

1 **UTAH CONSTRUCTION TRADE LICENSING**

2 **ACT AMENDMENTS**

3 2010 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Scott K. Jenkins**

6 House Sponsor: Rebecca P. Edwards

7

8 **LONG TITLE**

9 **General Description:**

10 This bill modifies provisions of the Utah Construction Trade Licensing Act relating to
11 plumbers and electricians.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ modifies definitions applicable to supervision of apprentice plumbers and
15 electricians so that the Division of Occupational and Professional Licensing
16 specifies what is reasonable direction, oversight, inspection, and evaluation of a
17 person's work;
- 18 ▶ modifies provisions relating to licensing exemptions for public utilities and persons
19 engaged in minor plumbing work; and
- 20 ▶ makes technical changes.

21 **Monies Appropriated in this Bill:**

22 None

23 **Other Special Clauses:**

24 None

25 **Utah Code Sections Affected:**

26 AMENDS:

27 **58-55-102**, as last amended by Laws of Utah 2008, Chapter 215

28 **58-55-305**, as last amended by Laws of Utah 2009, Chapter 228

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

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

32 **58-55-102. Definitions.**

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

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

37 (b) "Alarm business or company" does not include:

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

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

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

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

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

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

52 (4) "Apprentice electrician" means a person licensed under this chapter as an
53 apprentice electrician who is learning the electrical trade under ~~[approved]~~ the immediate
54 supervision of a master electrician, residential master electrician, a journeyman electrician, or
55 a residential journeyman electrician.

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

58 master plumber, residential master plumber, journeyman plumber, or a residential journeyman
59 plumber.

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

62 ~~[(7)]~~ (6) "Board" means the Electrician Licensing Board, Alarm System Security and
63 Licensing Board, or Plumbers Licensing Board created in Section 58-55-201.

64 ~~[(8)]~~ (7) "Combustion system" means an assembly consisting of:

65 (a) piping and components with a means for conveying, either continuously or
66 intermittently, natural gas from the outlet of the natural gas provider's meter to the burner of
67 the appliance;

68 (b) the electric control and combustion air supply and venting systems, including air
69 ducts; and

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

71 ~~[(9)]~~ (8) "Commission" means the Construction Services Commission created under
72 Section 58-55-103.

73 ~~[(10)]~~ (9) "Construction trade" means any trade or occupation involving:

74 (a) (i) construction, alteration, remodeling, repairing, wrecking or demolition, addition
75 to, or improvement of any building, highway, road, railroad, dam, bridge, structure, excavation
76 or other project, development, or improvement to other than personal property; and

77 (ii) constructing, remodeling, or repairing a manufactured home or mobile home as
78 defined in Section 58-56-3; or

79 (b) installation or repair of a residential or commercial natural gas appliance or
80 combustion system.

81 ~~[(11)]~~ (10) "Construction trades instructor" means a person licensed under this chapter
82 to teach one or more construction trades in both a classroom and project environment, where a
83 project is intended for sale to or use by the public and is completed under the direction of the
84 instructor, who has no economic interest in the project.

85 ~~[(12)]~~ (11) (a) "Contractor" means any person who for compensation other than wages

86 as an employee undertakes any work in the construction, plumbing, or electrical trade for
87 which licensure is required under this chapter and includes:

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

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

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

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

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

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

99 ~~[(13)]~~ (12) (a) "Electrical trade" means the performance of any electrical work
100 involved in the installation, construction, alteration, change, repair, removal, or maintenance
101 of facilities, buildings, or appendages or appurtenances.

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

103 (i) transporting or handling electrical materials;

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

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

107 (c) For purposes of Subsection ~~[(13)]~~ (12)(b):

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

110 (ii) a shop may not employ unlicensed persons in excess of the five-to-one ratio
111 permitted by this Subsection ~~[(13)]~~ (12)(c).

112 ~~[(14)]~~ (13) "Employee" means an individual as defined by the division by rule giving
113 consideration to the definition adopted by the Internal Revenue Service and the Department of

114 Workforce Services.

115 [~~(15)~~] (14) "Engage in a construction trade" means to:

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

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

120 [~~(16)~~] (15) (a) "Financial responsibility" means a demonstration of a current and
121 expected future condition of financial solvency evidencing a reasonable expectation to the
122 division and the board that an applicant or licensee can successfully engage in business as a
123 contractor without jeopardy to the public health, safety, and welfare.

124 (b) Financial responsibility may be determined by an evaluation of the total history
125 concerning the licensee or applicant including past, present, and expected condition and
126 record of financial solvency and business conduct.

127 [~~(17)~~] (16) "Gas appliance" means any device that uses natural gas to produce light,
128 heat, power, steam, hot water, refrigeration, or air conditioning.

129 [~~(18)~~] (17) (a) "General building contractor" means a person licensed under this
130 chapter as a general building contractor qualified by education, training, experience, and
131 knowledge to perform or superintend construction of structures for the support, shelter, and
132 enclosure of persons, animals, chattels, or movable property of any kind or any of the
133 components of that construction except plumbing, electrical work, mechanical work, and
134 manufactured housing installation, for which the general building contractor shall employ the
135 services of a contractor licensed in the particular specialty, except that a general building
136 contractor engaged in the construction of single-family and multifamily residences up to four
137 units may perform the mechanical work and hire a licensed plumber or electrician as an
138 employee.

139 (b) The division may by rule exclude general building contractors from engaging in
140 the performance of other construction specialties in which there is represented a substantial
141 risk to the public health, safety, and welfare, and for which a license is required unless that

142 general building contractor holds a valid license in that specialty classification.

143 ~~[(19)]~~ (18) (a) "General engineering contractor" means a person licensed under this
144 chapter as a general engineering contractor qualified by education, training, experience, and
145 knowledge to perform construction of fixed works in any of the following: irrigation, drainage,
146 water, power, water supply, flood control, inland waterways, harbors, railroads, highways,
147 tunnels, airports and runways, sewers and bridges, refineries, pipelines, chemical and
148 industrial plants requiring specialized engineering knowledge and skill, piers, and foundations,
149 or any of the components of those works.

150 (b) A general engineering contractor may not perform construction of structures built
151 primarily for the support, shelter, and enclosure of persons, animals, and chattels.

152 ~~[(20)]~~ (19) "Immediate supervision" means reasonable direction, oversight, inspection,
153 and evaluation of the work of a person~~[- in or out of the immediate presence of the supervising~~
154 ~~person, so as]:~~

155 (a) as the division specifies in rule;

156 (b) by, as applicable, a qualified electrician or plumber;

157 (c) as part of a planned program of training; and

158 (d) to ensure that the end result complies with applicable standards.

159 ~~[(21)]~~ (20) "Individual" means a natural person.

160 ~~[(22)]~~ (21) "Journeyman electrician" means a person licensed under this chapter as a
161 journeyman electrician having the qualifications, training, experience, and knowledge to wire,
162 install, and repair electrical apparatus and equipment for light, heat, power, and other
163 purposes.

164 ~~[(23)]~~ (22) "Journeyman plumber" means a person licensed under this chapter as a
165 journeyman plumber having the qualifications, training, experience, and technical knowledge
166 to engage in the plumbing trade.

167 ~~[(24)]~~ (23) "Master electrician" means a person licensed under this chapter as a master
168 electrician having the qualifications, training, experience, and knowledge to properly plan,
169 layout, and supervise the wiring, installation, and repair of electrical apparatus and equipment

170 for light, heat, power, and other purposes.

171 ~~[(25)]~~ (24) "Master plumber" means a person licensed under this chapter as a master
172 plumber having the qualifications, training, experience, and knowledge to properly plan and
173 layout projects and supervise persons in the plumbing trade.

174 ~~[(26)]~~ (25) "Person" means a natural person, sole proprietorship, joint venture,
175 corporation, limited liability company, association, or organization of any type.

176 ~~[(27)]~~ (26) (a) "Plumbing trade" means the performance of any mechanical work
177 pertaining to the installation, alteration, change, repair, removal, maintenance, or use in
178 buildings, or within three feet beyond the outside walls of buildings of pipes, fixtures, and
179 fittings for:

- 180 (i) delivery of the water supply;
- 181 (ii) discharge of liquid and water carried waste; or
- 182 (iii) the building drainage system within the walls of the building.

183 (b) "Plumbing trade" includes work pertaining to the water supply, distribution pipes,
184 fixtures and fixture traps, soil, waste and vent pipes, and the building drain and roof drains
185 together with their devices, appurtenances, and connections where installed within the outside
186 walls of the building.

187 ~~[(28)]~~ (27) (a) "Ratio of apprentices" means, for the purpose of determining
188 compliance with the requirements for planned programs of training and electrician apprentice
189 licensing applications, the shop ratio of apprentice electricians to journeyman or master
190 electricians shall be one journeyman or master electrician to one apprentice on industrial and
191 commercial work, and one journeyman or master electrician to three apprentices on residential
192 work.

193 (b) On-the-job training shall be under circumstances in which the ratio of apprentices
194 to supervisors is in accordance with a ratio of one-to-one on nonresidential work and up to
195 three apprentices to one supervisor on residential projects.

196 ~~[(29)]~~ (28) "Residential and small commercial contractor" means a person licensed
197 under this chapter as a residential and small commercial contractor qualified by education,

198 training, experience, and knowledge to perform or superintend the construction of
199 single-family residences, multifamily residences up to four units, and commercial construction
200 of not more than three stories above ground and not more than 20,000 square feet, or any of
201 the components of that construction except plumbing, electrical work, mechanical work, and
202 manufactured housing installation, for which the residential and small commercial contractor
203 shall employ the services of a contractor licensed in the particular specialty, except that a
204 residential and small commercial contractor engaged in the construction of single-family and
205 multifamily residences up to four units may perform the mechanical work and hire a licensed
206 plumber or electrician as an employee.

207 ~~[(30)]~~ (29) "Residential building," as it relates to the license classification of
208 residential journeyman plumber and residential master plumber, means a single or multiple
209 family dwelling of up to four units.

210 ~~[(31)]~~ (30) "Residential journeyman electrician" means a person licensed under this
211 chapter as a residential journeyman electrician having the qualifications, training, experience,
212 and knowledge to wire, install, and repair electrical apparatus and equipment for light, heat,
213 power, and other purposes on buildings using primarily nonmetallic sheath cable.

214 ~~[(32)]~~ (31) "Residential journeyman plumber" means a person licensed under this
215 chapter as a residential journeyman plumber having the qualifications, training, experience,
216 and knowledge to engage in the plumbing trade as limited to the plumbing of residential
217 buildings.

218 ~~[(33)]~~ (32) "Residential master electrician" means a person licensed under this chapter
219 as a residential master electrician having the qualifications, training, experience, and
220 knowledge to properly plan, layout, and supervise the wiring, installation, and repair of
221 electrical apparatus and equipment for light, heat, power, and other purposes on residential
222 projects.

223 ~~[(34)]~~ (33) "Residential master plumber" means a person licensed under this chapter
224 as a residential master plumber having the qualifications, training, experience, and knowledge
225 to properly plan and layout projects and supervise persons in the plumbing trade as limited to

226 the plumbing of residential buildings.

227 ~~[(35)]~~ (34) "Residential project," as it relates to an electrician or electrical contractor,
228 means buildings primarily wired with nonmetallic sheathed cable, in accordance with standard
229 rules and regulations governing this work, including the National Electrical Code, and in
230 which the voltage does not exceed 250 volts line to line and 125 volts to ground.

231 ~~[(36)]~~ (35) (a) "Specialty contractor" means a person licensed under this chapter under
232 a specialty contractor classification established by rule, who is qualified by education,
233 training, experience, and knowledge to perform those construction trades and crafts requiring
234 specialized skill, the regulation of which are determined by the division to be in the best
235 interest of the public health, safety, and welfare.

236 (b) A specialty contractor may perform work in crafts or trades other than those in
237 which he is licensed if they are incidental to the performance of his licensed craft or trade.

238 ~~[(37)]~~ (36) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-55-501.

239 ~~[(38)]~~ (37) "Unprofessional conduct" is as defined in Sections 58-1-501 and
240 58-55-502 and as may be further defined by rule.

241 ~~[(39)]~~ (38) "Wages" means amounts due to an employee for labor or services whether
242 the amount is fixed or ascertained on a time, task, piece, commission, or other basis for
243 calculating the amount.

244 Section 2. Section **58-55-305** is amended to read:

245 **58-55-305. Exemptions from licensure.**

246 (1) In addition to the exemptions from licensure in Section 58-1-307, the following
247 persons may engage in acts or practices included within the practice of construction trades,
248 subject to the stated circumstances and limitations, without being licensed under this chapter:

249 (a) an authorized representative of the United States government or an authorized
250 employee of the state or any of its political subdivisions when working on construction work
251 of the state or the subdivision, and when acting within the terms of the person's trust, office, or
252 employment;

253 (b) a person engaged in construction or operation incidental to the construction and

254 repair of irrigation and drainage ditches of regularly constituted irrigation districts,
255 reclamation districts, and drainage districts or construction and repair relating to farming,
256 dairying, agriculture, livestock or poultry raising, metal and coal mining, quarries, sand and
257 gravel excavations, well drilling, as defined in Section 73-3-25, hauling to and from
258 construction sites, and lumbering;

259 (c) public utilities operating under the rules of the Public Service Commission on
260 [~~construction~~] work incidental to their own business;

261 (d) sole owners of property engaged in building:

262 (i) no more than one residential structure per year and no more than three residential
263 structures per five years on their property for their own noncommercial, nonpublic use; except,
264 a person other than the property owner or individuals described in Subsection (1)(e), who
265 engages in building the structure must be licensed under this chapter if the person is otherwise
266 required to be licensed under this chapter; or

267 (ii) structures on their property for their own noncommercial, nonpublic use which are
268 incidental to a residential structure on the property, including sheds, carports, or detached
269 garages;

270 (e) (i) a person engaged in construction or renovation of a residential building for
271 noncommercial, nonpublic use if that person:

272 (A) works without compensation other than token compensation that is not considered
273 salary or wages; and

274 (B) works under the direction of the property owner who engages in building the
275 structure; and

276 (ii) as used in this Subsection (1)(e), "token compensation" means compensation paid
277 by a sole owner of property exempted from licensure under Subsection (1)(d) to a person
278 exempted from licensure under this Subsection (1)(e), that is:

279 (A) minimal in value when compared with the fair market value of the services
280 provided by the person;

281 (B) not related to the fair market value of the services provided by the person; and

282 (C) is incidental to the providing of services by the person including paying for or
283 providing meals or refreshment while services are being provided, or paying reasonable
284 transportation costs incurred by the person in travel to the site of construction;

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

289 (g) a contractor submitting a bid on a federal aid highway project, if, before
290 undertaking construction under that bid, the contractor is licensed under this chapter;

291 (h) (i) a person engaged in the alteration, repair, remodeling, or addition to or
292 improvement of a building with a contracted or agreed value of less than \$3,000, including
293 both labor and materials, and including all changes or additions to the contracted or agreed
294 upon work; and

295 (ii) notwithstanding Subsection (1)(h)(i) and except as otherwise provided in this
296 section:

297 (A) work in the plumbing and electrical trades on a Subsection (1)(h)(i) project within
298 any six month period of time:

299 (I) must be performed by a licensed electrical or plumbing contractor, if the project
300 involves an electrical or plumbing system; and

301 (II) may be performed by a licensed journeyman electrician or plumber or an
302 individual referred to in Subsection (1)(h)(ii)(A)(I), if the project involves a component of the
303 system such as a faucet, toilet, fixture, device, outlet, or electrical switch;

304 (B) installation, repair, or replacement of a residential or commercial gas appliance or
305 a combustion system on a Subsection (1)(h)(i) project must be performed by a person who has
306 received certification under Subsection 58-55-308(2) except as otherwise provided in
307 Subsection 58-55-308(2)(d) or 58-55-308(3);

308 (C) installation, repair, or replacement of water-based fire protection systems on a
309 Subsection (1)(h)(i) project must be performed by a licensed fire suppression systems

310 contractor or a licensed journeyman plumber;

311 (D) work as an alarm business or company or as an alarm company agent shall be
312 performed by a licensed alarm business or company or a licensed alarm company agent, except
313 as otherwise provided in this chapter;

314 (E) installation, repair, or replacement of an alarm system on a Subsection (1)(h)(i)
315 project must be performed by a licensed alarm business or company or a licensed alarm
316 company agent;

317 (F) installation, repair, or replacement of a heating, ventilation, or air conditioning
318 system (HVAC) on a Subsection (1)(h)(i) project must be performed by an HVAC contractor
319 licensed by the division;

320 (G) installation, repair, or replacement of a radon mitigation system or a soil
321 depressurization system must be performed by a licensed contractor; and

322 (H) if the total value of the project is greater than \$1,000, the person shall file with the
323 division a one-time affirmation, subject to periodic reaffirmation as established by division
324 rule, that the person has:

325 (I) public liability insurance in coverage amounts and form established by division
326 rule; and

327 (II) if applicable, workers compensation insurance which would cover an employee of
328 the person if that employee worked on the construction project;

329 (i) a person practicing a specialty contractor classification or construction trade which
330 the director does not classify by administrative rule as significantly impacting the public's
331 health, safety, and welfare;

332 (j) owners and lessees of property and persons regularly employed for wages by
333 owners or lessees of property or their agents for the purpose of maintaining the property, are
334 exempt from this chapter when doing work upon the property;

335 (k) (i) a person engaged in minor plumbing work that is incidental, as defined by the
336 division by rule, to the replacement or repair of a fixture or an appliance in a residential or
337 small commercial building, or structure used for agricultural use, as defined in Section

338 58-56-4, provided that no modification is made to:

339 (A) existing culinary water, soil, waste, or vent piping; or

340 (B) a gas appliance or combustion system; and

341 (ii) except as provided in Subsection (1)(e), installation for the first time of a fixture or

342 an appliance is not included in the exemption provided under Subsection (1)(k)(i);

343 (l) a person who ordinarily would be subject to the plumber licensure requirements

344 under this chapter when installing or repairing a water conditioner or other water treatment

345 apparatus if the conditioner or apparatus:

346 (i) meets the appropriate state construction codes or local plumbing standards; and

347 (ii) is installed or repaired under the direction of a person authorized to do the work

348 under an appropriate specialty contractor license;

349 (m) a person who ordinarily would be subject to the electrician licensure requirements

350 under this chapter when employed by:

351 (i) railroad corporations, telephone corporations or their corporate affiliates, elevator

352 contractors or constructors, or street railway systems; or

353 (ii) public service corporations, rural electrification associations, or municipal utilities

354 who generate, distribute, or sell electrical energy for light, heat, or power;

355 (n) a person involved in minor electrical work incidental to a mechanical or service

356 installation;

357 (o) a student participating in construction trade education and training programs

358 approved by the commission with the concurrence of the director under the condition that:

359 (i) all work intended as a part of a finished product on which there would normally be

360 an inspection by a building inspector is, in fact, inspected and found acceptable by a licensed

361 building inspector; and

362 (ii) a licensed contractor obtains the necessary building permits; and

363 (p) a delivery person when replacing any of the following existing equipment with a

364 new gas appliance, provided there is an existing gas shutoff valve at the appliance:

365 (i) gas range;

366 (ii) gas dryer;

367 (iii) outdoor gas barbeque; or

368 (iv) outdoor gas patio heater.

369 (2) A compliance agency as defined in Subsection 58-56-3(4) that issues a building

370 permit to a person requesting a permit as a sole owner of property referred to in Subsection

371 (1)(d) shall notify the division, in writing or through electronic transmission, of the issuance of

372 the permit.