

1 **DEPARTMENT OF COMMERCE LICENSE RELATED**

2 **AMENDMENTS**

3 2012 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Karen Mayne**

6 House Sponsor: Todd E. Kiser

7

8 **LONG TITLE**

9 **General Description:**

10 This bill modifies provisions related to occupational and professional licensing by the
11 Department of Commerce.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ adds to the information certain applicants are required to provide to obtain a
15 construction trade license;
- 16 ▶ modifies ownership status reporting requirements;
- 17 ▶ addresses audits of the ownership status reports;
- 18 ▶ adds to information certain unincorporated entities are required to provide regarding
19 owners;
- 20 ▶ modifies powers of the division if an owner fails to demonstrate financial
21 responsibility;
- 22 ▶ clarifies language regarding the Department of Commerce receiving driver license
23 and identification card information; and
- 24 ▶ makes technical and conforming amendments.

25 **Money Appropriated in this Bill:**

26 None

27 **Other Special Clauses:**

28 None

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **58-55-302**, as last amended by Laws of Utah 2011, Chapter 413

32 **58-55-306**, as last amended by Laws of Utah 2011, Chapter 413

33 **63G-12-402**, as last amended by Laws of Utah 2011, Chapter 413 and renumbered and
34 amended by Laws of Utah 2011, Chapter 18



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

37 Section 1. Section **58-55-302** is amended to read:

38 **58-55-302. Qualifications for licensure.**

39 (1) Each applicant for a license under this chapter shall:

40 (a) submit an application prescribed by the division;

41 (b) pay a fee as determined by the department under Section 63J-1-504;

42 (c) (i) meet the examination requirements established by rule by the commission with
43 the concurrence of the director, except for the classifications of apprentice plumber and
44 apprentice electrician for whom no examination is required; or

45 (ii) if required in Section 58-55-304, the individual qualifier must pass the required
46 examination if the applicant is a business entity;

47 (d) if an apprentice, identify the proposed supervisor of the apprenticeship;

48 (e) if an applicant for a contractor's license:

49 (i) produce satisfactory evidence of financial responsibility, except for a construction
50 trades instructor for whom evidence of financial responsibility is not required;

51 (ii) produce satisfactory evidence of knowledge and experience in the construction
52 industry and knowledge of the principles of the conduct of business as a contractor, reasonably
53 necessary for the protection of the public health, safety, and welfare;

54 (iii) (A) be a licensed master electrician if an applicant for an electrical contractor's
55 license or a licensed master residential electrician if an applicant for a residential electrical
56 contractor's license;

57 (B) be a licensed master plumber if an applicant for a plumbing contractor's license or

58 a licensed master residential plumber if an applicant for a residential plumbing contractor's
59 license; or

60 (C) be a licensed elevator mechanic and produce satisfactory evidence of three years
61 experience as an elevator mechanic if an applicant for an elevator contractor's license; and

62 (iv) when the applicant is an unincorporated entity, provide a list of the one or more
63 individuals who hold an ownership interest in the applicant as of the day on which the
64 application is filed that includes for each individual:

65 (A) the individual's name, address, [~~and~~] birthdate, and Social Security number; and

66 (B) whether the individual will engage in a construction trade; and

67 (f) if an applicant for a construction trades instructor license, satisfy any additional
68 requirements established by rule.

69 (2) After approval of an applicant for a contractor's license by the applicable board and
70 the division, the applicant shall file the following with the division before the division issues
71 the license:

72 (a) proof of workers' compensation insurance which covers employees of the applicant
73 in accordance with applicable Utah law;

74 (b) proof of public liability insurance in coverage amounts and form established by rule
75 except for a construction trades instructor for whom public liability insurance is not required;
76 and

77 (c) proof of registration as required by applicable law with the:

78 (i) Utah Department of Commerce;

79 (ii) Division of Corporations and Commercial Code;

80 (iii) Unemployment Insurance Division in the Department of Workforce Services, for
81 purposes of Title 35A, Chapter 4, Employment Security Act;

82 (iv) State Tax Commission; and

83 (v) Internal Revenue Service.

84 (3) In addition to the general requirements for each applicant in Subsection (1),
85 applicants shall comply with the following requirements to be licensed in the following

86 classifications:

87 (a) (i) A master plumber shall produce satisfactory evidence that the applicant:

88 (A) has been a licensed journeyman plumber for at least two years and had two years of
89 supervisory experience as a licensed journeyman plumber in accordance with division rule;

90 (B) has received at least an associate of applied science degree or similar degree
91 following the completion of a course of study approved by the division and had one year of
92 supervisory experience as a licensed journeyman plumber in accordance with division rule; or

93 (C) meets the qualifications determined by the division in collaboration with the board
94 to be equivalent to Subsection (3)(a)(i)(A) or (B).

95 (ii) An individual holding a valid Utah license as a journeyman plumber, based on at
96 least four years of practical experience as a licensed apprentice under the supervision of a
97 licensed journeyman plumber and four years as a licensed journeyman plumber, in effect
98 immediately prior to May 5, 2008, is on and after May 5, 2008, considered to hold a current
99 master plumber license under this chapter, and satisfies the requirements of this Subsection
100 (3)(a) for the purpose of renewal or reinstatement of that license under Section 58-55-303.

101 (iii) An individual holding a valid plumbing contractor's license or residential
102 plumbing contractor's license, in effect immediately prior to May 5, 2008, is on or after May 5,
103 2008:

104 (A) considered to hold a current master plumber license under this chapter if licensed
105 as a plumbing contractor and a journeyman plumber, and satisfies the requirements of this
106 Subsection (3)(a) for purposes of renewal or reinstatement of that license under Section
107 58-55-303; and

108 (B) considered to hold a current residential master plumber license under this chapter if
109 licensed as a residential plumbing contractor and a residential journeyman plumber, and
110 satisfies the requirements of this Subsection (3)(a) for purposes of renewal or reinstatement of
111 that license under Section 58-55-303.

112 (b) A master residential plumber applicant shall produce satisfactory evidence that the
113 applicant:

114 (i) has been a licensed residential journeyman plumber for at least two years and had
115 two years of supervisory experience as a licensed residential journeyman plumber in
116 accordance with division rule; or

117 (ii) meets the qualifications determined by the division in collaboration with the board
118 to be equivalent to Subsection (3)(b)(i).

119 (c) A journeyman plumber applicant shall produce satisfactory evidence of:

120 (i) successful completion of the equivalent of at least four years of full-time training
121 and instruction as a licensed apprentice plumber under supervision of a licensed master
122 plumber or journeyman plumber and in accordance with a planned program of training
123 approved by the division;

124 (ii) at least eight years of full-time experience approved by the division in collaboration
125 with the Plumbers Licensing Board; or

126 (iii) satisfactory evidence of meeting the qualifications determined by the board to be
127 equivalent to Subsection (3)(c)(i) or (c)(ii).

128 (d) A residential journeyman plumber shall produce satisfactory evidence of:

129 (i) completion of the equivalent of at least three years of full-time training and
130 instruction as a licensed apprentice plumber under the supervision of a licensed residential
131 master plumber, licensed residential journeyman plumber, or licensed journeyman plumber in
132 accordance with a planned program of training approved by the division;

133 (ii) completion of at least six years of full-time experience in a maintenance or repair
134 trade involving substantial plumbing work; or

135 (iii) meeting the qualifications determined by the board to be equivalent to Subsection
136 (3)(d)(i) or (d)(ii).

137 (e) The conduct of licensed apprentice plumbers and their licensed supervisors shall be
138 in accordance with the following:

139 (i) while engaging in the trade of plumbing, a licensed apprentice plumber shall be
140 under the immediate supervision of a licensed master plumber, licensed residential master
141 plumber, licensed journeyman plumber, or a licensed residential journeyman plumber; and

142 (ii) a licensed apprentice plumber in the fourth through tenth year of training may work
143 without supervision for a period not to exceed eight hours in any 24-hour period, but if the
144 apprentice does not become a licensed journeyman plumber or licensed residential journeyman
145 plumber by the end of the tenth year of apprenticeship, this nonsupervision provision no longer
146 applies.

147 (f) A master electrician applicant shall produce satisfactory evidence that the applicant:

148 (i) is a graduate electrical engineer of an accredited college or university approved by
149 the division and has one year of practical electrical experience as a licensed apprentice
150 electrician;

151 (ii) is a graduate of an electrical trade school, having received an associate of applied
152 sciences degree following successful completion of a course of study approved by the division,
153 and has two years of practical experience as a licensed journeyman electrician;

154 (iii) has four years of practical experience as a journeyman electrician; or

155 (iv) meets the qualifications determined by the board to be equivalent to Subsection
156 (3)(f)(i), (ii), or (iii).

157 (g) A master residential electrician applicant shall produce satisfactory evidence that
158 the applicant:

159 (i) has at least two years of practical experience as a residential journeyman electrician;
160 or

161 (ii) meets the qualifications determined by the board to be equivalent to this practical
162 experience.

163 (h) A journeyman electrician applicant shall produce satisfactory evidence that the
164 applicant:

165 (i) has successfully completed at least four years of full-time training and instruction as
166 a licensed apprentice electrician under the supervision of a master electrician or journeyman
167 electrician and in accordance with a planned training program approved by the division;

168 (ii) has at least eight years of full-time experience approved by the division in
169 collaboration with the Electricians Licensing Board; or

170 (iii) meets the qualifications determined by the board to be equivalent to Subsection
171 (3)(h)(i) or (ii).

172 (i) A residential journeyman electrician applicant shall produce satisfactory evidence
173 that the applicant:

174 (i) has successfully completed two years of training in an electrical training program
175 approved by the division;

176 (ii) has four years of practical experience in wiring, installing, and repairing electrical
177 apparatus and equipment for light, heat, and power under the supervision of a licensed master,
178 journeyman, residential master, or residential journeyman electrician; or

179 (iii) meets the qualifications determined by the division and applicable board to be
180 equivalent to Subsection (3)(i)(i) or (ii).

181 (j) The conduct of licensed apprentice electricians and their licensed supervisors shall
182 be in accordance with the following:

183 (i) A licensed apprentice electrician shall be under the immediate supervision of a
184 licensed master, journeyman, residential master, or residential journeyman electrician. An
185 apprentice in the fourth year of training may work without supervision for a period not to
186 exceed eight hours in any 24-hour period.

187 (ii) A licensed master, journeyman, residential master, or residential journeyman
188 electrician may have under immediate supervision on a residential project up to three licensed
189 apprentice electricians.

190 (iii) A licensed master or journeyman electrician may have under immediate
191 supervision on nonresidential projects only one licensed apprentice electrician.

192 (k) An alarm company applicant shall:

193 (i) have a qualifying agent who is an officer, director, partner, proprietor, or manager of
194 the applicant who:

195 (A) demonstrates 6,000 hours of experience in the alarm company business;

196 (B) demonstrates 2,000 hours of experience as a manager or administrator in the alarm
197 company business or in a construction business; and

198 (C) passes an examination component established by rule by the commission with the
199 concurrence of the director;

200 (ii) if a corporation, provide:

201 (A) the names, addresses, dates of birth, Social Security numbers, and fingerprint cards
202 of all corporate officers, directors, and those responsible management personnel employed
203 within the state or having direct responsibility for managing operations of the applicant within
204 the state; and

205 (B) the names, addresses, dates of birth, Social Security numbers, and fingerprint cards
206 of all shareholders owning 5% or more of the outstanding shares of the corporation, except this
207 shall not be required if the stock is publicly listed and traded;

208 (iii) if a limited liability company, provide:

209 (A) the names, addresses, dates of birth, Social Security numbers, and fingerprint cards
210 of all company officers, and those responsible management personnel employed within the
211 state or having direct responsibility for managing operations of the applicant within the state;
212 and

213 (B) the names, addresses, dates of birth, Social Security numbers, and fingerprint cards
214 of all individuals owning 5% or more of the equity of the company;

215 (iv) if a partnership, provide the names, addresses, dates of birth, Social Security
216 numbers, and fingerprint cards of all general partners, and those responsible management
217 personnel employed within the state or having direct responsibility for managing operations of
218 the applicant within the state;

219 (v) if a proprietorship, provide the names, addresses, dates of birth, Social Security
220 numbers, and fingerprint cards of the proprietor, and those responsible management personnel
221 employed within the state or having direct responsibility for managing operations of the
222 applicant within the state;

223 (vi) if a trust, provide the names, addresses, dates of birth, Social Security numbers,
224 and fingerprint cards of the trustee, and those responsible management personnel employed
225 within the state or having direct responsibility for managing operations of the applicant within

226 the state;

227 (vii) be of good moral character in that officers, directors, shareholders described in
228 Subsection (3)(k)(ii)(B), partners, proprietors, trustees, and responsible management personnel
229 have not been convicted of a felony, a misdemeanor involving moral turpitude, or any other
230 crime that when considered with the duties and responsibilities of an alarm company is
231 considered by the board to indicate that the best interests of the public are served by granting
232 the applicant a license;

233 (viii) document that none of the applicant's officers, directors, shareholders described
234 in Subsection (3)(k)(ii)(B), partners, proprietors, trustees, and responsible management
235 personnel have been declared by any court of competent jurisdiction incompetent by reason of
236 mental defect or disease and not been restored;

237 (ix) document that none of the applicant's officers, directors, shareholders described in
238 Subsection (3)(k)(ii)(B), partners, proprietors, and responsible management personnel are
239 currently suffering from habitual drunkenness or from drug addiction or dependence;

240 (x) file and maintain with the division evidence of:

241 (A) comprehensive general liability insurance in form and in amounts to be established
242 by rule by the commission with the concurrence of the director;

243 (B) workers' compensation insurance that covers employees of the applicant in
244 accordance with applicable Utah law; and

245 (C) registration as is required by applicable law with the:

246 (I) Division of Corporations and Commercial Code;

247 (II) Unemployment Insurance Division in the Department of Workforce Services, for
248 purposes of Title 35A, Chapter 4, Employment Security Act;

249 (III) State Tax Commission; and

250 (IV) Internal Revenue Service; and

251 (xi) meet with the division and board.

252 (l) Each applicant for licensure as an alarm company agent shall:

253 (i) submit an application in a form prescribed by the division accompanied by

254 fingerprint cards;

255 (ii) pay a fee determined by the department under Section 63J-1-504;

256 (iii) be of good moral character in that the applicant has not been convicted of a felony,
257 a misdemeanor involving moral turpitude, or any other crime that when considered with the
258 duties and responsibilities of an alarm company agent is considered by the board to indicate
259 that the best interests of the public are served by granting the applicant a license;

260 (iv) not have been declared by any court of competent jurisdiction incompetent by
261 reason of mental defect or disease and not been restored;

262 (v) not be currently suffering from habitual drunkenness or from drug addiction or
263 dependence; and

264 (vi) meet with the division and board if requested by the division or the board.

265 (m) (i) Each applicant for licensure as an elevator mechanic shall:

266 (A) provide documentation of experience and education credits of not less than three
267 years work experience in the elevator industry, in construction, maintenance, or service and
268 repair; and

269 (B) satisfactorily complete a written examination administered by the division
270 established by rule under Section 58-1-203; or

271 (C) provide certificates of completion of an apprenticeship program for elevator
272 mechanics, having standards substantially equal to those of this chapter and registered with the
273 United States Department of Labor Bureau Apprenticeship and Training or a state
274 apprenticeship council.

275 (ii) (A) If an elevator contractor licensed under this chapter cannot find a licensed
276 elevator mechanic to perform the work of erecting, constructing, installing, altering, servicing,
277 repairing, or maintaining an elevator, the contractor may:

278 (I) notify the division of the unavailability of licensed personnel; and

279 (II) request the division issue a temporary elevator mechanic license to an individual
280 certified by the contractor as having an acceptable combination of documented experience and
281 education to perform the work described in this Subsection (3)(m)(ii)(A).

282 (B) (I) The division may issue a temporary elevator mechanic license to an individual
283 certified under Subsection (3)(m)(ii)(A)(II) upon application by the individual, accompanied by
284 the appropriate fee as determined by the department under Section 63J-1-504.

285 (II) The division shall specify the time period for which the license is valid and may
286 renew the license for an additional time period upon its determination that a shortage of
287 licensed elevator mechanics continues to exist.

288 (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
289 division may make rules establishing when Federal Bureau of Investigation records shall be
290 checked for applicants as an alarm company or alarm company agent.

291 (5) To determine if an applicant meets the qualifications of Subsections (3)(k)(vii) and
292 (3)(l)(iii), the division shall provide an appropriate number of copies of fingerprint cards to the
293 Department of Public Safety with the division's request to:

294 (a) conduct a search of records of the Department of Public Safety for criminal history
295 information relating to each applicant for licensure as an alarm company or alarm company
296 agent and each applicant's officers, directors, shareholders described in Subsection
297 (3)(k)(ii)(B), partners, proprietors, and responsible management personnel; and

298 (b) forward to the Federal Bureau of Investigation a fingerprint card of each applicant
299 requiring a check of records of the Federal Bureau of Investigation for criminal history
300 information under this section.

301 (6) The Department of Public Safety shall send to the division:

302 (a) a written record of criminal history, or certification of no criminal history record, as
303 contained in the records of the Department of Public Safety in a timely manner after receipt of
304 a fingerprint card from the division and a request for review of Department of Public Safety
305 records; and

306 (b) the results of the Federal Bureau of Investigation review concerning an applicant in
307 a timely manner after receipt of information from the Federal Bureau of Investigation.

308 (7) (a) The division shall charge each applicant for licensure as an alarm company or
309 alarm company agent a fee, in accordance with Section 63J-1-504, equal to the cost of

310 performing the records reviews under this section.

311 (b) The division shall pay the Department of Public Safety the costs of all records
312 reviews, and the Department of Public Safety shall pay the Federal Bureau of Investigation the
313 costs of records reviews under this section.

314 (8) Information obtained by the division from the reviews of criminal history records of
315 the Department of Public Safety and the Federal Bureau of Investigation shall be used or
316 disseminated by the division only for the purpose of determining if an applicant for licensure as
317 an alarm company or alarm company agent is qualified for licensure.

318 (9) (a) An application for licensure under this chapter shall be denied if:

319 (i) the applicant has had a previous license, which was issued under this chapter,
320 suspended or revoked within one year prior to the date of the applicant's application;

321 (ii) (A) the applicant is a partnership, corporation, or limited liability company; and

322 (B) any corporate officer, director, shareholder holding 25% or more of the stock in the
323 applicant, partner, member, agent acting as a qualifier, or any person occupying a similar
324 status, performing similar functions, or directly or indirectly controlling the applicant has
325 served in any similar capacity with any person or entity which has had a previous license,
326 which was issued under this chapter, suspended or revoked within one year prior to the date of
327 the applicant's application; or

328 (iii) (A) the applicant is an individual or sole proprietorship; and

329 (B) any owner or agent acting as a qualifier has served in any capacity listed in
330 Subsection (9)(a)(ii)(B) in any entity which has had a previous license, which was issued under
331 this chapter, suspended or revoked within one year prior to the date of the applicant's
332 application.

333 (b) An application for licensure under this chapter shall be reviewed by the appropriate
334 licensing board prior to approval if:

335 (i) the applicant has had a previous license, which was issued under this chapter,
336 suspended or revoked more than one year prior to the date of the applicant's application;

337 (ii) (A) the applicant is a partnership, corporation, or limited liability company; and

338 (B) any corporate officer, director, shareholder holding 25% or more of the stock in the
339 applicant, partner, member, agent acting as a qualifier, or any person occupying a similar
340 status, performing similar functions, or directly or indirectly controlling the applicant has
341 served in any similar capacity with any person or entity which has had a previous license,
342 which was issued under this chapter, suspended or revoked more than one year prior to the date
343 of the applicant's application; or

344 (iii) (A) the applicant is an individual or sole proprietorship; and

345 (B) any owner or agent acting as a qualifier has served in any capacity listed in
346 Subsection (9)(b)(ii)(B) in any entity which has had a previous license, which was issued under
347 this chapter, suspended or revoked more than one year prior to the date of the applicant's
348 application.

349 (10) (a) (i) A licensee that is an unincorporated entity shall file an ownership status
350 report with the division every 90 days after the day on which the license is issued if the licensee
351 has ~~[as an owner an individual]~~ more than five owners who are individuals who:

352 ~~[(i) owns]~~ (A) own an interest in the contractor that is an unincorporated entity;

353 ~~[(ii) owns]~~ (B) own, directly or indirectly, less than an 8% interest in the
354 unincorporated entity, as defined by rule made by the division in accordance with Title 63G,
355 Chapter 3, Utah Administrative Rulemaking Act; and

356 ~~[(iii) engages]~~ (C) engage, or will engage, in a construction trade in Utah as an owner
357 of the contractor described in Subsection (10)(a)(i)(A).

358 (ii) If the licensee has five or fewer owners described in Subsection (10)(a)(i), the
359 licensee shall provide the ownership status report with an application for renewal of licensure.

360 (b) An ownership status report required under this Subsection (10) shall:

361 (i) list each addition or deletion of an owner:

362 (A) for the first ownership status report, after the day on which the unincorporated
363 entity is licensed under this chapter; and

364 (B) for a subsequent ownership status report, after the day on which the previous
365 ownership status report is filed;

366 (ii) be in a format prescribed by the division that [~~is consistent with a~~] includes the
367 items on the list provided under Subsection [~~58-55-302~~](1)(e)(iv); and

368 (iii) be accompanied by a fee set by the division in accordance with Section 63J-1-504
369 if the ownership status report indicates there is a change described in Subsection (10)(b)(i).

370 (c) The division may, at any time, audit an ownership status report under this
371 Subsection (10):

372 (i) [~~in the same manner as the division may audit a demonstration of~~] to determine if
373 financial responsibility has been demonstrated or maintained as required under Section
374 58-55-306; and

375 (ii) to determine compliance with Subsection 58-55-501(24) or (25) or Subsection
376 58-55-502(8) or (9).

377 (11) (a) An unincorporated entity that provides labor to an entity licensed under this
378 chapter by providing an individual who owns an interest in the unincorporated entity to engage
379 in a construction trade in Utah shall file with the division:

380 (i) before the individual who owns an interest in the unincorporated entity engages in a
381 construction trade in Utah, a current list of the one or more individuals who hold an ownership
382 interest in the unincorporated entity that includes for each individual:

383 (A) the individual's name, address, [~~and~~] birthdate, and Social Security number; and

384 (B) whether the individual will engage in a construction trade; and

385 (ii) every 90 days after the day on which the unincorporated entity provides the list
386 described in Subsection (11)(a)(i), an ownership status report containing the information that
387 would be required under Subsection (10) if the unincorporated entity were a licensed
388 contractor.

389 (b) When filing an ownership list described in Subsection (11)(a)(i) or an ownership
390 status report described in Subsection (11)(a)(ii) an unincorporated entity shall pay a fee set by
391 the division in accordance with Section 63J-1-504.

392 (12) This chapter may not be interpreted to create or support an express or implied
393 independent contractor relationship between an unincorporated entity described in Subsection

394 (10) or (11) and the owners of the unincorporated entity for any purpose, including income tax
395 withholding.

396 (13) A Social Security number provided under Subsection (1)(e)(iv) is a private record
397 under Subsection 63G-2-302(1)(h).

398 Section 2. Section **58-55-306** is amended to read:

399 **58-55-306. Financial responsibility.**

400 (1) An applicant for licensure as a contractor, and a licensee applying for renewal or
401 reinstatement of a contractor's license shall demonstrate to the division and the commission the
402 applicant's or licensee's financial responsibility before the issuance of or the renewal or
403 reinstatement of a license by:

404 (a) (i) completing a questionnaire developed by the division; and

405 (ii) signing the questionnaire, certifying that the information provided is true and
406 accurate; or

407 (b) submitting a bond in an amount and form determined by the commission with the
408 concurrence of the director.

409 (2) The division may audit an applicant's or licensee's demonstration of financial
410 responsibility on a random basis or upon finding of a reasonable need.

411 (3) The burden to demonstrate financial responsibility is upon the applicant or licensee.

412 (4) (a) If an applicant for licensure as a contractor or a licensee applying for renewal or
413 reinstatement of a contractor's license is an unincorporated entity, the division may require each
414 individual who holds an ownership interest in the applicant or licensee to demonstrate financial
415 responsibility to the division and the commission.

416 (b) In accordance with Subsection (2), the division may audit an owner's demonstration
417 of financial responsibility under Subsection (4)(a) at any time including requesting:

418 (i) the applicant or licensee to provide a current list of owners meeting the
419 requirements of Subsection 58-55-302(1)(e)(iv); and

420 (ii) a credit report for each owner.

421 (c) If an owner described in Subsection (4)(a) fails to demonstrate financial

422 responsibility under this section, the division may:

- 423 (i) prohibit the licensee or owner from engaging in a construction trade; or
- 424 (ii) require the owner, applicant, or licensee to submit a bond in an amount and form
- 425 determined by the commission with the concurrence of the director.

426 Section 3. Section **63G-12-402** is amended to read:

427 **63G-12-402. Receipt of state, local, or federal public benefits -- Verification --**
428 **Exceptions -- Fraudulently obtaining benefits -- Criminal penalties -- Annual report.**

429 (1) (a) Except as provided in Subsection (3) or when exempted by federal law, an
430 agency or political subdivision of the state shall verify the lawful presence in the United States
431 of an individual at least 18 years of age who applies for:

- 432 (i) a state or local public benefit as defined in 8 U.S.C. Sec. 1621; or
- 433 (ii) a federal public benefit as defined in 8 U.S.C. Sec. 1611, that is administered by an
- 434 agency or political subdivision of this state.

435 (b) For purpose of a license issued under Title 58, Chapter 55, Utah Construction
436 Trades Licensing Act, to an applicant that is an unincorporated entity, the Department of
437 Commerce shall verify in accordance with this Subsection [~~(2)~~] (1) the lawful presence in the
438 United States of each individual who:

- 439 (i) owns an interest in the contractor that is an unincorporated entity; and
- 440 (ii) engages, or will engage, in a construction trade in Utah as an owner of the
- 441 contractor described in Subsection [~~(2)~~] (1)(b)(i).

442 (2) This section shall be enforced without regard to race, religion, gender, ethnicity, or
443 national origin.

444 (3) Verification of lawful presence under this section is not required for:

- 445 (a) any purpose for which lawful presence in the United States is not restricted by law,
446 ordinance, or regulation;
- 447 (b) assistance for health care items and services that:
 - 448 (i) are necessary for the treatment of an emergency medical condition, as defined in 42
 - 449 U.S.C. Sec. 1396b(v)(3), of the individual involved; and

- 450 (ii) are not related to an organ transplant procedure;
- 451 (c) short-term, noncash, in-kind emergency disaster relief;
- 452 (d) public health assistance for immunizations with respect to immunizable diseases
- 453 and for testing and treatment of symptoms of communicable diseases whether or not the
- 454 symptoms are caused by the communicable disease;
- 455 (e) programs, services, or assistance such as soup kitchens, crisis counseling and
- 456 intervention, and short-term shelter, specified by the United States Attorney General, in the
- 457 sole and unreviewable discretion of the United States Attorney General after consultation with
- 458 appropriate federal agencies and departments, that:
 - 459 (i) deliver in-kind services at the community level, including through public or private
 - 460 nonprofit agencies;
 - 461 (ii) do not condition the provision of assistance, the amount of assistance provided, or
 - 462 the cost of assistance provided on the income or resources of the individual recipient; and
 - 463 (iii) are necessary for the protection of life or safety;
- 464 (f) the exemption for paying the nonresident portion of total tuition as set forth in
- 465 Section 53B-8-106;
- 466 (g) an applicant for a license under Section 61-1-4, if the applicant:
 - 467 (i) is registered with the Financial Industry Regulatory Authority; and
 - 468 (ii) files an application with the state Division of Securities through the Central
 - 469 Registration Depository;
- 470 (h) a state public benefit to be given to an individual under Title 49, Utah State
- 471 Retirement and Insurance Benefit Act;
 - 472 (i) a home loan that will be insured, guaranteed, or purchased by:
 - 473 (i) the Federal Housing Administration, the Veterans Administration, or any other
 - 474 federal agency; or
 - 475 (ii) an enterprise as defined in 12 U.S.C. Sec. 4502;
 - 476 (j) a subordinate loan or a grant that will be made to an applicant in connection with a
 - 477 home loan that does not require verification under Subsection (3)(i); and

478 (k) an applicant for a license issued by the Department of Commerce or individual
479 described in Subsection ~~[(2)]~~ (1)(b), if the applicant or individual provides the Department of
480 Commerce:

481 (i) certification, under penalty of perjury, that the applicant or individual is:

482 (A) a United States citizen;

483 (B) a qualified alien as defined in 8 U.S.C. Sec. 1641; or

484 (C) lawfully present in the United States; and

485 ~~[(ii) the number for a driver license or identification card issued:]~~

486 ~~[(A) under Title 53, Chapter 3, Uniform Driver License Act; or]~~

487 ~~[(B) by a state other than Utah that as part of issuing the driver license or identification~~
488 ~~card verifies an individual's lawful presence in the United States.]~~

489 (ii) (A) the number assigned to a driver license or identification card issued under Title
490 53, Chapter 3, Uniform Driver License Act; or

491 (B) the number assigned to a driver license or identification card issued by a state other
492 than Utah if, as part of issuing the driver license or identification card, the state verifies an
493 individual's lawful presence in the United States.

494 (4) (a) An agency or political subdivision required to verify the lawful presence in the
495 United States of an applicant under this section shall require the applicant to certify under
496 penalty of perjury that:

497 (i) the applicant is a United States citizen; or

498 (ii) the applicant is:

499 (A) a qualified alien as defined in 8 U.S.C. Sec. 1641; and

500 (B) lawfully present in the United States.

501 (b) The certificate required under this Subsection (4) shall include a statement advising
502 the signer that providing false information subjects the signer to penalties for perjury.

503 (5) An agency or political subdivision shall verify a certification required under
504 Subsection (4)(b) through the federal SAVE program.

505 (6) (a) An individual who knowingly and willfully makes a false, fictitious, or

506 fraudulent statement or representation in a certification under Subsection (3)(k) or (4) is subject
507 to the criminal penalties applicable in this state for:

508 (i) making a written false statement under Subsection 76-8-504(2); and

509 (ii) fraudulently obtaining:

510 (A) public assistance program benefits under Sections 76-8-1205 and 76-8-1206; or

511 (B) unemployment compensation under Section 76-8-1301.

512 (b) If the certification constitutes a false claim of United States citizenship under 18
513 U.S.C. Sec. 911, the agency or political subdivision shall file a complaint with the United
514 States Attorney General for the applicable district based upon the venue in which the
515 application was made.

516 (c) If an agency or political subdivision receives verification that a person making an
517 application for a benefit, service, or license is not a qualified alien, the agency or political
518 subdivision shall provide the information to the Office of the Attorney General unless
519 prohibited by federal mandate.

520 (7) An agency or political subdivision may adopt variations to the requirements of this
521 section that:

522 (a) clearly improve the efficiency of or reduce delay in the verification process; or

523 (b) provide for adjudication of unique individual circumstances where the verification
524 procedures in this section would impose an unusual hardship on a legal resident of Utah.

525 (8) It is unlawful for an agency or a political subdivision of this state to provide a state,
526 local, or federal benefit, as defined in 8 U.S.C. Sec. 1611 and 1621, in violation of this section.

527 (9) A state agency or department that administers a program of state or local public
528 benefits shall:

529 (a) provide an annual report to the governor, the president of the Senate, and the
530 speaker of the House regarding its compliance with this section; and

531 (b) (i) monitor the federal SAVE program for application verification errors and
532 significant delays;

533 (ii) provide an annual report on the errors and delays to ensure that the application of

534 the federal SAVE program is not erroneously denying a state or local benefit to a legal resident
535 of the state; and
536 (iii) report delays and errors in the federal SAVE program to the United States
537 Department of Homeland Security.