

1 **GENERAL BUILDING CONTRACTOR AMENDMENTS**

2 2012 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: James A. Dunnigan**

5 Senate Sponsor: Karen Mayne

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies a provision relating to general building contractors.

10 **Highlighted Provisions:**

11 This bill:

12 ▶ excludes work related to the operating integrity of an elevator from the work that a
13 general building contractor may perform.

14 **Money Appropriated in this Bill:**

15 None

16 **Other Special Clauses:**

17 None

18 **Utah Code Sections Affected:**

19 AMENDS:

20 **58-55-102**, as last amended by Laws of Utah 2011, Chapters 14 and 413

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

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

24 **58-55-102. Definitions.**

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

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

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

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

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

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

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

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

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

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

48 (5) "Apprentice plumber" means a person licensed under this chapter as an apprentice
49 plumber who is learning the plumbing trade under the immediate supervision of a master
50 plumber, residential master plumber, journeyman plumber, or a residential journeyman
51 plumber.

52 (6) "Approved continuing education" means instruction provided through courses
53 under a program established under Subsection 58-55-302.5(2).

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

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

57 (a) piping and components with a means for conveying, either continuously or

58 intermittently, natural gas from the outlet of the natural gas provider's meter to the burner of the
59 appliance;

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

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

63 (9) "Commission" means the Construction Services Commission created under Section
64 58-55-103.

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

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

69 (ii) constructing, remodeling, or repairing a manufactured home or mobile home as
70 defined in Section 15A-1-302; or

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

73 (11) "Construction trades instructor" means a person licensed under this chapter to
74 teach one or more construction trades in both a classroom and project environment, where a
75 project is intended for sale to or use by the public and is completed under the direction of the
76 instructor, who has no economic interest in the project.

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

80 (i) a person who builds any structure on the person's own property for the purpose of
81 sale or who builds any structure intended for public use on the person's own property;

82 (ii) any person who represents that the person is a contractor by advertising or any
83 other means;

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

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

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

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

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

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

95 (i) transporting or handling electrical materials;

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

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

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

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

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

104 (14) "Elevator" has the same meaning as defined in Section 34A-7-202, except that for
105 purposes of this chapter it does not mean a stair chair, a vertical platform lift, or an incline
106 platform lift.

107 (15) "Elevator contractor" means a sole proprietor, firm, or corporation licensed under
108 this chapter that is engaged in the business of erecting, constructing, installing, altering,
109 servicing, repairing, or maintaining an elevator.

110 (16) "Elevator mechanic" means an individual who is licensed under this chapter as an
111 elevator mechanic and who is engaged in erecting, constructing, installing, altering, servicing,
112 repairing, or maintaining an elevator under the immediate supervision of an elevator contractor.

113 (17) "Employee" means an individual as defined by the division by rule giving

114 consideration to the definition adopted by the Internal Revenue Service and the Department of
115 Workforce Services.

116 (18) "Engage in a construction trade" means to:

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

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

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

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

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

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

140 (b) The division may by rule exclude general building contractors from engaging in the
141 performance of other construction specialties in which there is represented a substantial risk to

142 the public health, safety, and welfare, and for which a license is required unless that general
143 building contractor holds a valid license in that specialty classification.

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

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

153 (23) "Immediate supervision" means reasonable direction, oversight, inspection, and
154 evaluation of the work of a person:

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 (24) "Individual" means a natural person.

160 (25) "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 purposes.

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

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

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

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

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

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

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

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

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

193 (32) "Residential and small commercial contractor" means a person licensed under this
194 chapter as a residential and small commercial contractor qualified by education, training,
195 experience, and knowledge to perform or superintend the construction of single-family
196 residences, multifamily residences up to four units, and commercial construction of not more
197 than three stories above ground and not more than 20,000 square feet, or any of the components

198 of that construction except plumbing, electrical work, mechanical work, and manufactured
199 housing installation, for which the residential and small commercial contractor shall employ
200 the services of a contractor licensed in the particular specialty, except that a residential and
201 small commercial contractor engaged in the construction of single-family and multifamily
202 residences up to four units may perform the mechanical work and hire a licensed plumber or
203 electrician as an employee.

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

207 (34) "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 (35) "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 (36) "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 (37) "Residential master plumber" means a person licensed under this chapter as a
219 residential master plumber having the qualifications, training, experience, and knowledge to
220 properly plan and layout projects and supervise persons in the plumbing trade as limited to the
221 plumbing of residential buildings.

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

226 (39) (a) "Specialty contractor" means a person licensed under this chapter under a
227 specialty contractor classification established by rule, who is qualified by education, training,
228 experience, and knowledge to perform those construction trades and crafts requiring
229 specialized skill, the regulation of which are determined by the division to be in the best
230 interest of the public health, safety, and welfare.

231 (b) A specialty contractor may perform work in crafts or trades other than those in
232 which the specialty contractor is licensed if they are incidental to the performance of the
233 specialty contractor's licensed craft or trade.

234 (40) "Unincorporated entity" means an entity that is not:

- 235 (a) an individual;
- 236 (b) a corporation; or
- 237 (c) publicly traded.

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

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

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