,
- 1390 unemployment taxes, FICA, or other required withholdings; or
- 1391 (f) any reporting, notification, and filing laws of this state or the federal government;

1392 (3) any willful, fraudulent, or deceitful act by a licensee, caused by a licensee, or at a
1393 licensee's direction which causes material injury to another;

1394 (4) contract violations that pose a threat or potential threat to the public health, safety, and
1395 welfare including:

1396 (a) willful, deliberate, or grossly negligent departure from or disregard for plans or
1397 specifications, or abandonment or failure to complete a project without the consent of the owner
1398 or his duly authorized representative or the consent of any other person entitled to have the
1399 particular project completed in accordance with the plans, specifications, and contract terms;

1400 (b) failure to deposit funds to the benefit of an employee as required under any written
1401 contractual obligation the licensee has to the employee;

1402 (c) failure to maintain in full force and effect any health insurance benefit to an employee
1403 that was extended as a part of any written contractual obligation or representation by the licensee,
1404 unless the employee is given written notice of the licensee's intent to cancel or reduce the insurance
1405 benefit at least 45 days before the effective date of the cancellation or reduction;

1406 (d) failure to reimburse the Residence Lien Recovery Fund as required by Section
1407 38-11-207;

1408 (e) failure to provide, when applicable, the information required by Section 38-11-108; and

1409 (f) willfully or deliberately misrepresenting or omitting a material fact in connection with
1410 an application to claim recovery from the Residence Lien Recovery Fund under Section 38-11-204;

1411 (5) failing as an alarm company to notify the division of the cessation of performance of
1412 its qualifying agent, or failing to replace its qualifying agent as required under Section ~~58-55-304~~
1413 13-34-206;

1414 (6) failing as an alarm company agent to carry or display a copy of the licensee's license
1415 as required under Section ~~58-55-311~~ 13-34-212; or

1416 (7) failing to comply with operating standards established by rule in accordance with
1417 Section ~~58-55-308~~ 13-34-210.

1418 Section 46. Section ~~13-34-219~~, which is renumbered from Section 58-55-503 is
1419 renumbered and amended to read:

1420 ~~58-55-503~~. **13-34-219. Penalty for unlawful conduct -- Citations.**

1421 (1) Any person who violates Subsection ~~58-55-501~~ 13-34-217(1), (2), (3), (4), (5), (6),
1422 (7), (9), (10), (12), (14), or (15), or who fails to comply with a citation issued under this section

1423 after it is final, is guilty of a class A misdemeanor. Any person who violates the provisions of
1424 Subsection ~~[58-55-501]~~ 13-34-217(8) may not be awarded and may not accept a contract for the
1425 performance of the work.

1426 (2) Any person who violates the provisions of Subsection ~~[58-55-501]~~ 13-34-217(13) is
1427 guilty of an infraction unless the violator did so with the intent to deprive the person to whom
1428 money is to be paid of the money received, in which case the violator is guilty of theft, as classified
1429 in Section 76-6-412.

1430 (3) Grounds for immediate suspension of the licensee's license by the division and the
1431 ~~[board]~~ commission include the issuance of a citation for violation of Section ~~[58-55-501]~~
1432 13-34-217 or the failure by a licensee to make application to, report to, or notify the division with
1433 respect to any matter for which application, notification, or reporting is required under this chapter
1434 or rules adopted under this chapter, including applying to the division for a new license to engage
1435 in a new specialty classification or to do business under a new form of organization or business
1436 structure, filing with the division current financial statements, notifying the division concerning
1437 loss of insurance coverage, or change in qualifier.

1438 (4) (a) If upon inspection or investigation, the division ~~[concludes]~~ and the commission
1439 conclude that a person has violated the provisions of Subsections ~~[58-55-501]~~ 13-34-217(1), (2),
1440 (3), (9), (10), (12), (14), (19), or any rule or order issued with respect to these subsections, and that
1441 disciplinary action is appropriate, the director or ~~[his]~~ the director's designee from within the
1442 division ~~[for each alternative respectively,]~~ shall~~;~~ promptly issue a citation to the person
1443 according to this chapter and any pertinent rules, attempt to negotiate a stipulated settlement, or
1444 notify the person to appear before an adjudicative proceeding conducted under Title 63, Chapter
1445 46b, Administrative Procedures Act.

1446 (i) Any person who is in violation of the provisions of Subsection ~~[58-55-501]~~
1447 13-34-217(1), (2), (3), (9), (10), (12), (14), or (19), as evidenced by an uncontested citation, a
1448 stipulated settlement, or by a finding of violation in an adjudicative proceeding, may be assessed
1449 a fine pursuant to this Subsection (4) and may, in addition to or in lieu of, be ordered to cease and
1450 desist from violating Subsection ~~[58-55-501]~~ 13-34-217(1), (2), (3), (9), (10), (12), (14), or (19).

1451 (ii) Except for a cease and desist order, the licensure sanctions cited in Section ~~[58-55-401]~~
1452 13-34-214 may not be assessed through a citation.

1453 (b) Each citation shall be in writing and describe with particularity the nature of the

1454 violation, including a reference to the provision of the chapter, rule, or order alleged to have been
1455 violated. The citation shall clearly state that the recipient must notify the division in writing within
1456 20 calendar days of service of the citation if the recipient wishes to contest the citation at a hearing
1457 conducted under Title 63, Chapter 46b, Administrative Procedures Act. The citation shall clearly
1458 explain the consequences of failure to timely contest the citation or to make payment of any fines
1459 assessed by the citation within the time specified in the citation.

1460 (c) Each citation issued under this section, or a copy of each citation, may be served upon
1461 any person upon whom a summons may be served;

1462 (i) in accordance with the Utah Rules of Civil Procedure [~~and may be made~~];

1463 (ii) personally or upon [~~his~~] the person's agent by a division investigator or by any person
1464 specially designated by the director; or

1465 (iii) by mail.

1466 (d) If within 20 calendar days from the service of a citation[;] the person to whom the
1467 citation was issued fails to request a hearing to contest the citation, the citation becomes the final
1468 order of the division and is not subject to further agency review. The period to contest a citation
1469 may be extended by the division for cause.

1470 (e) The division may refuse to issue or renew, suspend, revoke, or place on probation the
1471 license of a licensee who fails to comply with a citation after it becomes final.

1472 (f) The failure of an applicant for licensure to comply with a citation after it becomes final
1473 is a ground for denial of license.

1474 (g) No citation may be issued under this section after the expiration of six months
1475 following the occurrence of any violation.

1476 (h) Fines shall be assessed by the director or [~~his~~] the director's designee according to the
1477 following:

1478 (i) for a first offense handled pursuant to Subsection (4)(a), a fine of up to \$1,000;

1479 (ii) for a second offense handled pursuant to Subsection (4)(a), a fine of up to \$2,000; and

1480 (iii) for any subsequent offense handled pursuant to Subsection (4)(a), a fine of up to
1481 \$2,000 for each day of continued offense.

1482 (i) (i) For purposes of issuing a final order under this section and assessing a fine under
1483 Subsection (4)(i), an offense constitutes a second or subsequent offense if:

1484 (A) the division previously issued a final order determining that a person committed a first

1485 or second offense in violation of Subsection [~~58-55-501~~] 13-34-217(1), (2), (3), (9), (10), (12),
1486 (14), or (19); or

1487 (B) (I) the division initiated an action for a first or second offense;

1488 (II) no final order has been issued by the division in the action initiated under Subsection
1489 (4)(i)(i)(B)(I);

1490 (III) the division determines during an investigation that occurred after the initiation of the
1491 action under Subsection (4)(i)(i)(B)(I) that the person committed a second or subsequent violation
1492 of the provisions of Subsection [~~58-55-501~~] 13-34-217(1), (2), (3), (9), (10), (12), (14), or (19);

1493 and

1494 (IV) after determining that the person committed a second or subsequent offense under
1495 Subsection (4)(i)(i)(B)(III), the division issues a final order on the action initiated under Subsection
1496 (4) (i)(i)(B)(I).

1497 (ii) In issuing a final order for a second or subsequent offense under Subsection (4) (i)(i),
1498 the division shall comply with the requirements of this section.

1499 (5) Any penalty imposed by the director under Subsection (4) (h) shall be deposited into
1500 the Commerce Service Fund. Any penalty which is not paid may be collected by the director by
1501 either referring the matter to a collection agency or bringing an action in the district court of the
1502 county in which the person against whom the penalty is imposed resides or in the county where
1503 the office of the director is located. Any county attorney or the attorney general of the state is to
1504 provide legal assistance and advice to the director in any action to collect the penalty. In any
1505 action brought to enforce the provisions of this section, reasonable attorney's fees and costs shall
1506 be awarded.

1507 Section 47. Section **13-34-220**, which is renumbered from Section 58-55-601 is
1508 renumbered and amended to read:

1509 ~~[58-55-601]~~. **13-34-220. Payment -- Account designated.**

1510 When making any payment to a materialman, supplier, contractor, or subcontractor with
1511 whom ~~[he]~~ a contractor has a running account, or with whom ~~[he]~~ the contractor has more than one
1512 contract, or to whom ~~[he]~~ the contractor is otherwise indebted, the contractor shall designate the
1513 contract under which the payment is made or the items of account to which it is to be applied.
1514 When a payment for materials or labor is made to a subcontractor or materialman, the
1515 subcontractor or materialman shall demand of the person making the payment a designation of the

1516 account and the items of account to which the payment is to apply. In cases where a lien is claimed
1517 for materials furnished or labor performed by a subcontractor or materialman, it is a defense to the
1518 claim that a payment was made by the owner to the contractor for the materials and was so
1519 designated and paid over to the subcontractor or materialman, if when the payment was received
1520 by the subcontractor or materialman, ~~he~~ the subcontractor or materialman did not demand a
1521 designation of the account and of the items of account to which the payment was to be applied.

1522 Section 48. Section **13-34-221**, which is renumbered from Section 58-55-602 is
1523 renumbered and amended to read:

1524 ~~[58-55-602].~~ **13-34-221. Payment of construction funds -- Interest.**

1525 (1) All unpaid construction funds are payable to the contractor as provided in Section
1526 13-8-5.

1527 (2) On projects involving multiple buildings, each building shall be considered
1528 individually in determining the amount to be paid the contractor.

1529 (3) Partial occupancy of a building requires payment in direct proportion to the value of
1530 the part of the building occupied.

1531 (4) If any payment is retained or withheld, it shall be retained or withheld and released as
1532 provided in Section 13-8-5.

1533 Section 49. Section **13-34-222**, which is renumbered from Section 58-55-603 is
1534 renumbered and amended to read:

1535 ~~[58-55-603].~~ **13-34-222. Payment to subcontractors and suppliers.**

1536 (1) When a contractor receives any construction funds from an owner or another contractor
1537 for work performed and billed, ~~he~~ the contractor shall pay each ~~[of his subcontractors and~~
1538 ~~suppliers]~~ subcontractor and supplier in proportion to the percentage of the work they performed
1539 under that billing, unless otherwise agreed by contract.

1540 (2) If, under this section and without reasonable cause, or unless otherwise agreed by
1541 contract, the contractor fails to pay for work performed by ~~his~~ the contractor's subcontractors or
1542 suppliers within 30 consecutive days after receiving construction funds from the owner or another
1543 contractor for work performed and billed, or after the last day payment is due under the terms of
1544 the billing, whichever is later, ~~he~~ the contractor shall pay to the subcontractor or supplier, in
1545 addition to the payment, interest in the amount of 1% per month of the amount due, beginning on
1546 the day after payment is due, and reasonable costs of any collection and attorney's fees.

1547 (3) When a subcontractor receives any construction payment under this section,
1548 Subsections (1) and (2) apply to that subcontractor.

1549 Section 50. Section **13-34-223**, which is renumbered from Section 58-55-604 is
1550 renumbered and amended to read:

1551 ~~[58-55-604]~~. **13-34-223. Proof of licensure to maintain or commence action.**

1552 No contractor may act as agent or commence or maintain any action in any court of the
1553 state for collection of compensation for performing any act for which a license is required by this
1554 chapter without alleging and proving that ~~[he]~~ the contractor was a properly licensed contractor
1555 when the contract sued upon was entered into, and when the alleged cause of action arose.

1556 Section 51. **Repealer.**

1557 This act repeals:

1558 Section **58-55-201, Board created -- Duties.**

Legislative Review Note
as of 11-15-01 2:17 PM

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

Office of Legislative Research and General Counsel