

- 26 ▶ modifies the requirements related to a standardized building permit form; and
- 27 ▶ makes technical changes.

28 **Money Appropriated in this Bill:**

29 None

30 **Other Special Clauses:**

31 This bill provides an effective date.

32 This bill coordinates with H.B. 203, Codification of State Construction and Fire Codes,
33 to technically merge substantive amendments.

34 **Utah Code Sections Affected:**

35 AMENDS:

36 **14-1-20**, as last amended by Laws of Utah 2010, Chapter 378

37 **14-2-5**, as last amended by Laws of Utah 2010, Chapter 378

38 **38-1-1**, Utah Code Annotated 1953

39 **38-1-5**, Utah Code Annotated 1953

40 **38-1-27**, as last amended by Laws of Utah 2009, Chapters 183 and 239

41 **38-1-30**, as last amended by Laws of Utah 2008, Chapter 382

42 **38-1-31**, as last amended by Laws of Utah 2009, Chapter 50

43 **38-1-32**, as last amended by Laws of Utah 2009, Chapter 50

44 **38-1-33**, as last amended by Laws of Utah 2010, Chapter 76

45 ~~H→ [38-9-2, as last amended by Laws of Utah 2008, Chapters 3 and 223] ←H~~

46 **58-56-20**, as last amended by Laws of Utah 2010, Chapter 310

47 **63G-6-506**, as renumbered and amended by Laws of Utah 2008, Chapter 382

48 ENACTS:

49 **38-1-30.5**, Utah Code Annotated 1953

50 **38-1-31.5**, Utah Code Annotated 1953

51 **38-1-32.5**, Utah Code Annotated 1953

52 REPEALS:

53 **38-1-37**, as last amended by Laws of Utah 2005, Chapter 64

54 **Utah Code Sections Affected by Coordination Clause:**

55 **15A-1-209**, Utah Code Annotated 1953

56

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

58 Section 1. Section **14-1-20** is amended to read:

59 **14-1-20. Preliminary notice requirement.**

60 (1) Any person furnishing labor, service, equipment, or material for which a payment
61 bond claim may be made under this chapter shall provide preliminary notice to the designated
62 agent as prescribed by Section ~~[38-1-32]~~ 38-1-32.5, except that this section does not apply:

63 (a) to a person performing labor for wages; or

64 (b) if a notice of commencement is not filed as prescribed in Section ~~[38-1-31]~~

65 38-1-31.5 for the project or improvement for which labor, service, equipment, or material is
66 furnished.

67 (2) Any person who fails to provide the preliminary notice required by Subsection (1)
68 may not make a payment bond claim under this chapter.

69 (3) The preliminary notice required by Subsection (1) shall be provided prior to
70 commencement of any action on the payment bond.

71 Section 2. Section **14-2-5** is amended to read:

72 **14-2-5. Preliminary notice requirement.**

73 (1) Any person furnishing labor, service, equipment, or material for which a payment
74 bond claim may be made under this chapter shall provide preliminary notice to the designated
75 agent as prescribed by Section ~~Ĥ→ [f] 38-1-32 [f] [38-1-32.5] ←Ĥ~~ , except that this section does
76a not apply ~~Ĥ→ [:~~

76 ~~——(a) ←Ĥ~~ to a person performing labor for wages ~~Ĥ→ [;or] .~~

77 ~~[(b) if a notice of commencement is not filed as prescribed in Section [38-1-31]~~

78 ~~38-1-31.5 for the project or improvement for which labor, service, equipment, or material is~~
79 ~~furnished:] ←Ĥ~~

80 (2) Any person who fails to provide the preliminary notice required by Subsection (1)
81 may not make a payment bond claim under this chapter.

82 (3) The preliminary notice required by Subsection (1) shall be provided prior to
83 commencement of any action on the payment bond.

84 Section 3. Section **38-1-1** is amended to read:

85 **38-1-1. Public buildings not subject to act.**

86 ~~[The provisions of this]~~ Except as provided in Sections 38-1-27, 38-1-30 through

87 38-1-37, and 38-1-40 relating to the State Construction Registry, this chapter [shall] does not

- 119 (b) ~~H~~→ [A] Notwithstanding the time a lien relates back to and takes effect as of under
 119a Subsection (2), a ←~~H~~ recorded mortgage or trust deed on the project property to secure a
 119b construction
 120 loan has priority over:
- 121 (i) each lien under this chapter of a claimant who files a preliminary notice under
 122 Section 38-1-32 before the mortgage or trust deed is recorded:
- 123 (A) if the claimant is paid in full for labor, service, equipment, or material that the
 124 claimant furnishes to the construction project before the mortgage or trust deed is recorded; and
- 125 (B) to the extent that the claimant's lien covers labor, service, equipment, or material
 126 that the claimant furnishes after the mortgage or trust deed is recorded; and
- 127 (ii) each lien under this chapter of a claimant who first files a preliminary notice under
 128 Section 38-1-32 after the mortgage or trust deed is recorded.
- 129 Section 5. Section **38-1-27** is amended to read:
- 130 **38-1-27. State Construction Registry.**
- 131 (1) As used in this section, Sections 38-1-30 through 38-1-37, and Section 38-1-40:
- 132 (a) "Alternate filing" means a legible and complete filing made in a manner established
 133 by the division under Subsection (2)(e) other than an electronic filing.
- 134 (b) "Cancel" means to indicate that a filing is no longer given effect.
- 135 (c) "Construction project[;]" or "project[;]" [~~or "improvement"~~] means all labor,
 136 service, equipment, and materials provided[;-(i)] under an original contract[;or].
 137 [~~(ii) by, or under contracts with, an owner-builder.~~]
- 138 (d) "Database" means the State Construction Registry created in this section.
- 139 (e) (i) "Designated agent" means the third party the [~~Division of Occupational and~~
 140 Professional Licensing] division contracts with to create and maintain the State Construction
 141 Registry.
- 142 (ii) The designated agent is not an agency, instrumentality, or a political subdivision of
 143 the state.
- 144 (f) "Division" means the Division of Occupational and Professional Licensing.
- 145 (g) "Entry number" means the reference number that the designated agent assigns to
 146 each notice or other document filed with the database that is unique for each notice or other
 147 document.
- 148 (h) "Government project" means a construction project undertaken by or for:
- 149 (i) the state, including a department, division, or other agency of the state; or

150 (ii) a county, city, town, school district, local district, special service district,
 151 community development and renewal agency, or other political subdivision of the state.

152 (i) "Government project-identifying information" means:

153 (i) the lot or parcel number of each lot included in project property that has a lot or
 154 parcel number; and

155 (ii) the unique project number assigned by the designated agent.

156 ~~[(g)]~~ (j) "Interested person" means a person who may be affected by a construction
 157 project.

158 (k) "Private project" means a construction project that is not a government project.

159 ~~[(h)]~~ (l) "Program" means the State Construction Registry Program created in this
 160 section.

161 (m) "Project property" means the real property on which a construction project occurs
 162 or will occur.

163 (2) Subject to receiving adequate funding through a legislative appropriation and
 164 contracting with an approved third party vendor who meets the requirements of Sections
 165 38-1-30 through 38-1-37, there is created the State Construction Registry Program that shall:

166 (a) (i) assist in protecting public health, safety, and welfare; and

167 (ii) promote a fair working environment;

168 (b) be overseen by the division with the assistance of the designated agent;

169 (c) provide a central repository for ~~[notices of commencement,]~~ ~~H→~~ [:

170 ~~—— (i) preliminary notices[,] and notices of completion filed in connection with all~~
 171 ~~[privately owned construction] private projects [as well as] in the state; and~~

172 ~~—— (ii) notices of commencement, preliminary notices, and notices of completion for all~~
 173 ~~[state and local] government [owned construction] projects [throughout Utah] in the state] all notices~~

173a ~~filed with the database under Section 38-1-30.5, 38-1-31.5, 38-1-32, 38-1-32.5, 38-1-33,~~

173b ~~or 38-1-40 ←H ;~~

174 (d) ~~[be]~~ make accessible ~~[for filing and review],~~ by way of the program Internet
 175 website ~~[of]:~~

176 (i) the filing and reviewing of ~~H→~~ [:

177 ~~—— [(i)] (A) notices of commencement on a government project;~~

178 ~~—— [(ii)] (B) preliminary notices;~~

179 ~~—— [(iii)] (C) [a notice] notices of intent to file notice of final completion;~~

180 ~~—— [(iv)] (D) [a notice] notices for remaining amounts due to complete the contract; and~~

181 ~~[(v)] (E) notices of completion~~ notices described in Subsection (2)(c) ~~←H~~ ; and
 182 (ii) the transmitting of building permit information under Subsection 38-1-31(2)(a) and
 183 the reviewing of that information;
 184 (e) accommodate:
 185 (i) electronic filing of the notices described in Subsection (2)(d)(i) and electronic
 186 transmitting of building permit information described in Subsection (2)(d)(ii); and
 187 (ii) alternate filing of the notices described in Subsection (2)(d) by U.S. mail, telefax,
 188 or any other alternate method as provided by rule made by the division in accordance with Title
 189 63G, Chapter 3, Utah Administrative Rulemaking Act;
 190 (f) (i) provide electronic notification for up to three email addresses for each interested
 191 person or company who requests notice from the construction notice registry; and
 192 (ii) provide alternate means of notification for a person who makes an alternate filing,
 193 including U.S. mail, telefax, or any other method as prescribed by rule made by the division in
 194 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and
 195 (g) provide hard-copy printing of electronic receipts for an individual filing evidencing
 196 the date and time of the individual filing and the content of the individual filing.
 197 (3) (a) The designated agent shall provide notice of all other filings for a project to any
 198 person who files a notice of commencement, preliminary notice, or notice of completion for
 199 that project, unless the person:
 200 (i) requests that the person not receive notice of other filings; or
 201 (ii) does not provide the designated agent with the person's contact information in a
 202 manner that adequately informs the designated agent.
 203 (b) An interested person may request notice of filings related to a project.
 204 (c) The database shall be indexed by:
 205 (i) the name of the property owner [name];
 206 (ii) the name of the original contractor [name];
 207 ~~[(iii) subdivision, development, or other project name, if any;]~~
 208 ~~[(iv) project address;]~~
 209 ~~[(v) lot or parcel number;]~~
 210 ~~[(vi) unique project number assigned by the designated agent; and]~~
 211 (iii) the address of the project property;

- 212 (iv) entry number;
- 213 (v) the name of the county in which the project property is located;
- 214 (vi) for private projects;
- 215 (A) the tax parcel identification number of each parcel included in the project property;
- 216 and
- 217 (B) the building permit number;
- 218 (vii) for government projects, the government project-identifying information; and
- 219 ~~[(vii)]~~ (viii) any other identifier that the division considers reasonably appropriate in
- 220 collaboration with the designated agent.

221 (4) (a) In accordance with the process required by Section 63J-1-504, the division shall

222 establish the fees for:

- 223 (i) ~~H→~~ **[a notice of commencement on a government project;**
- 224 ~~—~~ **(ii) a preliminary notice;**
- 225 ~~—~~ **(iii) a notice of intent to file notice of final completion;**
- 226 ~~—~~ **(iv) a notice for remaining amounts due to complete the contract;**
- 227 ~~—~~ **(v) a notice of completion] notices described in Subsection (2)(c) ←H ;**
- 228 ~~H→~~ **[(vi)]** ~~(ii) ←H~~ a request for notice;
- 229 ~~H→~~ **[(vii)]** ~~(iii) ←H~~ providing a required notice by an alternate ~~H→~~ **[method of delivery]**
- 229a **filing ←H ;**
- 230 ~~H→~~ **[(viii)]** ~~(iv) ←H~~ a duplicate receipt of a filing; and
- 231 ~~H→~~ **[(ix)]** ~~(v) ←H~~ account setup for a person who wishes to be billed periodically for
- 231a filings with the
- 232 database.

233 (b) The fees allowed under Subsection (4)(a) may not exceed the amount reasonably

234 necessary to create and maintain the database.

235 (c) The fees established by the division may vary by method of filing if one form of

236 filing is more costly to process than another form of filing.

237 (d) The division may provide by contract that the designated agent may retain all fees

238 collected by the designated agent except that the designated agent shall remit to the division the

239 cost of the division's oversight under Subsection (2)(b).

240 (5) (a) The database is classified as a public record under Title 63G, Chapter 2,

241 Government Records Access and Management Act, unless otherwise classified by the division.

242 (b) A request for information submitted to the designated agent is not subject to Title

522 filed[-]; and

523 (ii) is not effective for labor, service, equipment, or material that the person who files
 524 the preliminary notice furnishes to the construction project before five days after the
 525 preliminary notice is filed.

526 [~~(c) Except as provided in Subsection (1)(c), failure to file a preliminary notice within~~
 527 ~~the period required by Subsection (1)(a) precludes a person from maintaining any claim for~~
 528 ~~compensation earned for performance of labor or service or supply of materials or equipment~~
 529 ~~furnished to the construction project before the expiration of five days after the late filing of a~~
 530 ~~preliminary notice, except as against the person with whom the person contracted.]~~

531 ~~Ĥ→ [(d) A preliminary notice filed for labor, service, equipment, or material furnished to~~
 532 ~~real property for a private project under an original contract is not valid for labor, service,~~
 533 ~~equipment, or material furnished to the same real property for another private project under a~~
 534 ~~separate original contract.]~~

535 [F] (d) [f] [~~(e)~~ ←Ĥ (i) (A) [H-a] A person who [is required to file a preliminary notice
 535a under this
 536 chapter] fails to file [the] a preliminary notice[-, that person] as required in this section may not
 537 hold a valid lien under this chapter.

538 (B) A person who files a preliminary notice after the period provided in Subsection
 539 (1)(a) may not hold a valid lien under this chapter for labor, service, equipment, or material the
 540 person furnishes to the construction project before five days after the preliminary notice is
 541 filed.

542 [~~(B)~~] (ii) A county recorder need not verify that a valid preliminary notice is filed when
 543 a person files a notice to hold and claim a lien under Section 38-1-7.

544 [~~(ii) The content of a]~~

545 ~~Ĥ→ [(f)] (e) ←Ĥ~~ A preliminary notice that is timely filed with the database with respect
 545a to a private
 546 project is considered to have been filed at the time of the first preliminary notice filing, as
 547 defined in Section 38-1-5.

548 ~~Ĥ→ [(g)] (f) ←Ĥ~~ If a preliminary notice filed with the database includes the tax parcel
 548a identification
 549 number of a parcel not previously associated in the database with a private project, the
 550 designated agent shall promptly notify the person who filed the preliminary notice that:

551 (i) the preliminary notice includes a tax parcel identification number of a parcel not
 552 previously associated in the database with a private project; and

553 (ii) the likely explanation is that:

554 (A) the preliminary notice is the first filing for the project; or

555 (B) the tax parcel identification number is incorrectly stated in the preliminary notice.

556 ~~H→~~ ~~(th)~~ (g) ~~←H~~ A preliminary notice for a private project shall include:

557 ~~[(A) the building permit number for the project, or the number assigned to the project~~
558 ~~by the designated agent;]~~

559 ~~[(B)~~ (i) the name, address, [and] telephone number, and email address of the person
560 furnishing the labor, service, equipment, or material for which the preliminary notice is filed;

561 ~~[(C)~~ (ii) the name and address of the person who contracted with the claimant for the
562 furnishing of the labor, service, equipment, or material;

563 ~~[(D)~~ (iii) the name of the record or reputed owner of the project property;

564 ~~[(E)~~ (iv) the name of the original contractor under which the claimant is [performing]
565 furnishing or will [perform its work, and] furnish labor, service, equipment, or material;

566 ~~[(F)~~ (v) the address of the project property or a description of the location of the
567 project[-];

568 ~~[(iii) Upon request by person identified in Subsection (1)(a)(i), an original contractor~~
569 ~~shall provide the person with the building permit number for the project, or the number~~
570 ~~assigned to the project by the designated agent.]~~

571 ~~[(e) If a person provides labor, service, equipment, or material before the filing of a~~
572 ~~notice of commencement and the notice of commencement is filed more than 15 days after the~~
573 ~~day on which the person providing labor, service, equipment, or material begins work on the~~
574 ~~project, the person providing labor, service, equipment, or material need not file a preliminary~~
575 ~~notice to maintain the person's right to hold a lien under this chapter or any other right,~~
576 ~~including a right referenced under Subsection (1)(c).]~~

577 (vi) the name of the county in which the project property is located; and

578 (vii) (A) the tax parcel identification number of each parcel included in the project
579 property;

580 (B) the entry number of a previously filed notice of construction loan under Section
581 38-1-30.5 on the same project;

582 (C) the entry number of a previously filed preliminary notice on the same project that
583 includes the tax parcel identification number of each parcel included in the project property; or

739 completion from the database in any manner prescribed by the division pursuant to rule.

740 (3) A person filing a notice of completion by alternate filing is responsible for verifying
741 and changing any incorrect information in the notice of completion before the expiration of the
742 time period during which the notice is required to be filed.

743 ~~Ĥ→ [Section 13. Section 38-9-2 is amended to read:~~

744 ~~—— 38-9-2. Scope:~~

745 ~~—— (1) (a) The provisions of Sections 38-9-1, 38-9-3, 38-9-4, and 38-9-6 apply to any~~
746 ~~recording or filing or any rejected recording or filing of a lien pursuant to this chapter on or~~
747 ~~after May 5, 1997.~~

748 ~~—— (b) The provisions of Sections 38-9-1 and 38-9-7 apply to all liens of record regardless~~
749 ~~of the date the lien was recorded or filed.~~

750 ~~—— (c) Notwithstanding Subsections (1)(a) and (b), the provisions of this chapter~~
751 ~~applicable to the filing of a notice of interest do not apply to a notice of interest filed before~~
752 ~~May 5, 2008.~~

753 ~~—— (2) The provisions of this chapter shall not prevent a person from filing a lis pendens in~~
754 ~~accordance with Section 78B-6-1303 or seeking any other relief permitted by law.~~

755 ~~—— [(3) This chapter does not apply to a person entitled to a lien under Section 38-1-3 who~~
756 ~~files a lien pursuant to Title 38, Chapter 1, Mechanics' Liens.]] ←Ĥ~~

757 Section 14. Section ~~58-56-20~~ is amended to read:

758 **58-56-20. Standardized building permit content.**

759 (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
760 division shall adopt a standardized building permit form by rule.

761 (2) (a) The standardized building permit form created under Subsection (1) shall
762 include fields for indicating the following information:

763 (i) the name and address of the owner of [~~or contractor for the~~] each parcel of property
764 on which the project will occur;

765 (ii) the name and address of the contractor for the project;

766 [~~(ii)~~] (iii) (A) the address of the project; or

767 (B) a general description of the project; [and]

768 (iv) the county in which the property on which the project will occur is located;

769 (v) the tax parcel identification number of each parcel of the property; and