

1 **CONSTRUCTION TRADES LICENSING AMENDMENTS**

2 2012 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Peter C. Knudson**

5 House Sponsor: _____

6

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies the Utah Construction Trades Licensing Act.

10 **Highlighted Provisions:**

11 This bill:

12 ▶ modifies construction trade licensing provisions to include heating, ventilation, and
13 air conditioning technicians;

14 ▶ modifies the membership of the Construction Services Commission;

15 ▶ modifies the membership of the Plumbers Licensing Board and renames it;

16 ▶ authorizes the Division of Occupational and Professional Licensing to issue licenses
17 to various heating, ventilation, and air conditioning technicians;

18 ▶ requires that licensed heating, ventilation, and air conditioning technicians complete
19 fuel and electricity efficiency education;

20 ▶ modifies a provision relating to exemptions from licensure; and

21 ▶ makes technical changes.

22 **Money Appropriated in this Bill:**

23 None

24 **Other Special Clauses:**

25 None

26 **Utah Code Sections Affected:**

27 AMENDS:



28 **58-55-102**, as last amended by Laws of Utah 2011, Chapters 14 and 413

29 **58-55-103**, as last amended by Laws of Utah 2010, Chapter 286

30 **58-55-201**, as last amended by Laws of Utah 2008, Chapter 215

31 **58-55-301**, as last amended by Laws of Utah 2010, Chapter 227

32 **58-55-302**, as last amended by Laws of Utah 2011, Chapter 413

33 **58-55-302.7**, as last amended by Laws of Utah 2011, Chapter 367

34 **58-55-303**, as last amended by Laws of Utah 2011, Chapter 367

35 **58-55-305**, as last amended by Laws of Utah 2011, Chapter 14

36 **58-55-308**, as last amended by Laws of Utah 2008, Chapter 382

37 **58-55-501**, as last amended by Laws of Utah 2011, Chapters 195 and 413

38 **58-55-503**, as last amended by Laws of Utah 2011, Chapters 195, 340, and 413

39 ENACTS:

40 **58-55-302.3**, Utah Code Annotated 1953



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

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

44 **58-55-102. Definitions.**

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

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

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

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

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

58 (2) "Alarm company agent" means any individual employed within this state by a

59 person engaged in the alarm business.

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

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

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

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

68 (5) "Apprentice residential heating, ventilation, and air conditioning technician" means
69 an individual licensed under this chapter as an apprentice residential heating, ventilation, and
70 air conditioning technician who is learning the residential heating, ventilation, and air
71 conditioning trade under approved supervision of a licensed residential heating, ventilation,
72 and air conditioning supervisor.

73 [~~5~~] (6) "Apprentice plumber" means a person licensed under this chapter as an
74 apprentice plumber who is learning the plumbing trade under the immediate supervision of a
75 master plumber, residential master plumber, journeyman plumber, or a residential journeyman
76 plumber.

77 [~~6~~] (7) "Approved continuing education" means instruction provided through courses
78 under a program established under Subsection 58-55-302.5(2).

79 [~~7~~] (8) "Board" means, as applicable, the Electrician Licensing Board, the Alarm
80 System Security and Licensing Board, or the Plumbers and Residential Heating, Ventilation,
81 and Air Conditioning Technicians Licensing Board created in Section 58-55-201.

82 [~~8~~] (9) "Combustion system" means an assembly consisting of:

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

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

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

89 [~~9~~] (10) "Commission" means the Construction Services Commission created under

90 Section 58-55-103.

91 [~~(10)~~] (11) "Construction trade" means any trade or occupation involving:

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

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

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

99 [~~(11)~~] (12) "Construction trades instructor" means a person licensed under this chapter
100 to teach one or more construction trades in both a classroom and project environment, where a
101 project is intended for sale to or use by the public and is completed under the direction of the
102 instructor, who has no economic interest in the project.

103 [~~(12)~~] (13) (a) "Contractor" means any person who for compensation other than wages
104 as an employee undertakes any work in the construction [~~, plumbing, or electrical~~] trade for
105 which licensure is required under this chapter and includes:

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

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

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

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

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

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

117 [~~(13)~~] (14) (a) "Electrical trade" means the performance of any electrical work involved
118 in the installation, construction, alteration, change, repair, removal, or maintenance of facilities,
119 buildings, or appendages or appurtenances.

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

121 (i) transporting or handling electrical materials;
122 (ii) preparing clearance for raceways for wiring; or
123 (iii) work commonly done by unskilled labor on any installations under the exclusive
124 control of electrical utilities.

125 (c) For purposes of Subsection [~~(13)~~] (14)(b):

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

128 (ii) a shop may not employ unlicensed persons in excess of the five-to-one ratio
129 permitted by this Subsection [~~(13)~~] (14)(c).

130 [~~(14)~~] (15) "Elevator" has the same meaning as defined in Section 34A-7-202, except
131 that for purposes of this chapter it does not mean a stair chair, a vertical platform lift, or an
132 incline platform lift.

133 [~~(15)~~] (16) "Elevator contractor" means a sole proprietor, firm, or corporation licensed
134 under this chapter that is engaged in the business of erecting, constructing, installing, altering,
135 servicing, repairing, or maintaining an elevator.

136 [~~(16)~~] (17) "Elevator mechanic" means an individual who is licensed under this chapter
137 as an elevator mechanic and who is engaged in erecting, constructing, installing, altering,
138 servicing, repairing, or maintaining an elevator under the immediate supervision of an elevator
139 contractor.

140 [~~(17)~~] (18) "Employee" means an individual as defined by the division by rule giving
141 consideration to the definition adopted by the Internal Revenue Service and the Department of
142 Workforce Services.

143 [~~(18)~~] (19) "Engage in a construction trade" means to:

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

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

148 [~~(19)~~] (20) (a) "Financial responsibility" means a demonstration of a current and
149 expected future condition of financial solvency evidencing a reasonable expectation to the
150 division and the board that an applicant or licensee can successfully engage in business as a
151 contractor without jeopardy to the public health, safety, and welfare.

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

155 ~~[(20)]~~ (21) "Gas appliance" means any device that uses natural gas to produce light,
156 heat, power, steam, hot water, refrigeration, or air conditioning.

157 ~~[(21)]~~ (22) (a) "General building contractor" means a person licensed under this
158 chapter as a general building contractor qualified by education, training, experience, and
159 knowledge to perform or superintend construction of structures for the support, shelter, and
160 enclosure of persons, animals, chattels, or movable property of any kind or any of the
161 components of that construction except plumbing, electrical work, ~~[mechanical]~~ residential
162 heating, ventilation, and air conditioning system work, and manufactured housing installation,
163 for which the general building contractor shall employ the services of a contractor licensed in
164 the particular specialty, except that a general building contractor engaged in the construction of
165 single-family and multifamily residences up to four units may ~~[perform the mechanical work~~
166 ~~and]~~ hire a licensed plumber ~~[or]~~, electrician, or residential heating, ventilation, and air
167 conditioning technician as an employee.

168 (b) The division may by rule exclude general building contractors from engaging in the
169 performance of other construction specialties in which there is represented a substantial risk to
170 the public health, safety, and welfare, and for which a license is required unless that general
171 building contractor holds a valid license in that specialty classification.

172 ~~[(22)]~~ (23) (a) "General engineering contractor" means a person licensed under this
173 chapter as a general engineering contractor qualified by education, training, experience, and
174 knowledge to perform construction of fixed works in any of the following: irrigation, drainage,
175 water, power, water supply, flood control, inland waterways, harbors, railroads, highways,
176 tunnels, airports and runways, sewers and bridges, refineries, pipelines, chemical and industrial
177 plants requiring specialized engineering knowledge and skill, piers, and foundations, or any of
178 the components of those works.

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

181 (24) "Heating, ventilation, and air conditioning system":

182 (a) means a mechanical system for the movement of air within a building for the

183 purpose of controlling the temperature, humidity, or cleanliness of air; and

184 (b) does not include any liquid-circulating portion of a system described in Subsection
185 (24)(a).

186 [~~23~~] (25) "Immediate supervision" means reasonable direction, oversight, inspection,
187 and evaluation of the work of a person:

188 (a) as the division specifies in rule;

189 (b) by, as applicable, a qualified electrician [~~or~~], plumber, or residential heating,
190 ventilation, and air conditioning technician;

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

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

193 [~~24~~] (26) "Individual" means a natural person.

194 [~~25~~] (27) "Journeyman electrician" means a person licensed under this chapter as a
195 journeyman electrician having the qualifications, training, experience, and knowledge to wire,
196 install, and repair electrical apparatus and equipment for light, heat, power, and other purposes.

197 (28) "Journeyman residential heating, ventilation, and air conditioning technician"
198 means a person licensed under this chapter as a journeyman residential heating, ventilation, and
199 air conditioning technician having the qualifications, training, experience, and knowledge to:

200 (a) install, service, maintain, and repair a residential heating, ventilation, and air
201 conditioning system; and

202 (b) supervise the installation, service, maintenance, and repair of a residential heating,
203 ventilation, and air conditioning system.

204 [~~26~~] (29) "Journeyman plumber" means a person licensed under this chapter as a
205 journeyman plumber having the qualifications, training, experience, and technical knowledge
206 to engage in the plumbing trade.

207 (30) "Licensed residential heating, ventilation, and air conditioning supervisor" means:

208 (a) an individual who:

209 (i) supervises a licensed apprentice residential heating, ventilation, and air conditioning
210 technician; and

211 (ii) is a licensed master or journeyman residential heating, ventilation, and air
212 conditioning technician; or

213 (b) for supervision that occurs before May 8, 2012, an individual who:

214 (i) supervises a technician in work involving the installation, construction, alteration,
215 change, repair, removal, or maintenance of a heating, ventilation, and air conditioning system;
216 and

217 (ii) is licensed under this chapter as a specialty contractor in the heating, ventilation,
218 and air conditioning system trade.

219 [~~27~~] (31) "Master electrician" means a person licensed under this chapter as a master
220 electrician having the qualifications, training, experience, and knowledge to properly plan,
221 layout, and supervise the wiring, installation, and repair of electrical apparatus and equipment
222 for light, heat, power, and other purposes.

223 (32) "Master residential heating, ventilation, and air conditioning technician" means a
224 person licensed under this chapter as a master residential heating, ventilation, and air
225 conditioning technician having the qualifications, training, experience, and knowledge to
226 properly lay out, perform, and supervise the installation, service, maintenance, and repair of a
227 residential heating, ventilation, and air conditioning system.

228 [~~28~~] (33) "Master plumber" means a person licensed under this chapter as a master
229 plumber having the qualifications, training, experience, and knowledge to properly plan and
230 layout projects and supervise persons in the plumbing trade.

231 [~~29~~] (34) "Person" means a natural person, sole proprietorship, joint venture,
232 corporation, limited liability company, association, or organization of any type.

233 [~~30~~] (35) (a) "Plumbing trade" means the performance of any mechanical work
234 pertaining to the installation, alteration, change, repair, removal, maintenance, or use in
235 buildings, or within three feet beyond the outside walls of buildings of pipes, fixtures, and
236 fittings for:

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

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

244 [~~31~~] (36) (a) "Ratio of apprentices" means, for the purpose of determining

245 compliance with the requirements for planned programs of training and electrician apprentice
246 licensing applications, the shop ratio of apprentice electricians to journeyman or master
247 electricians shall be one journeyman or master electrician to one apprentice on industrial and
248 commercial work, and one journeyman or master electrician to three apprentices on residential
249 work.

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

253 ~~[(32)]~~ (37) "Residential and small commercial contractor" means a person licensed
254 under this chapter as a residential and small commercial contractor qualified by education,
255 training, experience, and knowledge to perform or superintend the construction of
256 single-family residences, multifamily residences up to four units, and commercial construction
257 of not more than three stories above ground and not more than 20,000 square feet, or any of the
258 components of that construction except plumbing, electrical work, mechanical work, and
259 manufactured housing installation, for which the residential and small commercial contractor
260 shall employ the services of a contractor licensed in the particular specialty, except that a
261 residential and small commercial contractor engaged in the construction of single-family and
262 multifamily residences up to four units may perform the mechanical work and hire a licensed
263 plumber or electrician as an employee.

264 ~~[(33)]~~ (38) "Residential building~~[-," as it relates to]":~~

265 (a) means, for the license classification of residential journeyman plumber and
266 residential master plumber, [means] a single or multiple family dwelling of up to four units[-];
267 and

268 (b) as used in the definition of "residential heating, ventilation, and air conditioning
269 system," has the same meaning as the term "building" as defined in the International
270 Residential Code under the State Construction Code adopted by the Legislature.

271 (39) "Residential heating, ventilation, and air conditioning system" means a heating,
272 ventilation, and air conditioning system for a residential building.

273 (40) "Residential heating, ventilation, and air conditioning trade" means work
274 involving the installation, construction, alteration, change, repair, removal, or maintenance of a
275 residential heating, ventilation, and air conditioning system.

276 [(34)] (41) "Residential journeyman electrician" means a person licensed under this
277 chapter as a residential journeyman electrician having the qualifications, training, experience,
278 and knowledge to wire, install, and repair electrical apparatus and equipment for light, heat,
279 power, and other purposes on buildings using primarily nonmetallic sheath cable.

280 [(35)] (42) "Residential journeyman plumber" means a person licensed under this
281 chapter as a residential journeyman plumber having the qualifications, training, experience, and
282 knowledge to engage in the plumbing trade as limited to the plumbing of a residential
283 [~~buildings~~] building.

284 [(36)] (43) "Residential master electrician" means a person licensed under this chapter
285 as a residential master electrician having the qualifications, training, experience, and
286 knowledge to properly plan, layout, and supervise the wiring, installation, and repair of
287 electrical apparatus and equipment for light, heat, power, and other purposes on residential
288 projects.

289 [(37)] (44) "Residential master plumber" means a person licensed under this chapter as
290 a residential master plumber having the qualifications, training, experience, and knowledge to
291 properly plan and layout projects and supervise persons in the plumbing trade as limited to the
292 plumbing of a residential [~~buildings~~] building.

293 [(38)] (45) "Residential project," as it relates to an electrician or electrical contractor,
294 means buildings primarily wired with nonmetallic sheathed cable, in accordance with standard
295 rules and regulations governing this work, including the National Electrical Code, and in which
296 the voltage does not exceed 250 volts line to line and 125 volts to ground.

297 [(39)-(a)] (46) "Specialty contractor" means a person licensed under this chapter under
298 a specialty contractor classification established by rule, who is qualified by education, training,
299 experience, and knowledge to perform those construction trades and crafts requiring
300 specialized skill, the regulation of which are determined by the division to be in the best
301 interest of the public health, safety, and welfare.

302 ~~[(b) A specialty contractor may perform work in crafts or trades other than those in~~
303 ~~which the specialty contractor is licensed if they are incidental to the performance of the~~
304 ~~specialty contractor's licensed craft or trade.]~~

305 [(40)] (47) "Unincorporated entity" means an entity that is not:

306 (a) an individual;

307 (b) a corporation; or

308 (c) publicly traded.

309 [~~(41)~~] (48) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-55-501.

310 [~~(42)~~] (49) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-55-502

311 and as may be further defined by rule.

312 [~~(43)~~] (50) "Wages" means amounts due to an employee for labor or services whether

313 the amount is fixed or ascertained on a time, task, piece, commission, or other basis for

314 calculating the amount.

315 Section 2. Section **58-55-103** is amended to read:

316 **58-55-103. Construction Services Commission created -- Functions --**

317 **Appointment -- Qualifications and terms of members -- Vacancies -- Expenses --**

318 **Meetings.**

319 (1) (a) There is created within the division the Construction Services Commission.

320 (b) The commission shall:

321 (i) with the concurrence of the director, make reasonable rules under Title 63G,

322 Chapter 3, Utah Administrative Rulemaking Act, to administer and enforce this chapter which

323 are consistent with this chapter including:

324 (A) licensing of various licensees;

325 (B) examination requirements and administration of the examinations, to include

326 approving and establishing a passing score for applicant examinations;

327 (C) standards of supervision for students or persons in training to become qualified to

328 obtain a license in the trade they represent; ~~and~~

329 (D) standards of conduct for various licensees; and

330 (E) defining the experience or training that will be considered to be the equivalent of

331 required experience or training if a provision of this chapter allows experience or training that

332 is the equivalent of the required experience or training;

333 (ii) approve or disapprove fees adopted by the division under Section 63J-1-504;

334 (iii) except where the boards conduct them, conduct all administrative hearings not

335 delegated to an administrative law judge relating to the licensing of any applicant;

336 (iv) except as otherwise provided in Sections 38-11-207 and 58-55-503, with the

337 concurrence of the director, impose sanctions against licensees and certificate holders with the

338 same authority as the division under Section 58-1-401;

339 (v) advise the director on the administration and enforcement of any matters affecting
340 the division and the construction industry;

341 (vi) advise the director on matters affecting the division budget;

342 (vii) advise and assist trade associations in conducting construction trade seminars and
343 industry education and promotion; and

344 (viii) perform other duties as provided by this chapter.

345 ~~[(2)(a) Initially the commission shall be comprised of the five members of the
346 Contractors Licensing Board and two of the three chair persons from the Plumbers Licensing
347 Board, the Alarm System Security and Licensing Board, and the Electricians Licensing Board.]~~

348 ~~[(b) The terms of office of the commission members who are serving on the
349 Contractors Licensing Board shall continue as they serve on the commission.]~~

350 ~~[(c) Beginning July 1, 2004, the]~~

351 (2) The commission shall be comprised of nine members appointed by the executive
352 director with the approval of the governor from the following groups:

353 [(i)] (a) one member shall be a licensed general engineering contractor;

354 [(ii)] (b) one member shall be a licensed general building contractor;

355 [(iii)] (c) two members shall be licensed residential and small commercial contractors;

356 [(iv)] (d) ~~[three members shall be the three chair persons from]~~ one member shall be
357 the chair of the Plumbers and Residential Heating, Ventilation, and Air Conditioning

358 Technicians Licensing Board;

359 (e) one member shall be the chair of the Alarm System Security and Licensing Board;
360 and;

361 (f) one member shall be the chair of the Electricians Licensing Board; and

362 ~~[(v)] (g) two members shall be from the general public~~, ~~provided, however that the~~
363 ~~certified public accountant on the Contractors Licensing Board will continue to serve until the~~
364 ~~current term expires, after which both members under this Subsection (2)(c)(v) shall be~~
365 ~~appointed from the general public].~~

366 (3) (a) Except as required by Subsection (3)(b), as terms of current commission
367 members expire, the executive director with the approval of the governor shall appoint each
368 new member or reappointed member to a four-year term ending June 30.

369 (b) Notwithstanding the requirements of Subsection (3)(a), the executive director with
370 the approval of the governor shall, at the time of appointment or reappointment, adjust the
371 length of terms to stagger the terms of commission members so that approximately [~~1/2~~]
372 one-half of the commission members are appointed every two years.

373 (c) A commission member may not serve more than two consecutive terms.

374 (4) The commission shall elect annually one of its members as chair, for a term of one
375 year.

376 (5) When a vacancy occurs in the membership for any reason, the replacement shall be
377 appointed for the unexpired term.

378 (6) A member may not receive compensation or benefits for the member's service, but
379 may receive per diem and travel expenses in accordance with:

380 (a) Section 63A-3-106;

381 (b) Section 63A-3-107; and

382 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
383 63A-3-107.

384 (7) (a) The commission shall meet at least monthly unless the director determines
385 otherwise.

386 (b) The director may call additional meetings at the director's discretion, upon the
387 request of the chair, or upon the written request of four or more commission members.

388 (8) (a) Five members constitute a quorum for the transaction of business.

389 (b) If a quorum is present when a vote is taken, the affirmative vote of commission
390 members present is the act of the commission.

391 (9) The commission shall comply with the procedures and requirements of Title 13,
392 Chapter 1, Department of Commerce, and Title 63G, Chapter 4, Administrative Procedures
393 Act, in all of its adjudicative proceedings.

394 Section 3. Section **58-55-201** is amended to read:

395 **58-55-201. Boards created -- Duties.**

396 (1) There is created a Plumbers and Residential Heating, Ventilation, and Air
397 Conditioning Technicians Licensing Board, an Alarm System Security and Licensing Board,
398 and an Electricians Licensing Board. Members of the boards shall be selected to provide
399 representation as follows:

400 (a) (i) The Plumbers and Residential Heating, Ventilation, and Air Conditioning
401 Technicians Licensing Board consists of [~~five~~] seven members as follows:

402 [~~(i)~~] (A) two members shall be licensed from among the license classifications of
403 master or journeyman plumber;

404 [~~(ii)~~] (B) [~~two members~~] one member shall be a licensed plumbing [~~contractors~~]
405 contractor; [~~and~~]

406 (C) two members shall be licensed from among the license classifications of master or
407 journeyman residential heating, ventilation, and air conditioning technician;

408 (D) one member shall be a residential heating, ventilation, and air conditioning
409 contractor; and

410 [~~(iii)~~] (E) one member shall be from the public at large with no history of involvement
411 in the construction trades.

412 (b) (i) The Alarm System Security and Licensing Board consists of five members as
413 follows:

414 (A) three individuals who are officers or owners of a licensed alarm business;

415 (B) one individual from among nominees of the Utah Peace Officers Association; and

416 (C) one individual representing the general public.

417 (ii) The Alarm System Security and Licensing Board shall designate one of its
418 members on a permanent or rotating basis to:

419 (A) assist the division in reviewing complaints concerning the unlawful or
420 unprofessional conduct of a licensee; and

421 (B) advise the division in its investigation of these complaints.

422 (iii) A board member who has, under this Subsection (1)(b)(iii), reviewed a complaint
423 or advised in its investigation is disqualified from participating with the board when the board
424 serves as a presiding officer in an adjudicative proceeding concerning the complaint.

425 (c) The Electricians Licensing Board consists of five members as follows:

426 (i) two members shall be licensed from among the license classifications of master or
427 journeyman electrician, of whom one shall represent a union organization and one shall be
428 selected having no union affiliation;

429 (ii) two shall be licensed electrical contractors of whom one shall represent a union
430 organization and one shall be selected having no union affiliation; and

431 (iii) one member shall be from the public at large with no history of involvement in the
432 construction trades or union affiliation.

433 (2) The duties, functions, and responsibilities of each board include the following:

434 (a) recommending to the commission appropriate rules;

435 (b) recommending to the commission policy and budgetary matters;

436 (c) approving and establishing a passing score for applicant examinations;

437 (d) overseeing the screening of applicants for licensing, renewal, reinstatement, and
438 relicensure;

439 (e) assisting the commission in establishing standards of supervision for students or
440 persons in training to become qualified to obtain a license in the occupation or profession it
441 represents; and

442 (f) acting as presiding officer in conducting hearings associated with the adjudicative
443 proceedings and in issuing recommended orders when so authorized by the commission.

444 Section 4. Section **58-55-301** is amended to read:

445 **58-55-301. License required -- License classifications.**

446 (1) (a) A person engaged in the construction trades licensed under this chapter, as a
447 contractor regulated under this chapter, as an alarm business or company, or as an alarm
448 company agent, shall become licensed under this chapter before engaging in that trade or
449 contracting activity in this state unless specifically exempted from licensure under Section
450 58-1-307 or 58-55-305.

451 (b) The license issued under this chapter and the business license issued by the local
452 jurisdiction in which the licensee has its principal place of business shall be the only licenses
453 required for the licensee to engage in a trade licensed by this chapter, within the state.

454 (c) Neither the state nor any of its political subdivisions may require of a licensee any
455 additional business licenses, registrations, certifications, contributions, donations, or anything
456 else established for the purpose of qualifying a licensee under this chapter to do business in that
457 local jurisdiction, except for contract prequalification procedures required by state agencies, or
458 the payment of any fee for the license, registration, or certification established as a condition to
459 do business in that local jurisdiction.

460 (2) The division shall issue licenses under this chapter to qualified persons in the
461 following classifications:

- 462 (a) general engineering contractor;
 - 463 (b) general building contractor;
 - 464 (c) residential and small commercial contractor;
 - 465 (d) elevator contractor;
 - 466 (e) specialty contractor;
 - 467 (f) master plumber;
 - 468 (g) residential master plumber;
 - 469 (h) journeyman plumber;
 - 470 (i) apprentice plumber;
 - 471 (j) residential journeyman plumber;
 - 472 (k) master electrician;
 - 473 (l) residential master electrician;
 - 474 (m) journeyman electrician;
 - 475 (n) residential journeyman electrician;
 - 476 (o) apprentice electrician;
 - 477 (p) construction trades instructor:
 - 478 (i) general engineering classification;
 - 479 (ii) general building classification;
 - 480 (iii) electrical classification;
 - 481 (iv) plumbing classification; and
 - 482 (v) mechanical classification;
 - 483 (q) alarm company;
 - 484 (r) alarm company agent; [~~and~~]
 - 485 (s) elevator mechanic[-];
 - 486 (t) master residential heating, ventilation, and air conditioning technician;
 - 487 (u) journeyman residential heating, ventilation, and air conditioning technician; and
 - 488 (v) apprentice residential heating, ventilation, and air conditioning technician.
- 489 (3) (a) An applicant may apply for a license in one or more classification or specialty
490 contractor subclassification.
- 491 (b) A license shall be granted in each classification or subclassification for which the
492 applicant qualifies.

493 (c) A separate application and fee must be submitted for each license classification or
 494 subclassification.

495 Section 5. Section **58-55-302** is amended to read:

496 **58-55-302. Qualifications for licensure.**

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

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

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

500 (c) (i) meet the examination requirements established by rule by the commission with
 501 the concurrence of the director, except for the classifications of apprentice plumber [~~and~~],
 502 apprentice electrician, and apprentice residential heating, ventilation, and air conditioning
 503 technician, for whom no examination is required; or

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

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

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

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

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

513 (iii) (A) be a licensed master electrician if an applicant for an electrical contractor's
 514 license or a licensed master residential electrician if an applicant for a residential electrical
 515 contractor's license;

516 (B) be a licensed master plumber if an applicant for a plumbing contractor's license or
 517 a licensed [~~master~~] residential master plumber if an applicant for a residential plumbing
 518 contractor's license; [~~or~~]

519 (C) be a licensed master residential heating, ventilation, and air conditioning technician
 520 if an applicant for a residential heating, ventilation, and air conditioning contractor's license; or

521 [~~(C)~~] (D) be a licensed elevator mechanic and produce satisfactory evidence of three
 522 years experience as an elevator mechanic if an applicant for an elevator contractor's license;
 523 and

524 (iv) [~~when~~] if the applicant is an unincorporated entity, provide a list of the one or
525 more individuals who hold an ownership interest in the applicant as of the day on which the
526 application is filed that includes for each individual:

- 527 (A) the individual's name, address, and Social Security number; and
- 528 (B) whether the individual will engage in a construction trade; and
- 529 (f) if an applicant for a construction trades instructor license, satisfy any additional
530 requirements established by rule.

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

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

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

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

- 540 (i) Utah Department of Commerce;
- 541 (ii) Division of Corporations and Commercial Code;
- 542 (iii) Unemployment Insurance Division in the Department of Workforce Services, for
543 purposes of Title 35A, Chapter 4, Employment Security Act;
- 544 (iv) State Tax Commission; and
- 545 (v) Internal Revenue Service.

546 (3) In addition to the general requirements for each applicant in Subsection (1),
547 applicants shall comply with the following requirements to be licensed in the following
548 classifications:

- 549 (a) (i) A master plumber shall produce satisfactory evidence that the applicant:
 - 550 (A) has been a licensed journeyman plumber for at least two years and had two years of
551 supervisory experience as a licensed journeyman plumber in accordance with division rule;
 - 552 (B) has received at least an associate of applied science degree or similar degree
553 following the completion of a course of study approved by the division and had one year of
554 supervisory experience as a licensed journeyman plumber in accordance with division rule; or

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

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

563 (iii) An individual holding a valid plumbing contractor's license or residential
564 plumbing contractor's license, in effect immediately prior to May 5, 2008, is on or after May 5,
565 2008:

566 (A) considered to hold a current master plumber license under this chapter if licensed
567 as a plumbing contractor and a journeyman plumber, and satisfies the requirements of this
568 Subsection (3)(a) for purposes of renewal or reinstatement of that license under Section
569 58-55-303; and

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

574 (b) A master residential plumber applicant shall produce satisfactory evidence that the
575 applicant:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

619 (g) A [~~master~~] residential master electrician applicant shall produce satisfactory
620 evidence that the applicant:

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

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

625 (h) A journeyman electrician applicant shall produce satisfactory evidence that the
626 applicant:

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

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

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

634 (i) A residential journeyman electrician applicant shall produce satisfactory evidence
635 that the applicant:

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

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

641 (iii) meets the qualifications determined by the division and [~~applicable board~~] the
642 Electricians Licensing Board to be equivalent to Subsection (3)(i)(i) or (ii).

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

645 (i) A licensed apprentice electrician shall be under the immediate supervision of a
646 licensed master, journeyman, residential master, or residential journeyman electrician. An
647 apprentice in the fourth year of training may work without supervision for a period not to

648 exceed eight hours in any 24-hour period.

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

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

654 (k) An applicant for master residential heating, ventilation, and air conditioning
655 technician shall:

656 (i) (A) produce satisfactory evidence that the applicant has at least two years full-time
657 experience as a journeyman residential heating, ventilation, and air conditioning technician, or
658 its equivalent; and

659 (B) pass a competency test; or

660 (ii) produce satisfactory evidence that the applicant has at least six years full-time
661 experience in the heating, ventilation, and air conditioning system trade, or its equivalent, at
662 least two years of which are during a time that the applicant is certified by North American
663 Technicians Excellence.

664 (l) An applicant for journeyman residential heating, ventilation, and air conditioning
665 technician shall:

666 (i) produce satisfactory evidence that the applicant has:

667 (A) at least two years full-time experience in the residential heating, ventilation, and air
668 conditioning trade under the supervision of a licensed residential heating, ventilation, and air
669 conditioning supervisor, or equivalent experience, and at least two years formal training or
670 equivalent training, which experience and training may be concurrent; or

671 (B) at least four years full-time experience in the residential heating, ventilation, and
672 air conditioning trade under the supervision of a licensed residential heating, ventilation, and
673 air conditioning supervisor, or equivalent experience; and

674 (ii) pass a competency test.

675 (m) A licensed apprentice residential heating, ventilation, and air conditioning
676 technician shall be under the immediate supervision of a licensed residential heating,
677 ventilation, and air conditioning supervisor.

678 [~~(k)~~] (n) An alarm company applicant shall:

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

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

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

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

686 (ii) if a corporation, provide:

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

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

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

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

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

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

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

709 (vi) if a trust, provide the names, addresses, dates of birth, Social Security numbers,

710 and fingerprint cards of the trustee, and those responsible management personnel employed
711 within the state or having direct responsibility for managing operations of the applicant within
712 the state;

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

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

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

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

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

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

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

732 (I) Division of Corporations and Commercial Code;

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

735 (III) State Tax Commission; and

736 (IV) Internal Revenue Service; and

737 (xi) meet with the division and board.

738 ~~(f)~~ (o) Each applicant for licensure as an alarm company agent shall:

739 (i) submit an application in a form prescribed by the division accompanied by
740 fingerprint cards;

- 741 (ii) pay a fee determined by the department under Section 63J-1-504;
- 742 (iii) be of good moral character in that the applicant has not been convicted of a felony,
743 a misdemeanor involving moral turpitude, or any other crime that when considered with the
744 duties and responsibilities of an alarm company agent is considered by the board to indicate
745 that the best interests of the public are served by granting the applicant a license;
- 746 (iv) not have been declared by any court of competent jurisdiction incompetent by
747 reason of mental defect or disease and not been restored;
- 748 (v) not be currently suffering from habitual drunkenness or from drug addiction or
749 dependence; and
- 750 (vi) meet with the division and board if requested by the division or the board.
- 751 ~~(m)~~ (p) (i) Each applicant for licensure as an elevator mechanic shall:
- 752 (A) provide documentation of experience and education credits of not less than three
753 years work experience in the elevator industry, in construction, maintenance, or service and
754 repair; and
- 755 (B) satisfactorily complete a written examination administered by the division
756 established by rule under Section 58-1-203; or
- 757 (C) provide certificates of completion of an apprenticeship program for elevator
758 mechanics, having standards substantially equal to those of this chapter and registered with the
759 United States Department of Labor Bureau Apprenticeship and Training or a state
760 apprenticeship council.
- 761 (ii) (A) If an elevator contractor licensed under this chapter cannot find a licensed
762 elevator mechanic to perform the work of erecting, constructing, installing, altering, servicing,
763 repairing, or maintaining an elevator, the contractor may:
- 764 (I) notify the division of the unavailability of licensed personnel; and
- 765 (II) request the division issue a temporary elevator mechanic license to an individual
766 certified by the contractor as having an acceptable combination of documented experience and
767 education to perform the work described in this Subsection (3)~~(m)~~(p)(ii)(A).
- 768 (B) (I) The division may issue a temporary elevator mechanic license to an individual
769 certified under Subsection (3)~~(m)~~(p)(ii)(A)(II) upon application by the individual,
770 accompanied by the appropriate fee as determined by the department under Section 63J-1-504.
- 771 (II) The division shall specify the time period for which the license is valid and may

772 renew the license for an additional time period upon its determination that a shortage of
773 licensed elevator mechanics continues to exist.

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

777 (5) To determine if an applicant meets the qualifications of Subsections (3)(~~(k)~~)(n)(vii)
778 and (3)(~~(f)~~)(o)(iii), the division shall provide an appropriate number of copies of fingerprint
779 cards to the Department of Public Safety with the division's request to:

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

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

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

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

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

794 (7) (a) The division shall charge each applicant for licensure as an alarm company or
795 alarm company agent a fee, in accordance with Section 63J-1-504, equal to the cost of
796 performing the records reviews under this section.

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

800 (8) Information obtained by the division from the reviews of criminal history records of
801 the Department of Public Safety and the Federal Bureau of Investigation shall be used or
802 disseminated by the division only for the purpose of determining if an applicant for licensure as

803 an alarm company or alarm company agent is qualified for licensure.

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

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

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

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

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

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

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

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

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

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

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

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

834 application.

835 (10) (a) A licensee that is an unincorporated entity shall file an ownership status report
836 with the division every 90 days after the day on which the license is issued if the licensee has as
837 an owner an individual who:

838 (i) owns an interest in the contractor that is an unincorporated entity;

839 (ii) owns, directly or indirectly, less than an 8% interest in the unincorporated entity, as
840 defined by rule made by the division in accordance with Title 63G, Chapter 3, Utah
841 Administrative Rulemaking Act; and

842 (iii) engages, or will engage, in a construction trade in Utah as an owner of the
843 contractor described in Subsection (10)(a)(i).

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

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

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

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

850 (ii) be in a format prescribed by the division that is consistent with a list provided
851 under Subsection 58-55-302(1)(e)(iv); and

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

854 (c) The division may audit an ownership status report under this Subsection (10):

855 (i) in the same manner as the division may audit a demonstration of financial
856 responsibility under Section 58-55-306; and

857 (ii) to determine compliance with Subsection 58-55-501(24) or (25) or Subsection
858 58-55-502(8) or (9).

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

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

865 (A) the individual's name, address, and Social Security number; and
866 (B) whether the individual will engage in a construction trade; and
867 (ii) every 90 days after the day on which the unincorporated entity provides the list
868 described in Subsection (11)(a)(i), an ownership status report containing the information that
869 would be required under Subsection (10) if the unincorporated entity were a licensed
870 contractor.

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

874 (12) This chapter may not be interpreted to create or support an express or implied
875 independent contractor relationship between an unincorporated entity described in Subsection
876 (10) or (11) and the owners of the unincorporated entity for any purpose, including income tax
877 withholding.

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

880 Section 6. Section **58-55-302.3** is enacted to read:

881 **58-55-302.3. Transition provisions for residential heating, ventilation, and air**
882 **conditioning contractors and technicians.**

883 (1) (a) Notwithstanding Section 58-55-302, a person who, on May 8, 2012, holds a
884 valid specialty contractor license issued by the division for the heating, ventilation, and air
885 conditioning system trade is granted a license as a residential heating, ventilation, and air
886 conditioning contractor.

887 (b) The division shall issue a residential heating, ventilation, and air conditioning
888 contractor license to each person described in Subsection (1)(a).

889 (2) (a) Notwithstanding Subsection 58-55-302(3)(k), an individual who, on May 8,
890 2012, is a qualifier under Section 58-55-304 for a business entity licensee holding a valid
891 specialty contractor's license for the heating, ventilation, and air conditioning system trade is
892 granted status as a master residential heating, ventilation, and air conditioning technician.

893 (b) The division shall issue a master residential heating, ventilation, and air
894 conditioning technician license to each individual described in Subsection (2)(a).

895 (c) Notwithstanding Subsection 58-55-302(3)(k), for a master residential heating,

896 ventilation, and air conditioning technician license issued before January 1, 2014, except for a
897 license issued under Subsection (2)(b), an applicant shall:

898 (i) produce satisfactory evidence of having completed at least six years full-time
899 experience in the heating, ventilation, and air conditioning system trade, or its equivalent as
900 defined by the division by rule; and

901 (ii) pass a competency test established by the division.

902 (3) Notwithstanding Subsection 58-55-302(3)(1), for a journeyman residential heating,
903 ventilation, and air conditioning technician license issued before January 1, 2014, an applicant
904 shall produce satisfactory evidence of having completed at least four years full-time experience
905 in the heating, ventilation, and air conditioning system trade, or its equivalent as the division
906 defines by rule.

907 Section 7. Section **58-55-302.7** is amended to read:

908 **58-55-302.7. Continuing education requirements for electricians, elevator**
909 **mechanics, plumbers, and apprentice, journeyman, or master residential heating,**
910 **ventilation, and air conditioning technicians.**

911 (1) As used in this section:

912 (a) "Licensed electrician" means an individual licensed under this chapter as an
913 apprentice electrician, journeyman electrician, master electrician, residential journeyman
914 electrician, or residential master electrician.

915 (b) "Licensed elevator mechanic" means an individual licensed under this chapter as an
916 elevator mechanic.

917 (c) "Licensed plumber" means an individual licensed under this chapter as an
918 apprentice plumber, journeyman plumber, master plumber, residential journeyman plumber, or
919 residential master plumber.

920 (d) "Licensed residential heating, ventilation, and air conditioning technician" means
921 an individual licensed under this chapter as an apprentice, journeyman, or master residential
922 heating, ventilation, and air conditioning technician.

923 (2) [~~Beginning December 1, 2010, during~~] During each two-year renewal cycle
924 established by rule under Subsection 58-55-303(1):

925 (a) a licensed electrician shall complete 16 hours of continuing education under the
926 continuing education program established under this section;

927 (b) a licensed plumber shall complete 12 hours of continuing education under the
928 continuing education program established under this section; [~~and~~]

929 (c) a licensed elevator mechanic shall complete eight hours of continuing education
930 under the continuing education program established under this section[~~;~~ and

931 (d) a licensed residential heating, ventilation, and air conditioning technician shall
932 complete 12 hours of heating, ventilation, and air conditioning system fuel and energy
933 efficiency education.

934 (3) The commission shall, with the concurrence of the division, establish by rule:

935 (a) a continuing education program for licensed electricians;

936 (b) a continuing education program for licensed elevator mechanics; [~~and~~]

937 (c) a continuing education program for licensed plumbers[~~;~~ and

938 (d) a continuing education program for licensed residential heating, ventilation, and air
939 conditioning technicians.

940 (4) The division may contract with a person to establish and maintain a continuing
941 education registry to include:

942 (a) an online application for a continuing education course provider to apply to the
943 division for approval of the course for inclusion in the continuing education program;

944 (b) a list of courses that the division has approved for inclusion in the continuing
945 education program; and

946 (c) a list of courses that:

947 (i) a licensed electrician, licensed elevator mechanic, [~~or~~] licensed plumber, or licensed
948 residential heating, ventilation, and air conditioning technician has completed under the
949 continuing education program; and

950 (ii) the licensed electrician, licensed elevator mechanic, [~~or~~] licensed plumber, or
951 licensed residential heating, ventilation, and air conditioning technician may access to monitor
952 compliance with the continuing education requirement under Subsection (2).

953 (5) The division may charge a fee, established by the division under Section 63J-1-504,
954 to administer the requirements of this section.

955 Section 8. Section **58-55-303** is amended to read:

956 **58-55-303. Term of license -- Expiration -- Renewal.**

957 (1) (a) Each license issued under this chapter shall be issued in accordance with a

958 two-year renewal cycle established by rule.

959 (b) The division may by rule extend or shorten a renewal period by as much as one year
960 to stagger the renewal cycle it administers.

961 (2) At the time of renewal, the licensee shall show satisfactory evidence of:

962 (a) continuing financial responsibility as required under Section 58-55-306;

963 (b) for a contractor licensee, completion of six hours of approved continuing education,
964 as required in Section 58-55-302.5; ~~and~~

965 (c) if the licensee is an apprentice electrician or plumber, journeyman electrician or
966 plumber, master electrician or plumber, residential journeyman electrician or plumber, or
967 residential master electrician or plumber, completion of the number of hours of continuing
968 education specified under Section 58-55-302.7~~[-]; and~~

969 (d) for a residential heating, ventilation, and air conditioning technician licensee,
970 having completed, during the two-year license renewal cycle, 12 hours of heating, ventilation,
971 and air conditioning system fuel and electricity efficiency education approved by the division
972 and the board.

973 (3) Each license automatically expires on the expiration date shown on the license
974 unless the licensee renews the license in accordance with Section 58-1-308.

975 (4) The requirements of Subsection 58-55-302~~(9)~~(10) ~~shall~~ also apply to applicants
976 seeking to renew or reinstate a license.

977 (5) In addition to any other requirements imposed by law, if a license has been
978 suspended or revoked for any reason, the applicant:

979 (a) shall pay in full all fines imposed by the division;

980 (b) resolve any outstanding citations or disciplinary actions with the division;

981 (c) satisfy any Section 58-55-503 judgment and sentence or nontrial resolution;

982 (d) complete a new financial responsibility review as required under Section
983 58-55-306, using only titled assets; and

984 (e) pay in full any reimbursement amount as provided in Title 38, Chapter 11,
985 Residence Lien Restriction and Lien Recovery Fund Act.

986 Section 9. Section **58-55-305** is amended to read:

987 **58-55-305. Exemptions from licensure.**

988 (1) In addition to the exemptions from licensure in Section 58-1-307, the following

989 persons may engage in acts or practices included within the practice of construction trades,
990 subject to the stated circumstances and limitations, without being licensed under this chapter:

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

995 (b) a person engaged in construction or operation incidental to the construction and
996 repair of irrigation and drainage ditches of regularly constituted irrigation districts, reclamation
997 districts, and drainage districts or construction and repair relating to farming, dairying,
998 agriculture, livestock or poultry raising, metal and coal mining, quarries, sand and gravel
999 excavations, well drilling, as defined in Section 73-3-25, hauling to and from construction
1000 sites, and lumbering;

1001 (c) public utilities operating under the rules of the Public Service Commission on work
1002 incidental to their own business;

1003 (d) sole owners of property engaged in building:

1004 (i) no more than one residential structure per year and no more than three residential
1005 structures per five years on their property for their own noncommercial, nonpublic use; except,
1006 a person other than the property owner or individuals described in Subsection (1)(e), who
1007 engages in building the structure must be licensed under this chapter if the person is otherwise
1008 required to be licensed under this chapter; or

1009 (ii) structures on their property for their own noncommercial, nonpublic use which are
1010 incidental to a residential structure on the property, including sheds, carports, or detached
1011 garages;

1012 (e) (i) a person engaged in construction or renovation of a residential building for
1013 noncommercial, nonpublic use if that person:

1014 (A) works without compensation other than token compensation that is not considered
1015 salary or wages; and

1016 (B) works under the direction of the property owner who engages in building the
1017 structure; and

1018 (ii) as used in this Subsection (1)(e), "token compensation" means compensation paid
1019 by a sole owner of property exempted from licensure under Subsection (1)(d) to a person

1020 exempted from licensure under this Subsection (1)(e), that is:

1021 (A) minimal in value when compared with the fair market value of the services
1022 provided by the person;

1023 (B) not related to the fair market value of the services provided by the person; and

1024 (C) is incidental to the providing of services by the person including paying for or
1025 providing meals or refreshment while services are being provided, or paying reasonable
1026 transportation costs incurred by the person in travel to the site of construction;

1027 (f) a person engaged in the sale or merchandising of personal property that by its design
1028 or manufacture may be attached, installed, or otherwise affixed to real property who has
1029 contracted with a person, firm, or corporation licensed under this chapter to install, affix, or
1030 attach that property;

1031 (g) a contractor submitting a bid on a federal aid highway project, if, before
1032 undertaking construction under that bid, the contractor is licensed under this chapter;

1033 (h) (i) a person engaged in the alteration, repair, remodeling, or addition to or
1034 improvement of a building with a contracted or agreed value of less than \$3,000, including
1035 both labor and materials, and including all changes or additions to the contracted or agreed
1036 upon work; and

1037 (ii) notwithstanding Subsection (1)(h)(i) and except as otherwise provided in this
1038 section:

1039 (A) work in the plumbing [~~and~~], electrical, and residential heating, ventilation, and air
1040 conditioning system trades on a project described in Subsection (1)(h)(i) [~~project~~] within any
1041 six month period of time:

1042 (I) [~~must~~] shall be performed by a licensed electrical [~~or~~], plumbing, or residential
1043 heating, ventilation, and air conditioning contractor, respectively, if the project involves an
1044 electrical [~~or~~], plumbing, or residential heating, ventilation, and air conditioning system; [~~and~~]

1045 (II) may be performed by a licensed journeyman electrician or plumber or an individual
1046 referred to in Subsection (1)(h)(ii)(A)(I), if the project involves a component of the system
1047 such as a faucet, toilet, fixture, device, [~~outlet~~] receptacle, or electrical switch; and

1048 (III) may be performed by a licensed residential heating, ventilation, and air
1049 conditioning technician if the project involves a component of the system such as a thermostat,
1050 transformer, relay, compressor, motor, or blower;

1051 (B) installation, repair, or replacement of a residential or commercial gas appliance or a
1052 combustion system on a Subsection (1)(h)(i) project [~~must~~] shall be performed by a person who
1053 has received certification under Subsection 58-55-308(2) except as otherwise provided in
1054 Subsection 58-55-308(2)(d) or 58-55-308(3);

1055 (C) installation, repair, or replacement of water-based fire protection systems on a
1056 Subsection (1)(h)(i) project [~~must~~] shall be performed by a licensed fire suppression systems
1057 contractor or a licensed journeyman plumber;

1058 (D) work as an alarm business or company or as an alarm company agent shall be
1059 performed by a licensed alarm business or company or a licensed alarm company agent, except
1060 as otherwise provided in this chapter;

1061 (E) installation, repair, or replacement of an alarm system on a Subsection (1)(h)(i)
1062 project [~~must~~] shall be performed by a licensed alarm business or company or a licensed alarm
1063 company agent;

1064 (F) installation, repair, or replacement of a residential heating, ventilation, or air
1065 conditioning system [~~HVAC~~] on a project described in Subsection (1)(h)(i) [~~project must~~]
1066 shall be performed by [~~an HVAC~~] a residential heating, ventilation, and air conditioning
1067 contractor licensed by the division;

1068 (G) installation, repair, or replacement of a radon mitigation system or a soil
1069 depressurization system [~~must~~] shall be performed by a licensed contractor; and

1070 (H) if the total value of the project is greater than \$1,000, the person shall file with the
1071 division a one-time affirmation, subject to periodic reaffirmation as established by division
1072 rule, that the person has:

1073 (I) public liability insurance in coverage amounts and form established by division
1074 rule; and

1075 (II) if applicable, workers compensation insurance which would cover an employee of
1076 the person if that employee worked on the construction project;

1077 (i) a person practicing a specialty contractor classification or construction trade which
1078 the director does not classify by administrative rule as significantly impacting the public's
1079 health, safety, and welfare;

1080 (j) owners and lessees of property and persons regularly employed for wages by owners
1081 or lessees of property or their agents for the purpose of maintaining the property, are exempt

1082 from this chapter when doing work upon the property;

1083 (k) (i) a person engaged in minor plumbing work that is incidental, as defined by the
1084 division by rule, to the replacement or repair of a fixture or an appliance in a residential or
1085 small commercial building, or structure used for agricultural use, as defined in Section
1086 15A-1-202, provided that no modification is made to:

1087 (A) existing culinary water, soil, waste, or vent piping; or

1088 (B) a gas appliance or combustion system; and

1089 (ii) except as provided in Subsection (1)(e), installation for the first time of a fixture or
1090 an appliance is not included in the exemption provided under Subsection (1)(k)(i);

1091 (l) a person who ordinarily would be subject to the plumber licensure requirements
1092 under this chapter when installing or repairing a water conditioner or other water treatment
1093 apparatus if the conditioner or apparatus:

1094 (i) meets the appropriate state construction codes or local plumbing standards; and

1095 (ii) is installed or repaired under the direction of a person authorized to do the work
1096 under an appropriate specialty contractor license;

1097 (m) a person who ordinarily would be subject to the electrician licensure requirements
1098 under this chapter when employed by:

1099 (i) railroad corporations, telephone corporations or their corporate affiliates, elevator
1100 contractors or constructors, or street railway systems; or

1101 (ii) public service corporations, rural electrification associations, or municipal utilities
1102 who generate, distribute, or sell electrical energy for light, heat, or power;

1103 (n) a person involved in minor electrical work incidental to a mechanical or service
1104 installation;

1105 (o) a student participating in construction trade education and training programs
1106 approved by the commission with the concurrence of the director under the condition that:

1107 (i) all work intended as a part of a finished product on which there would normally be
1108 an inspection by a building inspector is, in fact, inspected and found acceptable by a licensed
1109 building inspector; and

1110 (ii) a licensed contractor obtains the necessary building permits;

1111 (p) a delivery person when replacing any of the following existing equipment with a
1112 new gas appliance, provided there is an existing gas shutoff valve at the appliance:

- 1113 (i) gas range;
- 1114 (ii) gas dryer;
- 1115 (iii) outdoor gas barbeque; or
- 1116 (iv) outdoor gas patio heater;
- 1117 (q) a person performing maintenance on an elevator [~~as defined in Subsection~~
- 1118 ~~58-55-102(14)~~], if the maintenance is not related to the operating integrity of the elevator; and
- 1119 (r) an apprentice or helper of an elevator mechanic licensed under this chapter when
- 1120 working under the general direction of the licensed elevator mechanic.

1121 (2) A compliance agency as defined in Section 15A-1-202 that issues a building permit
 1122 to a person requesting a permit as a sole owner of property referred to in Subsection (1)(d) shall
 1123 notify the division, in writing or through electronic transmission, of the issuance of the permit.

1124 Section 10. Section **58-55-308** is amended to read:

1125 **58-55-308. Scope of practice -- Installation, repair, maintenance, cleaning, or**
 1126 **replacement of gas appliance or combustion system -- Rules.**

1127 (1) (a) The commission, with the concurrence of the director, may adopt reasonable
 1128 rules pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to define and
 1129 limit the scope of practice and operating standards of the classifications and subclassifications
 1130 licensed under this chapter in a manner consistent with established practice in the relevant
 1131 industry.

1132 (b) The commission and the director may limit the field and scope of operations of a
 1133 licensee under this chapter in accordance with the rules and the public health, safety, and
 1134 welfare, based on the licensee's education, training, experience, knowledge, and financial
 1135 responsibility.

1136 (2) (a) The work and scope of practice covered by this Subsection (2) is the
 1137 installation, repair, maintenance, cleaning, or replacement of a residential or commercial gas
 1138 appliance or combustion system.

1139 (b) The provisions of this Subsection (2) apply to any:

- 1140 (i) licensee under this chapter whose license authorizes the licensee to perform the
- 1141 work described in Subsection (2)(a); and
- 1142 (ii) person exempt from licensure under Subsection 58-55-305(1)(h).

1143 (c) Any person described in Subsection (2)(b) that performs work described in

1144 Subsection (2)(a):

1145 (i) must first receive training and certification as specified in rules adopted by the
1146 division; and

1147 (ii) shall ensure that any employee authorized under other provisions of this chapter to
1148 perform work described in Subsection (2)(a) has first received training and certification as
1149 specified in rules adopted by the division.

1150 (d) The division may exempt from the training requirements adopted under Subsection
1151 (2)(c) a person that has adequate experience, as determined by the division.

1152 (3) The division may exempt the following individuals from the certification
1153 requirements adopted under Subsection (2)(c):

1154 (a) a person who has passed a test equivalent to the level of testing required by the
1155 division for certification, or has completed an apprenticeship program that teaches the
1156 installation of gas line appliances and is approved by the Federal Bureau of Apprenticeship
1157 Training; and

1158 (b) a person working under the immediate one-to-one supervision of a certified natural
1159 gas technician or a person exempt from certification.

1160 (4) ~~[This section does not prohibit a]~~ A licensed specialty contractor ~~[from accepting~~
1161 ~~and entering]~~ may accept and enter into a contract involving ~~[the use of two or more crafts or~~
1162 ~~trades if the performance of the], and perform~~ work in ~~[the],~~ crafts or trades~~;~~ other than ~~[that]~~
1163 those in which the contractor is licensed, if the work in those other crafts or trades is incidental
1164 ~~[and supplemental]~~ to the work for which the contractor is licensed.

1165 Section 11. Section **58-55-501** is amended to read:

1166 **58-55-501. Unlawful conduct.**

1167 Unlawful conduct includes:

1168 (1) engaging in a construction trade, acting as a contractor, an alarm business or
1169 company, or an alarm company agent, or representing oneself to be engaged in a construction
1170 trade or to be acting as a contractor in a construction trade requiring licensure, unless the
1171 person doing any of these is appropriately licensed or exempted from licensure under this
1172 chapter;

1173 (2) acting in a construction trade, as an alarm business or company, or as an alarm
1174 company agent beyond the scope of the license held;

1175 (3) hiring or employing in any manner an unlicensed person, other than an employee
 1176 for wages who is not required to be licensed under this chapter, to engage in a construction
 1177 trade for which licensure is required or to act as a contractor or subcontractor in a construction
 1178 trade requiring licensure;

1179 (4) applying for or obtaining a building permit either for oneself or another when not
 1180 licensed or exempted from licensure as a contractor under this chapter;

1181 (5) issuing a building permit to any person for whom there is no evidence of a current
 1182 license or exemption from licensure as a contractor under this chapter;

1183 (6) applying for or obtaining a building permit for the benefit of or on behalf of any
 1184 other person who is required to be licensed under this chapter but who is not licensed or is
 1185 otherwise not entitled to obtain or receive the benefit of the building permit;

1186 (7) failing to obtain a building permit when required by law or rule;

1187 (8) submitting a bid for any work for which a license is required under this chapter by a
 1188 person not licensed or exempted from licensure as a contractor under this chapter;

1189 (9) willfully or deliberately misrepresenting or omitting a material fact in connection
 1190 with an application to obtain or renew a license under this chapter;

1191 (10) allowing one's license to be used by another except as provided by statute or rule;

1192 (11) doing business under a name other than the name appearing on the license, except
 1193 as permitted by statute or rule;

1194 (12) ~~[if licensed as a specialty contractor in the electrical trade or plumbing trade,
 1195 journeyman plumber, residential journeyman plumber, journeyman electrician, master
 1196 electrician, or residential electrician, failing to directly supervise] a licensed supervisor failing
 1197 to provide immediate supervision of an apprentice under [one's] the supervisor's supervision or
 1198 exceeding the number of apprentices [one] the supervisor is allowed to have under the
 1199 [specialty contractor's] supervisor's supervision[;] if the supervisor is licensed as:~~

1200 (a) a specialty contractor in the electrical, plumbing, or residential heating, ventilation,
 1201 and air conditioning trade;

1202 (b) a master, journeyman, or residential electrician;

1203 (c) a journeyman or residential journeyman plumber; or

1204 (d) a master or journeyman residential heating, ventilation, and air conditioning
 1205 technician;

1206 (13) if licensed as a contractor or representing oneself to be a contractor, receiving any
1207 funds in payment for a specific project from an owner or any other person, which funds are to
1208 pay for work performed or materials and services furnished for that specific project, and after
1209 receiving the funds to exercise unauthorized control over the funds by failing to pay the full
1210 amounts due and payable to persons who performed work or furnished materials or services
1211 within a reasonable period of time;

1212 (14) employing an unlicensed alarm business or company or an unlicensed individual
1213 as an alarm company agent, except as permitted under the exemption from licensure provisions
1214 under Section 58-1-307;

1215 (15) if licensed as an alarm company or alarm company agent, filing with the division
1216 fingerprint cards for an applicant which are not those of the applicant, or are in any other way
1217 false or fraudulent and intended to mislead the division in its consideration of the applicant for
1218 licensure;

1219 (16) if licensed under this chapter, willfully or deliberately disregarding or violating:

- 1220 (a) the building or construction laws of this state or any political subdivision;
- 1221 (b) the safety and labor laws applicable to a project;
- 1222 (c) any provision of the health laws applicable to a project;
- 1223 (d) the workers' compensation insurance laws of the state applicable to a project;
- 1224 (e) the laws governing withholdings for employee state and federal income taxes,
1225 unemployment taxes, Social Security payroll taxes, or other required withholdings; or
- 1226 (f) reporting, notification, and filing laws of this state or the federal government;

1227 (17) aiding or abetting any person in evading the provisions of this chapter or rules
1228 established under the authority of the division to govern this chapter;

1229 (18) engaging in the construction trade or as a contractor for the construction of
1230 residences of up to two units when not currently registered or exempt from registration as a
1231 qualified beneficiary under Title 38, Chapter 11, Residence Lien Restriction and Lien Recovery
1232 Fund Act;

1233 (19) failing, as an original contractor, as defined in Section 38-11-102, to include in a
1234 written contract the notification required in Section 38-11-108;

1235 (20) wrongfully filing a mechanics' lien in violation of Section 38-1-25;

1236 (21) if licensed as a contractor, not completing the approved continuing education

1237 required under Section 58-55-302.5;

1238 (22) an alarm company allowing an employee with a temporary license under Section
1239 58-55-312 to engage in conduct on behalf of the company outside the scope of the temporary
1240 license, as provided in Subsection 58-55-312(3)(a)(ii);

1241 (23) an alarm company agent under a temporary license under Section 58-55-312
1242 engaging in conduct outside the scope of the temporary license, as provided in Subsection
1243 58-55-312(3)(a)(ii);

1244 (24) (a) an unincorporated entity licensed under this chapter having an individual who
1245 owns an interest in the unincorporated entity engage in a construction trade in Utah while not
1246 lawfully present in the United States; or

1247 (b) an unincorporated entity providing labor to an entity licensed under this chapter by
1248 providing an individual who owns an interest in the unincorporated entity to engage in a
1249 construction trade in Utah while not lawfully present in the United States;

1250 (25) an unincorporated entity failing to provide the following for an individual who
1251 engages, or will engage, in a construction trade in Utah for the unincorporated entity, or for an
1252 individual who engages, or will engage, in a construction trade in Utah for a separate entity for
1253 which the unincorporated entity provides the individual as labor:

1254 (a) workers' compensation coverage:

1255 (i) to the extent required by Title 34A, Chapter 2, Workers' Compensation Act, and
1256 Title 34A, Chapter 3, Utah Occupational Disease Act; or

1257 (ii) that would be required under the chapters listed in Subsection (25)(a)(i) if the
1258 unincorporated entity were licensed under this chapter; and

1259 (b) unemployment compensation in accordance with Title 35A, Chapter 4,
1260 Employment Security Act, for an individual who owns, directly or indirectly, less than an 8%
1261 interest in the unincorporated entity, as defined by rule made by the division in accordance with
1262 Title 63G, Chapter 3, Utah Administrative Rulemaking Act; [or]

1263 (26) the failure of a sign installation contractor or nonelectrical outdoor advertising
1264 sign contractor, as classified and defined in division rules, to:

1265 (a) display the contractor's license number prominently on a vehicle that:

1266 (i) the contractor uses; and

1267 (ii) displays the contractor's business name; or

1268 (b) carry a copy of the contractor's license in any other vehicle that the contractor uses
1269 at a job site, whether or not the vehicle is owned by the contractor[-]; and

1270 (27) if licensed as a heating, ventilation, and air conditioning technician, failing to
1271 complete 12 hours of heating, ventilation, and air conditioning system fuel and energy
1272 efficiency education as required in Subsection 58-55-302.7(2)(d).

1273 Section 12. Section **58-55-503** is amended to read:

1274 **58-55-503. Penalty for unlawful conduct -- Citations.**

1275 (1) (a) (i) A person who violates Subsection 58-55-308(2), Subsection 58-55-501(1),
1276 (2), (3), (4), (5), (6), (7), (9), (10), (12), (14), (15), (22), (23), (24), (25), [or] (26), or (27), or
1277 Subsection 58-55-504(2), or who fails to comply with a citation issued under this section after
1278 it is final, is guilty of a class A misdemeanor.

1279 (ii) As used in this section in reference to Subsection 58-55-504(2), "person" means an
1280 individual and does not include a sole proprietorship, joint venture, corporation, limited
1281 liability company, association, or organization of any type.

1282 (b) A person who violates the provisions of Subsection 58-55-501(8) may not be
1283 awarded and may not accept a contract for the performance of the work.

1284 (2) A person who violates the provisions of Subsection 58-55-501(13) is guilty of an
1285 infraction unless the violator did so with the intent to deprive the person to whom money is to
1286 be paid of the money received, in which case the violator is guilty of theft, as classified in
1287 Section 76-6-412.

1288 (3) Grounds for immediate suspension of the licensee's license by the division and the
1289 commission include the issuance of a citation for violation of Subsection 58-55-308(2), Section
1290 58-55-501, or Subsection 58-55-504(2), or the failure by a licensee to make application to,
1291 report to, or notify the division with respect to any matter for which application, notification, or
1292 reporting is required under this chapter or rules adopted under this chapter, including applying
1293 to the division for a new license to engage in a new specialty classification or to do business
1294 under a new form of organization or business structure, filing with the division current
1295 financial statements, notifying the division concerning loss of insurance coverage, or change in
1296 qualifier.

1297 (4) (a) If upon inspection or investigation, the division concludes that a person has
1298 violated the provisions of Subsection 58-55-308(2) or [~~Subsections~~] Subsection 58-55-501(1),

1299 (2), (3), (9), (10), (12), (14), (19), (21), (22), (23), (24), (25), [or] (26), or (27), or Subsection
1300 58-55-504(2), or any rule or order issued with respect to these subsections, and that disciplinary
1301 action is appropriate, the director or the director's designee from within the division shall
1302 promptly issue a citation to the person according to this chapter and any pertinent rules, attempt
1303 to negotiate a stipulated settlement, or notify the person to appear before an adjudicative
1304 proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

1305 (i) A person who is in violation of the provisions of Subsection 58-55-308(2),
1306 Subsection 58-55-501(1), (2), (3), (9), (10), (12), (14), (19), (21), (22), (23), (24), (25), [or]
1307 (26), or (27), or Subsection 58-55-504(2), as evidenced by an uncontested citation, a stipulated
1308 settlement, or by a finding of violation in an adjudicative proceeding, may be assessed a fine
1309 pursuant to this Subsection (4) and may, in addition to or in lieu of, be ordered to cease and
1310 desist from violating Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9), (10),
1311 (12), (14), (19), (21), (24), (25), [or] (26), or (27), or Subsection 58-55-504(2).

1312 (ii) Except for a cease and desist order, the licensure sanctions cited in Section
1313 58-55-401 may not be assessed through a citation.

1314 (b) (i) A citation shall be in writing and describe with particularity the nature of the
1315 violation, including a reference to the provision of the chapter, rule, or order alleged to have
1316 been violated.

1317 (ii) A citation shall clearly state that the recipient must notify the division in writing
1318 within 20 calendar days of service of the citation if the recipient wishes to contest the citation
1319 at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act.

1320 (iii) A citation shall clearly explain the consequences of failure to timely contest the
1321 citation or to make payment of any fines assessed by the citation within the time specified in
1322 the citation.

1323 (c) A citation issued under this section, or a copy of a citation, may be served upon a
1324 person upon whom a summons may be served:

1325 (i) in accordance with the Utah Rules of Civil Procedure;

1326 (ii) personally or upon the person's agent by a division investigator or by a person
1327 specially designated by the director; or

1328 (iii) by mail.

1329 (d) (i) If within 20 calendar days from the service of a citation, the person to whom the

1330 citation was issued fails to request a hearing to contest the citation, the citation becomes the
1331 final order of the division and is not subject to further agency review.

1332 (ii) The period to contest a citation may be extended by the division for cause.

1333 (e) The division may refuse to issue or renew, suspend, revoke, or place on probation
1334 the license of a licensee who fails to comply with a citation after it becomes final.

1335 (f) The failure of an applicant for licensure to comply with a citation after it becomes
1336 final is a ground for denial of license.

1337 (g) A citation may not be issued under this section after the expiration of six months
1338 following the occurrence of a violation.

1339 (h) The director or the director's designee shall assess a fine in accordance with the
1340 following:

1341 (i) for a first offense handled pursuant to Subsection (4)(a), a fine of up to \$1,000;

1342 (ii) for a second offense handled pursuant to Subsection (4)(a), a fine of up to \$2,000;

1343 and

1344 (iii) for any subsequent offense handled pursuant to Subsection (4)(a), a fine of up to
1345 \$2,000 for each day of continued offense.

1346 (i) (i) For purposes of issuing a final order under this section and assessing a fine under
1347 Subsection (4)(h), an offense constitutes a second or subsequent offense if:

1348 (A) the division previously issued a final order determining that a person committed a
1349 first or second offense in violation of Subsection 58-55-308(2), Subsection 58-55-501(1), (2),
1350 (3), (9), (10), (12), (14), (19), (24), (25), [~~or~~] (26), or (27), or Subsection 58-55-504(2); or

1351 (B) (I) the division initiated an action for a first or second offense;

1352 (II) a final order has not been issued by the division in the action initiated under
1353 Subsection (4)(i)(i)(B)(I);

1354 (III) the division determines during an investigation that occurred after the initiation of
1355 the action under Subsection (4)(i)(i)(B)(I) that the person committed a second or subsequent
1356 violation of the provisions of Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9),
1357 (10), (12), (14), (19), (24), (25), [~~or~~] (26), or (27), or Subsection 58-55-504(2); and

1358 (IV) after determining that the person committed a second or subsequent offense under
1359 Subsection (4)(i)(i)(B)(III), the division issues a final order on the action initiated under
1360 Subsection (4)(i)(i)(B)(I).

1361 (ii) In issuing a final order for a second or subsequent offense under Subsection
1362 (4)(i)(i), the division shall comply with the requirements of this section.

1363 (j) In addition to any other licensure sanction or fine imposed under this section, the
1364 division shall revoke the license of a licensee that violates Subsection 58-55-501(24) or (25)
1365 two or more times within a 12-month period, unless, with respect to a violation of Subsection
1366 58-55-501(24), the licensee can demonstrate that the licensee successfully verified the federal
1367 legal working status of the individual who was the subject of the violation using a status
1368 verification system, as defined in Section 13-47-102.

1369 (k) For purposes of this Subsection (4), a violation of Subsection 58-55-501(24) or (25)
1370 for each individual is considered a separate violation.

1371 (5) (a) A penalty imposed by the director under Subsection (4)(h) shall be deposited
1372 into the Commerce Service Account created by Section 13-1-2.

1373 (b) A penalty that is not paid may be collected by the director by either referring the
1374 matter to a collection agency or bringing an action in the district court of the county in which
1375 the person against whom the penalty is imposed resides or in the county where the office of the
1376 director is located.

1377 (c) A county attorney or the attorney general of the state is to provide legal assistance
1378 and advice to the director in any action to collect the penalty.

1379 (d) In an action brought to enforce the provisions of this section, reasonable attorney
1380 fees and costs shall be awarded.

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