

Representative James A. Dunnigan proposes the following substitute bill:

**CONTINUING EDUCATION FOR
CONTRACTORS AMENDMENTS**

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ron Bigelow

Senate Sponsor: _____

LONG TITLE

General Description:

This bill repeals certain continuing education requirements and penalties for licensed contractors.

Highlighted Provisions:

This bill:

- ▶ repeals certain core education requirements for a licensed contractor; and
- ▶ repeals the cease and desist penalty for a licensed contractor who does not complete the core education or professional education requirements.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-55-402, as last amended by Laws of Utah 2000, Chapters 233 and 317

58-55-501, as last amended by Laws of Utah 2008, Chapter 377



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

27 Section 1. Section **58-55-402** is amended to read:

28 **58-55-402. Investigation of regulated activity.**

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

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

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

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

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

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

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

45 (6) (a) The division may:

46 (i) contract with a construction trade association to approve all continuing education
47 courses; and

48 (ii) authorize the construction trade association to conduct audits of continuing
49 education compliance.

50 (b) A construction trade association described in Subsection (6)(a) shall:

51 (i) be either a national association or a statewide association with a presence in Utah
52 for more than 20 years;

53 (ii) have at least 1,500 Utah members; and

54 (iii) have or provide for membership for all of the constructor licensees in Utah.

55 (c) The construction trade association shall report its findings under Subsection (6)(a)
56 to the division.

57 (d) This section does not authorize the construction trade association under Subsection
58 (6)(a) to take enforcement action against a licensee.

59 Section 2. Section **58-55-501** is amended to read:

60 **58-55-501. Unlawful conduct.**

61 Unlawful conduct includes:

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

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

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

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

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

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

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

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

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

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

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

88 (12) if licensed as a specialty contractor in the electrical trade or plumbing trade,
89 journeyman plumber, residential journeyman plumber, journeyman electrician, master
90 electrician, or residential electrician, failing to directly supervise an apprentice under one's
91 supervision or exceeding the number of apprentices one is allowed to have under his
92 supervision;

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

99 (14) employing an unlicensed alarm business or company or an unlicensed individual
100 as an alarm company agent, except as permitted under the exemption from licensure provisions
101 under Section 58-1-307;

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

106 (16) if licensed under this chapter, willfully or deliberately disregarding or violating:

- 107 (a) the building or construction laws of this state or any political subdivision;
- 108 (b) the safety and labor laws applicable to a project;
- 109 (c) any provision of the health laws applicable to a project;
- 110 (d) the workers' compensation insurance laws of the state applicable to a project;
- 111 (e) the laws governing withholdings for employee state and federal income taxes,
112 unemployment taxes, FICA, or other required withholdings; or
- 113 (f) reporting, notification, and filing laws of this state or the federal government;

114 (17) aiding or abetting any person in evading the provisions of this chapter or rules
115 established under the authority of the division to govern this chapter;

116 (18) engaging in the construction trade or as a contractor for the construction of
117 residences of up to two units when not currently registered or exempt from registration as a
118 qualified beneficiary under Title 38, Chapter 11, Residence Lien Restriction and Lien Recovery

119 Fund Act;

120 (19) failing, as an original contractor, as defined in Section 38-11-102, to include in a
121 written contract the notification required in Section 38-11-108;

122 (20) wrongfully filing a mechanics' lien in violation of Section 38-1-25; or

123 (21) if licensed as a contractor, not completing a three-hour core education class and an
124 additional three hours of professional education approved by the division and the Construction
125 Services Commission or the division's designee within each two-year renewal cycle, [~~beginning~~
126 ~~with the two-year renewal cycle that starts July 1, 2005, and ends June 30, 2007~~] unless an
127 exemption has been granted to the licensee by the Construction Services Commission, with the
128 concurrence of the division[, ~~except that this Subsection (21) is repealed effective July 1, 2010~~
129 ~~and its implementation is subject to the division receiving adequate funding for its~~
130 ~~implementation through a legislative appropriation~~].

H.B. 249 1st Sub. (Buff) - Continuing Education for Contractors Amendments

Fiscal Note

2009 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for local governments. Contractors may benefit from reduced educational requirements.
