(ii) a corporation; or
(iii) publicly traded.

[(+)] (e) "Wages" means [aH] the amounts due the employee for labor or services, whether the amount is fixed or ascertained on a time, task, piece, commission basis or other method of calculating such amount.

(2) (a) For purposes of this chapter, an unincorporated entity that is required to be licensed under Title 58, Chapter 55, Utah Construction Trades Licensing Act, is presumed to be the employer of each [member of] individual who, directly or indirectly, holds an ownership interest in the unincorporated entity.

(b) Pursuant to rules made by the commission in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, an unincorporated entity may rebut the presumption under Subsection (2)(a) for [member] an individual by establishing by clear and convincing evidence that the

[member] individual:

(i) is an active manager of the unincorporated entity;
(ii) directly or indirectly holds at least a [20%] ownership interest in the unincorporated entity; or
(iii) is not subject to supervision or control in the performance of work by:

(A) the unincorporated entity; or
(B) a person with whom the unincorporated entity contracts.

(c) As part of the rules made under Subsection (2)(b), the commission may define:

(i) "active manager";
(ii) "directly or indirectly holds at least a [20%] ownership interest"; and
(iii) "subject to supervision or control in the performance of work."

(d) The commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, may establish a procedure, consistent with Section 34-28-7, under which an unincorporated entity may seek approval of a mutual agreement to pay wages on non-regular paydays.

Section 2. Section 34A-2-103 is amended to read:

34A-2-103. Employers enumerated and defined -- Regularly employed --

Statutory employers.

(1) (a) The state, and each county, city, town, and school district in the state are considered employers under this chapter and Chapter 3, Utah Occupational Disease Act.
school against one of its employees, applicants, or members because the employee, applicant, or member:

[(a) (i)] has opposed any employment practice prohibited under this chapter; or

[(b) (ii)] filed charges, testified, assisted, or participated in any way in any proceeding, investigation, or hearing under this chapter.

(r) "Unincorporated entity" means an entity organized or doing business in the state that is not:

(i) an individual;

(ii) a corporation; or

(iii) publicly traded.

[(s)] "Vocational school" means any school or institution conducting a course of instruction, training, or retraining to prepare individuals to follow an occupation or trade, or to pursue a manual, technical, industrial, business, commercial, office, personal services, or other nonprofessional occupations.

(2) (a) For purposes of this chapter, an unincorporated entity that is required to be licensed under Title 58, Chapter 55, Utah Construction Trades Licensing Act, is presumed to be the employer of each [member of] individual who, directly or indirectly, holds an ownership interest in the unincorporated entity.

(b) Pursuant to rules made by the commission in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, an unincorporated entity may rebut the presumption under Subsection (2)(a) for a member of an individual by establishing by clear and convincing evidence that the member:

(i) is an active manager of the unincorporated entity;

(ii) directly or indirectly holds at least a [20%] ownership interest in the unincorporated entity; or

(iii) is not subject to supervision or control in the performance of work by:

(A) the unincorporated entity; or

(B) a person with whom the unincorporated entity contracts.

(c) As part of the rules made under Subsection (2)(b), the commission may define:

(i) "active manager";

(ii) "directly or indirectly holds at least a [20%] ownership interest"; and

(iii) "subject to supervision or control in the performance of work."
"Person" means the general public, one or more individuals, partnerships, associations, corporations, legal representatives, trustees, receivers, and the state and its political subdivisions.

"Publish" means publication in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

"Secretary" means the Secretary of the United States Department of Labor.

"Standard" means an occupational health and safety standard or group of standards which requires conditions, or the adoption or use of one or more practices, means, methods, operations, or processes, reasonably necessary to provide safety and healthful employment and places of employment.

"Unincorporated entity" means an entity organized or doing business in the state that is not:

(i) an individual;

(ii) a corporation; or

(iii) publicly traded.

"Variance" means a special, limited modification or change in the code or standard applicable to the particular establishment of the employer or person petitioning for the modification or change.

"Workplace" means any place of employment.

For purposes of this chapter, an unincorporated entity that is required to be licensed under Title 58, Chapter 55, Utah Construction Trades Licensing Act, is presumed to be the employer of each individual who, directly or indirectly, holds an ownership interest in the unincorporated entity.

(b) Pursuant to rules made by the commission in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, an unincorporated entity may rebut the presumption under Subsection (2)(a) for an individual by establishing by clear and convincing evidence that the individual:

(i) is an active manager of the unincorporated entity;

(ii) directly or indirectly holds at least a 8% ownership interest in the unincorporated entity; or

(iii) is not subject to supervision or control in the performance of work by:

(A) the unincorporated entity; or
(B) a person with whom the unincorporated entity contracts.

(c) As part of the rules made under Subsection (2)(b), the commission may define:

(i) "active manager";

(ii) "directly or indirectly holds at least a 8% ownership interest"; and

(iii) "subject to supervision or control in the performance of work."

Section 5. Section 58-55-102 is amended to read:


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

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

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

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

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

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

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

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

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

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

(5) "Apprentice plumber" means a person licensed under this chapter as an apprentice...
(ii) (A) the applicant is a partnership, corporation, or limited liability company; and
(B) any corporate officer, director, shareholder holding 25% or more of the stock in the
applicant, partner, member, agent acting as a qualifier, or any person occupying a similar
status, performing similar functions, or directly or indirectly controlling the applicant has
served in any similar capacity with any person or entity which has had a previous license,
which was issued under this chapter, suspended or revoked more than one year prior to the date
of the applicant's application; or
(iii) (A) the applicant is an individual or sole proprietorship; and
(B) any owner or agent acting as a qualifier has served in any capacity listed in
Subsection (9)(b)(ii)(B) in any entity which has had a previous license, which was issued under
this chapter, suspended or revoked more than one year prior to the date of the applicant's
application.
(10) (a) A licensee that is an unincorporated entity shall file an ownership status report
with the division every 90 days after the day on which the license is issued if the licensee has as
an owner an individual who:
(i) owns an interest in the contractor that is an unincorporated entity;
(ii) owns, directly or indirectly, less than an 8% interest in the
unincorporated entity, as
defined by rule made by the division in accordance with Title 63G, Chapter 3, Utah
Administrative Rulemaking Act; and
(iii) engages, or will engage, in a construction trade in Utah as an owner of the
contractor described in Subsection (10)(a)(i).
(b) An ownership status report required under this Subsection (10) shall:
(i) list each addition or deletion of an owner;
(A) for the first ownership status report, after the day on which the unincorporated
entity is licensed under this chapter; and
(B) for a subsequent ownership status report, after the day on which the previous
ownership status report is filed;
(ii) be in a format prescribed by the division that is consistent with a list provided
under Subsection 58-55-302(1)(e)(iv); and
(iii) be accompanied by a fee set by the division in accordance with Section 63J-1-504
if the ownership status report indicates there is a change described in Subsection (10)(b)(i).
(24) an unincorporated entity licensed under this chapter having an individual who
owns an interest in the unincorporated entity engage in a construction trade in Utah while not
lawfully present in the United States; or
(25) an unincorporated entity failing to provide the following for an individual who
engages, or will engage, in a construction trade in Utah for the unincorporated entity:
(a) workers' compensation coverage to the extent required by Title 34A, Chapter 2,
Workers' Compensation Act, and Title 34A, Chapter 3, Utah Occupational Disease Act; and
(b) unemployment compensation in accordance with Title 35A, Chapter 4,
Employment Security Act, for an individual who owns, directly or indirectly, less than a
interest in the unincorporated entity, as defined by rule made by the division in accordance with
Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 10. Section 58-55-502 is amended to read:
Unprofessional conduct includes:
(1) failing to establish, maintain, or demonstrate financial responsibility while licensed
as a contractor under this chapter;
(2) disregarding or violating through gross negligence or a pattern of negligence:
(a) the building or construction laws of this state or any political subdivision;
(b) the safety and labor laws applicable to a project;
(c) any provision of the health laws applicable to a project;
(d) the workers' compensation insurance laws of this state applicable to a project;
(e) the laws governing withholdings for employee state and federal income taxes,
unemployment taxes, [FICA Social Security payroll taxes, or other required withholdings; or
(f) any reporting, notification, and filing laws of this state or the federal government;
(3) any willful, fraudulent, or deceitful act by a licensee, caused by a licensee, or at a
licensee's direction which causes material injury to another;
(4) contract violations that pose a threat or potential threat to the public health, safety,
and welfare including:
(a) willful, deliberate, or grossly negligent departure from or disregard for plans or
specifications, or abandonment or failure to complete a project without the consent of the
owner or [his] the owner's duly authorized representative or the consent of any other person
entitled to have the particular project completed in accordance with the plans, specifications, and contract terms;

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

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

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

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

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

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

(6) failing as an alarm company agent to carry or display a copy of the licensee's license as required under Section 58-55-311; [or]

(7) failing to comply with operating standards established by rule in accordance with Section 58-55-308[;]

(8) an unincorporated entity licensed under this chapter having an individual who owns through a pattern of negligence

an interest in the unincorporated entity engage in a construction trade in Utah while not lawfully present in the United States; or

(9) an unincorporated entity failing to provide the following for an individual who engages, or will engage, in a construction trade in Utah for the unincorporated entity:

(a) workers' compensation coverage to the extent required by Title 34A, Chapter 2, Workers' Compensation Act, and Title 34A, Chapter 3, Utah Occupational Disease Act; and

(b) unemployment compensation in accordance with Title 35A, Chapter 4,
Employment Security Act, for an individual who owns, directly or indirectly, less than a
interest in the unincorporated entity, as defined by rule made by the division in accordance with
Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 11. Section 58-55-503 is amended to read:


(1) (a) (i) A person who violates Subsection 58-55-308(2), Subsection 58-55-501(1),
(2), (3), (4), (5), (6), (7), (9), (10), (12), (14), (15), (22), [or (23), (24), or (25), or Subsection
58-55-504(2), or who fails to comply with a citation issued under this section after it is final, is
guilty of a class A misdemeanor.

(ii) As used in this section in reference to Subsection 58-55-504(2), "person" means an
individual and does not include a sole proprietorship, joint venture, corporation, limited
liability company, association, or organization of any type.

(b) A person who violates the provisions of Subsection 58-55-501(8) may not be
awarded and may not accept a contract for the performance of the work.

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

(3) Grounds for immediate suspension of the licensee's license by the division and the
commission include the issuance of a citation for violation of Subsection 58-55-308(2), Section
58-55-501, or Subsection 58-55-504(2), or the failure by a licensee to make application to,
report to, or notify the division with respect to any matter for which application, notification, or
reporting is required under this chapter or rules adopted under this chapter, including applying
to the division for a new license to engage in a new specialty classification or to do business
under a new form of organization or business structure, filing with the division current
financial statements, notifying the division concerning loss of insurance coverage, or change in
qualifier.

(4) (a) If upon inspection or investigation, the division concludes that a person has
violated the provisions of Subsection 58-55-308(2) or Subsections 58-55-501(1), (2), (3), (9),
(10), (12), (14), (19), (21), (22), [or (23), (24), or (25), or Subsection 58-55-504(2), or any rule
or order issued with respect to these subsections, and that disciplinary action is appropriate, the
violation of the provisions of Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9),
(10), (12), (14), [or] (19), (24), or (25), or Subsection 58-55-504(2); and
(IV) after determining that the person committed a second or subsequent offense under
Subsection (4)(i)(i)(B)(III), the division issues a final order on the action initiated under
(ii) In issuing a final order for a second or subsequent offense under Subsection
(4)(i)(i), the division shall comply with the requirements of this section.
(j) In addition to any other licensure sanction or fine imposed under this section, the
division shall revoke the license of a licensee that violates Subsection 58-55-501(24) or (25)
two or more times within a 12-month period, unless, with respect to a violation of
Section 58-55-501(24), the licensee can demonstrate that the licensee successfully verified
the federal legal working status of the individual who was the subject of the violation using a
status verification system, as defined in Section 13-47-102.
(k) For purposes of this Subsection (4), a violation of Subsection 58-55-501(24) or (25)
for each individual is considered a separate violation.
(5) (a) A penalty imposed by the director under Subsection (4)(h) shall be deposited
into the Commerce Service Account created by Section 13-1-2.
(b) A penalty that is not paid may be collected by the director by either
referring the matter to a collection agency or bringing an action in the district court of the
county in which the person against whom the penalty is imposed resides or in the county where
the office of the director is located.
(c) A county attorney or the attorney general of the state is to provide legal assistance
and advice to the director in any action to collect the penalty.
(d) In an action brought to enforce the provisions of this section, reasonable attorney fees and costs shall be awarded.
Section 12. Section 63G-2-302 is amended to read:
63G-2-302. Private records.
(1) The following records are private:
(a) records concerning an individual's eligibility for unemployment insurance benefits,
social services, welfare benefits, or the determination of benefit levels;
(b) records containing data on individuals describing medical history, diagnosis,
condition, treatment, evaluation, or similar medical data;
(c) records of publicly funded libraries that when examined alone or with other records
identify a patron;