

Senator Lyle W. Hillyard proposes the following substitute bill:

**UNIFORM BUILDING STANDARDS ACT -
MANUFACTURED HOUSING AMENDMENTS**

2004 GENERAL SESSION

STATE OF UTAH

Sponsor: Lyle W. Hillyard

LONG TITLE

General Description:

This bill amends the Occupations and Professions code by amending installation standards for manufactured homes and creating penalties for violations.

Highlighted Provisions:

This bill:

- ▶ requires general contractors who install manufactured homes to receive additional training;
- ▶ eliminates the current definition of "installation standard" for manufactured homes and requires the Division of Occupational and Professional Licensing to adopt a nationally recognized manufactured housing installation standard code;
- ▶ specifies the construction codes which the state and its political subdivisions shall follow;
- ▶ grants authority to the Division of Occupational and Professional Licensing to enforce manufactured housing installation standards and assess penalties for violations;
- ▶ adopts criminal penalties for violations of manufactured housing installation standards and assesses penalties for violations; and
- ▶ makes technical changes.



26 **Monies Appropriated in this Bill:**

27 None

28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **58-55-102**, as last amended by Chapters 33 and 241, Laws of Utah 2002

33 **58-56-3**, as last amended by Chapter 75, Laws of Utah 2002

34 **58-56-12**, as enacted by Chapter 293, Laws of Utah 1990

35 **58-56-15**, as enacted by Chapter 293, Laws of Utah 1990

36 **70D-1-19**, as enacted by Chapter 229, Laws of Utah 2003



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

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

40 **58-55-102. Definitions.**

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

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

45 (b) "Alarm business or company" does not include ~~[the activities of]~~:

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

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

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

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

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

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

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

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

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

69 (7) "Board" means the Electrician Licensing Board, Alarm System Security and
70 Licensing Board, or Plumbers Licensing Board created in Section 58-55-201.

71 (8) "Combustion system" means an assembly consisting of:

72 (a) components with a means for conveying, ~~either continuously or intermittently,~~
73 natural gas from the shutoff valve of the piping system nearest the gas appliance to the burner
74 [~~and includes~~];

75 (b) electric control and combustion air supply and venting systems [~~either~~
76 ~~continuously or intermittently, and that incorporates~~]; and

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

78 (9) "Commission" means the Construction Services Commission created under Section
79 58-55-103.

80 (10) "Construction trade" means any trade or occupation involving:

81 (a) construction, alteration, remodeling, repairing, wrecking or demolition, addition to,
82 or improvement of any building, highway, road, railroad, dam, bridge, structure, excavation or
83 other project, development, or improvement to other than personal property; or

84 (b) installation or repair of a residential or commercial natural gas appliance or [a]
85 combustion system.

86 (11) "Construction trades instructor" means a person licensed under this chapter to
87 teach one or more construction trades in both a classroom and project environment, where a

88 project is intended for sale to or use by the public and is completed under the direction of [~~an~~
89 the instructor, who has no economic interest in the project.

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

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

95 (ii) any person who represents himself to be a contractor by advertising or any other
96 means;

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

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

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

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

104 (13) (a) "Electrical trade" means the performance of any electrical work involved in the
105 installation, construction, alteration, change, repair, removal, or maintenance of facilities,
106 buildings, or appendages or appurtenances.

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

108 (i) transporting or handling electrical materials;

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

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

112 (c) For purposes of Subsection (13)(b):

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

115 (ii) a shop may not employ unlicensed persons in excess of the five-to-one ratio
116 permitted by this Subsection (13)(c).

117 (14) "Employee" means an individual as defined by the division by rule giving
118 consideration to the definition adopted by the Internal Revenue Service and the Department of

119 Workforce Services.

120 (15) "Engage in a construction trade" means to:

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

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

125 (16) "Financial responsibility" means a demonstration of a current and expected future
126 condition of financial solvency evidencing a reasonable expectation to the division and the
127 board that an applicant or licensee can successfully engage in business as a contractor without
128 jeopardy to the public health, safety, and welfare. Financial responsibility may be determined
129 by an evaluation of the total history concerning the licensee or applicant including past,
130 present, and expected condition and record of financial solvency and business conduct.

131 (17) "Gas appliance" means any device that uses natural gas to produce light, heat,
132 power, steam, hot water, refrigeration, or air conditioning.

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

146 (19) "General engineering contractor" means a person licensed under this chapter as a
147 general engineering contractor qualified by education, training, experience, and knowledge to
148 perform construction of fixed works in any ~~or all~~ of the following: irrigation, drainage, water,
149 power, water supply, flood control, inland waterways, harbors, railroads, highways, tunnels,

150 airports and runways, sewers and bridges, refineries, pipelines, chemical and industrial plants
151 requiring specialized engineering knowledge and skill, piers, and foundations, or any of the
152 components of those works. However, a general engineering contractor may not perform
153 construction of structures built primarily for the support, shelter, and enclosure of persons,
154 animals, and chattels.

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

158 (21) "Individual" means a natural person.

159 (22) "Journeyman electrician" means a person licensed under this chapter as a
160 journeyman electrician having the qualifications, training, experience, and knowledge to wire,
161 install, and repair electrical apparatus and equipment for light, heat, power, and other purposes.

162 (23) "Journeyman plumber" means a person licensed under this chapter as a
163 journeyman plumber having the qualifications, training, experience, and technical knowledge
164 to engage in the plumbing trade.

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

169 (25) "Person" means a natural person, sole proprietorship, joint venture, corporation,
170 limited liability company, association, or organization of any type.

171 (26) (a) "Plumbing trade" means the performance of any mechanical work pertaining to
172 the installation, alteration, change, repair, removal, maintenance, or use in buildings, or within
173 three feet beyond the outside walls of buildings of pipes, fixtures, and fittings for:

174 (i) delivery of the water supply[;];

175 (ii) discharge of liquid and water carried waste[;]; or

176 (iii) the building drainage system within the walls of the building. [It]

177 (b) "Plumbing trade" includes [~~that~~] work pertaining to the water supply, distribution
178 pipes, fixtures[;] and fixture traps, [~~the~~] soil, waste and vent pipes, and the building drain and
179 roof drains together with their devices, appurtenances, and connections where installed within
180 the outside walls of the building.

181 (27) "Ratio of apprentices" means, for the purpose of determining compliance with the
182 requirements for planned programs of training and electrician apprentice licensing applications,
183 the shop ratio of apprentice electricians to journeyman or master electricians shall be one
184 journeyman or master electrician to one apprentice on industrial and commercial work, and one
185 journeyman or master electrician to three apprentices on residential work. [~~All-on-the-job~~
186 On-the-job training shall be under circumstances in which the ratio of apprentices to
187 supervisors is in accordance with a ratio of one-to-one on nonresidential work and up to three
188 apprentices to one supervisor on residential projects.

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

200 (29) "Residential apprentice plumber" means a person licensed under this chapter as a
201 residential apprentice plumber who is learning the residential plumbing trade while working on
202 residential buildings under the approved supervision of a residential journeyman plumber or a
203 journeyman plumber.

204 (30) "Residential building," as it relates to the license classification of residential
205 apprentice plumber and residential journeyman plumber, means a single or multiple family
206 dwelling of up to four units.

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

211 (32) "Residential journeyman plumber" means a person licensed under this chapter as a

212 residential journeyman plumber having the qualifications, training, experience, and knowledge
213 to engage in the plumbing trade as limited to the plumbing of residential buildings.

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

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

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

229 (36) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-55-501.

230 (37) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-55-502 and as
231 may be further defined by rule.

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

235 Section 2. Section **58-56-3** is amended to read:

236 **58-56-3. Definitions.**

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

238 (1) "Building" means a structure used or intended for supporting or sheltering any use
239 or occupancy and any improvements attached to it.

240 (2) "Code(s)" means the following codes, including the standards and specifications
241 contained in them:

242 (a) codes adopted by the commission under Subsection 58-56-4(2); and

243 (b) codes approved by the commission under Subsection 58-56-4(4)(a).

244 (3) "Commission" means the Uniform Building Code Commission created under this
245 chapter.

246 (4) "Compliance agency" means an agency of the state or any of its political
247 subdivisions which ~~[issue]~~ issues permits for construction regulated under the codes, or any
248 other agency of the state or its political subdivisions specifically empowered to enforce
249 compliance with the codes.

250 (5) "Factory built housing" means manufactured homes or mobile homes.

251 (6) "Factory built housing set-up contractor" means an individual licensed by the
252 division to set up or install factory built housing on a temporary or permanent basis. The scope
253 of the work included under the license includes the placement and or securing of the factory
254 built housing on a permanent or temporary foundation, securing the units together if required,
255 and connection of the utilities to the factory built housing unit, but does not include site
256 preparation, construction of a permanent foundation, and construction of utility services to the
257 near proximity of the factory built housing unit. If a dealer is not licensed as a factory built
258 housing set up contractor, that individual must subcontract the connection services to
259 individuals who are licensed by the division to perform those specific functions under Title 58,
260 Chapter 55, Utah Construction Trades Licensing Act.

261 (7) "HUD code" means the ~~[Federal]~~ National Manufactured Housing Construction and
262 Safety Standards Act, 42 U.S.C. Sec. 5401 et seq.

263 ~~[(8) "Installation standard" means the standard adopted and published by the National
264 Conference of States on Building Codes and Standards (NCSBCS), for the installation of
265 manufactured homes titled "The Standard for Manufactured Home Installations," the
266 accompanying manufacturer's instructions for the installation of the manufactured home, or
267 such equivalent standard as adopted by rule.]~~

268 ~~[(9)]~~ (8) "Local regulator" means each political subdivision of the state which is
269 empowered to engage in the regulation of construction, alteration, remodeling, building, repair,
270 and other activities subject to the codes.

271 ~~[(10)]~~ (9) "Manufactured home" means a transportable factory built housing unit
272 constructed on or after June 15, 1976, according to the ~~[Federal Home Construction and Safety
273 Standards Act of 1974 (HUD Code)]~~, in one or more sections, which, in the traveling mode,

274 is eight body feet or more in width or 40 body feet or more in length, or when erected on site, is
275 400 or more square feet, and which is built on a permanent chassis and designed to be used as a
276 dwelling with or without a permanent foundation when connected to the required utilities, and
277 includes the plumbing, heating, air-conditioning, and electrical systems. ~~[All manufactured]~~
278 Manufactured homes constructed on or after June 15, 1976, shall be identifiable by the
279 manufacturer's data plate bearing the date the unit was manufactured and a HUD label attached
280 to the exterior of the home certifying the home was manufactured to HUD standards.

281 ~~[(11)]~~ (10) "Mobile home" means a transportable factory built housing unit built prior
282 to June 15, 1976, in accordance with a state mobile home code which existed prior to the
283 ~~[Federal Manufactured Housing and Safety Standards Act (HUD Code)]~~.

284 ~~[(12)]~~ (11) "Modular unit" means a structure built from sections which are
285 manufactured in accordance with the construction standards adopted pursuant to Section
286 58-56-4 and transported to a building site, the purpose of which is for human habitation,
287 occupancy, or use.

288 ~~[(13)]~~ (12) "Opinion" means a written, nonbinding, and advisory statement issued by
289 the commission concerning an interpretation of the meaning of the codes or the application of
290 the codes in a specific circumstance issued in response to a specific request by a party to the
291 issue.

292 ~~[(14)]~~ (13) "State regulator" means an agency of the state which is empowered to
293 engage in the regulation of construction, alteration, remodeling, building, repair, and other
294 activities subject to the codes adopted pursuant to this chapter.

295 ~~[(15)]~~ (14) "Unlawful conduct" is as defined in Subsection 58-1-501(1) and includes:

296 (a) engaging in the sale of factory built housing without being registered with the
297 division as a dealer, unless the sale is exempt under Section 58-56-16; and

298 (b) selling factory built housing within the state as a dealer without collecting and
299 remitting to the division the fee required by Section 58-56-17.

300 ~~[(16)]~~ (15) "Unprofessional conduct" is as defined in Subsection 58-1-501(2) and
301 includes:

302 (a) any nondelivery of goods or services by a registered dealer which constitutes a
303 breach of contract by the dealer;

304 (b) the failure of a registered dealer to pay a subcontractor or supplier any amounts to

305 which that subcontractor or supplier is legally entitled; and

306 (c) any other activity which is defined as unprofessional conduct by division rule in
307 accordance with the provisions of Title 63, Chapter 46a, Utah Administrative Rulemaking Act.

308 Section 3. Section **58-56-12** is amended to read:

309 **58-56-12. Factory built housing units.**

310 [~~Factory built housing unit construction, permit issuance for set-up, set-up and set-up~~
311 ~~inspection shall be in accordance with the following:~~]

312 [~~(1) Manufactured homes:~~]

313 (1) (a) Manufactured homes constructed, sold, or set-up in the state shall be
314 constructed in accordance with the HUD code[;].

315 (b) Manufactured homes set-up in the state shall be installed in accordance with the
316 [~~"installation standard" defined in Section 58-56-3;~~] manufactured housing installation
317 standard code referred to in Section 58-56-4.

318 (c) The authority and responsibility for the issuance of building permits for the
319 modification or set-up of manufactured homes within a political subdivision of the state shall
320 be with the local regulator within that political subdivision[; ~~and~~].

321 (d) The inspection of modifications to or the set-up of manufactured homes shall be
322 conducted and approvals given by the local regulator within the political subdivision in which
323 the set-up takes place.

324 [~~(2) Mobile homes:~~]

325 (2) (a) Mobile homes sold or set-up in the state shall be constructed in accordance with
326 the mobile home construction code in existence in the state in which the mobile home was
327 constructed at the time the mobile home was constructed[;].

328 (b) Mobile homes set-up in the state shall be installed in accordance with the
329 [~~"installation standard" defined in Section 58-56-3;~~] manufactured housing installation
330 standard code referred to in Section 58-56-4.

331 (c) The authority and responsibility for the issuance of building permits for the
332 modification of or set-up of mobile homes within a political subdivision of the state shall be
333 with the local regulator within that political subdivision[; ~~and~~].

334 (d) The inspection of[;] modification to[;] or the set-up of mobile homes shall be
335 conducted and approvals given by the local regulator within the political subdivision in which

336 the set-up takes place.

337 Section 4. Section **58-56-15** is amended to read:

338 **58-56-15. Factory built housing and modular units -- Division responsibility --**
339 **Unlawful conduct.**

340 (1) The division:

341 [(1)] (a) shall maintain current [~~files with respect to~~] information on the HUD code
342 [~~and amendments thereto with respect to manufactured homes and the "installation standard"~~
343 ~~defined in Section 58-56-3 with respect to installation of factory built housing;~~] and the
344 manufactured housing installation standard code referred to in Section 58-56-4 and will
345 provide at reasonable cost [~~such~~] the information to [~~all~~] compliance agencies, local regulators,
346 or state regulators requesting such information;

347 [(2)] (b) shall provide qualified personnel to advise compliance agencies, local
348 regulators, and state regulators regarding the standards for construction and set-up, construction
349 and set-up inspection, and additions or modifications to factory built housing;

350 [(3)] ~~may regularly inspect the work of all factory built housing manufacturers in the~~
351 ~~state during the construction process to determine compliance of the manufacturer with the~~
352 ~~applicable standards of the HUD code or the American National Standards Institute, Inc. or~~
353 ~~equivalent standards adopted by rule; and upon a finding of any substantive deficiency furnish~~
354 ~~a written finding of such deficiency to the standards agency;~~

355 [(4)] (c) is [~~hereby~~] designated as the state administrative agency [~~and shall act as such~~]
356 for [~~all~~] purposes under the provisions of the HUD code; [~~and~~]

357 [(5)] (d) may inspect the work of [~~all~~] modular unit manufacturers in the state during
358 the construction process to determine compliance of the manufacturer with the Utah Uniform
359 Building Standard Act for those units to be installed within the state[;] and upon a finding of
360 [~~any~~] substantive deficiency, issue a corrective order to the manufacturer with a copy to the
361 local regulator in the state's political subdivision in which the unit is to be installed[;];

362 (e) shall have rights of entry and inspection as specified under the HUD Code; and

363 (f) shall implement by rule as required by the HUD Code:

364 (i) a dispute resolution program; and

365 (ii) a continuing education requirement for manufactured housing installation
366 contractors.

367 (2) The Division may assess civil penalties payable to the state for violation of the
368 HUD Code in an amount identical to those set forth in Section 611 of the National
369 Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. Sec. 5410.

370 (3) The state may impose criminal sanctions for violations of the HUD Code identical
371 to those set forth in Section 611 of the National Manufactured Housing Construction and
372 Safety Standards Act of 1974, 42 U.S.C. Sec. 5410, provided that if the criminal sanction is a
373 fine, the fine shall be payable to the state.

374 Section 5. Section **70D-1-19** is amended to read:

375 **70D-1-19. Definitions.**

376 As used in this chapter:

377 (1) "Manufactured home" means a transportable factory built housing unit constructed
378 on or after June 15, 1976, according to the National Manufactured Housing Construction and
379 Safety Standards Act of 1974, in one or more sections, which, in the traveling mode, is eight
380 body feet or more in width or 40 body feet or more in length, or when erected on site, is 400 or
381 more square feet, and which is built on a permanent chassis and designed to be used as a
382 dwelling with or without a permanent foundation when connected to the required utilities, and
383 includes the plumbing, heating, air-conditioning, and electrical systems.

384 (2) "Mobile home" means a transportable factory built housing unit built prior to June
385 15, 1976, in accordance with a state mobile home code which existed prior to the National
386 Manufactured Housing Construction and Safety Standards Act of 1974.

387 (3) "Permanently affixed" means anchored to, and supported by, a permanent
388 foundation or installed in accordance with ~~[an installation standard as defined in Subsection~~
389 ~~58-56-3(8)]~~ the manufactured housing installation standard code referred to in Section 58-56-4.