

## SB0102S01 compared with SB0102

~~{deleted text}~~ shows text that was in SB0102 but was deleted in SB0102S01.

inserted text shows text that was not in SB0102 but was inserted into SB0102S01.

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Senator Wayne A. Harper proposes the following substitute bill:

### CONTRACTOR LICENSING AMENDMENTS

2013 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Wayne A. Harper**

House Sponsor: \_\_\_\_\_

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#### LONG TITLE

##### General Description:

This bill modifies the Utah Construction Trades Licensing Act.

##### Highlighted Provisions:

This bill:

- ▶ establishes that the experience requirement for a contractor license includes two years of full-time paid employment;
- ▶ ~~{removes}~~ requires that before a course may be included in the program of approved continuing education ~~{requirements}~~ for ~~{a person licensed as a contractor}~~ contractors, the Construction Services Commission shall invite and consider written input regarding the proposed course from:
  - the Associated General Contractors of Utah;
  - the Homebuilders Association of Utah; and

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- the Utah Subcontractors Council; and
- ▶ makes technical changes.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

None

### Utah Code Sections Affected:

#### AMENDS:

- ~~{ 58-55-102, as last amended by Laws of Utah 2012, Chapter 25~~
- ~~{ 58-55-302, as last amended by Laws of Utah 2012, Chapter 192~~
- ~~{ 58-55-303, as last amended by Laws of Utah 2011, Chapter 367~~
- ~~— 58-55-305, as last amended by Laws of Utah 2011, Chapter 14~~
- ~~— 58-55-501, as last amended by Laws of Utah 2012, Chapter 278~~
- ~~— 58-55-503, as last amended by Laws of Utah 2011, Chapters 195, 340, and 413~~

#### REPEALS:

- ~~{ 58-55-302.5, as enacted by Laws of Utah 2010, Chapter 53~~

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

Section 1. Section ~~{58-55-102}~~58-55-302 is amended to read:

#### ~~{ 58-55-102. Definitions:~~

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

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

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

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

~~— (ii) an owner of an alarm system, or an employee of the owner of an alarm system who~~

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~~is engaged in installation, maintenance, alteration, repair, replacement, servicing, or monitoring of the alarm system owned by that owner:~~

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

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

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

~~—— (b) signaling a robbery or attempted robbery on protected premises:~~

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

~~—— (5) "Apprentice plumber" means a person licensed under this chapter as an apprentice plumber who is learning the plumbing trade under the immediate supervision of a master plumber, residential master plumber, journeyman plumber, or a residential journeyman plumber:~~

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

~~—— [(7)] (6) "Board" means the Electrician Licensing Board, Alarm System Security and Licensing Board, or Plumbers Licensing Board created in Section 58-55-201.~~

~~—— [(8)] (7) "Combustion system" means an assembly consisting of:~~

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

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

~~—— (c) components intended to achieve control of quantity, flow, and pressure:~~

~~—— [(9)] (8) "Commission" means the Construction Services Commission created under Section 58-55-103.~~

~~—— [(10)] (9) "Construction trade" means any trade or occupation involving:~~

~~—— (a) (i) construction, alteration, remodeling, repairing, wrecking or demolition, addition~~

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~~to, or improvement of any building, highway, road, railroad, dam, bridge, structure, excavation or other project, development, or improvement to other than personal property; and~~

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

~~—— (b) installation or repair of a residential or commercial natural gas appliance or combustion system;~~

~~—— [(11)] (10) "Construction trades instructor" means a person licensed under this chapter to teach one or more construction trades in both a classroom and project environment, where a project is intended for sale to or use by the public and is completed under the direction of the instructor, who has no economic interest in the project.~~

~~—— [(12)] (11) (a) "Contractor" means any person who for compensation other than wages as an employee undertakes any work in the construction, plumbing, or electrical trade for which licensure is required under this chapter and includes:~~

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

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

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

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

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

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

~~—— [(13)] (12) (a) "Electrical trade" means the performance of any electrical work involved in the installation, construction, alteration, change, repair, removal, or maintenance of facilities, buildings, or appendages or appurtenances:~~

~~—— (b) "Electrical trade" does not include:~~

~~—— (i) transporting or handling electrical materials;~~

~~—— (ii) preparing clearance for raceways for wiring; or~~

~~—— (iii) work commonly done by unskilled labor on any installations under the exclusive~~

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~~control of electrical utilities.~~

~~—— (c) For purposes of Subsection [(13)] (12)(b):~~

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

~~—— (ii) a shop may not employ unlicensed persons in excess of the five-to-one ratio permitted by this Subsection [(13)] (12)(c).~~

~~—— [(14)] (13) "Elevator" has the same meaning as defined in Section 34A-7-202, except that for purposes of this chapter it does not mean a stair chair, a vertical platform lift, or an incline platform lift.~~

~~—— [(15)] (14) "Elevator contractor" means a sole proprietor, firm, or corporation licensed under this chapter that is engaged in the business of erecting, constructing, installing, altering, servicing, repairing, or maintaining an elevator.~~

~~—— [(16)] (15) "Elevator mechanic" means an individual who is licensed under this chapter as an elevator mechanic and who is engaged in erecting, constructing, installing, altering, servicing, repairing, or maintaining an elevator under the immediate supervision of an elevator contractor.~~

~~—— [(17)] (16) "Employee" means an individual as defined by the division by rule giving consideration to the definition adopted by the Internal Revenue Service and the Department of Workforce Services.~~

~~—— [(18)] (17) "Engage in a construction trade" means to:~~

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

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

~~—— [(19)] (18) (a) "Financial responsibility" means a demonstration of a current and expected future condition of financial solvency evidencing a reasonable expectation to the division and the board that an applicant or licensee can successfully engage in business as a contractor without jeopardy to the public health, safety, and welfare.~~

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

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~~——— [(20)] (19) "Gas appliance" means any device that uses natural gas to produce light, heat, power, steam, hot water, refrigeration, or air conditioning.~~

~~——— [(21)] (20) (a) "General building contractor" means a person licensed under this chapter as a general building contractor qualified by education, training, experience, and knowledge to perform or superintend construction of structures for the support, shelter, and enclosure of persons, animals, chattels, or movable property of any kind or any of the components of that construction except plumbing, electrical work, mechanical work, work related to the operating integrity of an elevator, and manufactured housing installation, for which the general building contractor shall employ the services of a contractor licensed in the particular specialty, except that a general building contractor engaged in the construction of single-family and multifamily residences up to four units may perform the mechanical work and hire a licensed plumber or electrician as an employee.~~

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

~~——— [(22)] (21) (a) "General engineering contractor" means a person licensed under this chapter as a general engineering contractor qualified by education, training, experience, and knowledge to perform construction of fixed works in any of the following: irrigation, drainage, water, power, water supply, flood control, inland waterways, harbors, railroads, highways, tunnels, airports and runways, sewers and bridges, refineries, pipelines, chemical and industrial plants requiring specialized engineering knowledge and skill, piers, and foundations, or any of the components of those works:~~

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

~~——— [(23)] (22) "Immediate supervision" means reasonable direction, oversight, inspection, and evaluation of the work of a person:~~

~~——— (a) as the division specifies in rule;~~

~~——— (b) by, as applicable, a qualified electrician or plumber;~~

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

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

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~~———— [(24)] (23) "Individual" means a natural person.~~

~~———— [(25)] (24) "Journeyman electrician" means a person licensed under this chapter as a journeyman electrician having the qualifications, training, experience, and knowledge to wire, install, and repair electrical apparatus and equipment for light, heat, power, and other purposes.~~

~~———— [(26)] (25) "Journeyman plumber" means a person licensed under this chapter as a journeyman plumber having the qualifications, training, experience, and technical knowledge to engage in the plumbing trade.~~

~~———— [(27)] (26) "Master electrician" means a person licensed under this chapter as a master electrician having the qualifications, training, experience, and knowledge to properly plan, layout, and supervise the wiring, installation, and repair of electrical apparatus and equipment for light, heat, power, and other purposes.~~

~~———— [(28)] (27) "Master plumber" means a person licensed under this chapter as a master plumber having the qualifications, training, experience, and knowledge to properly plan and layout projects and supervise persons in the plumbing trade.~~

~~———— [(29)] (28) "Person" means a natural person, sole proprietorship, joint venture, corporation, limited liability company, association, or organization of any type.~~

~~———— [(30)] (29) (a) "Plumbing trade" means the performance of any mechanical work pertaining to the installation, alteration, change, repair, removal, maintenance, or use in buildings, or within three feet beyond the outside walls of buildings of pipes, fixtures, and fittings for:~~

~~———— (i) delivery of the water supply;~~

~~———— (ii) discharge of liquid and water carried waste; or~~

~~———— (iii) the building drainage system within the walls of the building.~~

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

~~———— [(31)] (30) (a) "Ratio of apprentices" means, for the purpose of determining compliance with the requirements for planned programs of training and electrician apprentice licensing applications, the shop ratio of apprentice electricians to journeyman or master electricians shall be one journeyman or master electrician to one apprentice on industrial and~~

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~~commercial work, and one journeyman or master electrician to three apprentices on residential work.~~

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

~~———[(32)] (31) "Residential and small commercial contractor" means a person licensed under this chapter as a residential and small commercial contractor qualified by education, training, experience, and knowledge to perform or superintend the construction of single-family residences, multifamily residences up to four units, and commercial construction of not more than three stories above ground and not more than 20,000 square feet, or any of the components of that construction except plumbing, electrical work, mechanical work, and manufactured housing installation, for which the residential and small commercial contractor shall employ the services of a contractor licensed in the particular specialty, except that a residential and small commercial contractor engaged in the construction of single-family and multifamily residences up to four units may perform the mechanical work and hire a licensed plumber or electrician as an employee.~~

~~———[(33)] (32) "Residential building," as it relates to the license classification of residential journeyman plumber and residential master plumber, means a single or multiple family dwelling of up to four units.~~

~~———[(34)] (33) "Residential journeyman electrician" means a person licensed under this chapter as a residential journeyman electrician having the qualifications, training, experience, and knowledge to wire, install, and repair electrical apparatus and equipment for light, heat, power, and other purposes on buildings using primarily nonmetallic sheath cable.~~

~~———[(35)] (34) "Residential journeyman plumber" means a person licensed under this chapter as a residential journeyman plumber having the qualifications, training, experience, and knowledge to engage in the plumbing trade as limited to the plumbing of residential buildings.~~

~~———[(36)] (35) "Residential master electrician" means a person licensed under this chapter as a residential master electrician having the qualifications, training, experience, and knowledge to properly plan, layout, and supervise the wiring, installation, and repair of electrical apparatus and equipment for light, heat, power, and other purposes on residential projects.~~



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

~~[(38)] (37) "Residential project," as it relates to an electrician or electrical contractor, means buildings primarily wired with nonmetallic sheathed cable, in accordance with standard rules and regulations governing this work, including the National Electrical Code, and in which the voltage does not exceed 250 volts line to line and 125 volts to ground.~~

~~[(39)] (38) (a) "Specialty contractor" means a person licensed under this chapter under a specialty contractor classification established by rule, who is qualified by education, training, experience, and knowledge to perform those construction trades and crafts requiring specialized skill, the regulation of which are determined by the division to be in the best interest of the public health, safety, and welfare.~~

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

~~[(40)] (39) "Unincorporated entity" means an entity that is not:~~

~~(a) an individual;~~

~~(b) a corporation; or~~

~~(c) publicly traded.~~

~~[(41)] (40) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-55-501.~~

~~[(42)] (41) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-55-502 and as may be further defined by rule.~~

~~[(43)] (42) "Wages" means amounts due to an employee for labor or services whether the amount is fixed or ascertained on a time, task, piece, commission, or other basis for calculating the amount.~~

~~Section 2. Section 58-55-302 is amended to read:~~

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

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

(a) submit an application prescribed by the division;

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

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

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

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

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

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

(ii) produce satisfactory evidence of knowledge and at least two years full-time paid employment experience in the construction industry and knowledge of the principles of the conduct of business as a contractor, reasonably necessary for the protection of the public health, safety, and welfare;

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

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

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

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

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

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

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

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

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

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

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

(i) Utah Department of Commerce;

(ii) Division of Corporations and Commercial Code;

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

(iv) State Tax Commission; and

(v) Internal Revenue Service.

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

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

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

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

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

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

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

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2008:

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

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

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

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

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

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

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

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

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

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

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

(ii) completion of at least six years of full-time experience in a maintenance or repair

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trade involving substantial plumbing work; or

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

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

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

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

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

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

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

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

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

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

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

or

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

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

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

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

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

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

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

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

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

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

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

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

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

(k) An alarm company applicant shall:

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

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

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

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

(ii) if a corporation, provide:

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

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

(iii) if a limited liability company, provide:

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

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

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

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

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

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

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

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

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

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

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

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

(I) Division of Corporations and Commercial Code;

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

(III) State Tax Commission; and

(IV) Internal Revenue Service; and

(xi) meet with the division and board.

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

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

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

(iii) be of good moral character in that the applicant has not been convicted of a felony, a misdemeanor involving moral turpitude, or any other crime that when considered with the



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duties and responsibilities of an alarm company agent is considered by the board to indicate that the best interests of the public are served by granting the applicant a license;

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

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

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

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

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

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

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

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

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

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

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

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

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

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division may make rules establishing when Federal Bureau of Investigation records shall be checked for applicants as an alarm company or alarm company agent.

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

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

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

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

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

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

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

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

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

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

(i) the applicant has had a previous license, which was issued under this chapter,

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suspended or revoked within one year prior to the date of the applicant's application;

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

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

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

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

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

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

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

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

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

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

(10) (a) (i) A licensee that is an unincorporated entity shall file an ownership status report with the division every 90 days after the day on which the license is issued if the licensee

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has more than five owners who are individuals who:

(A) own an interest in the contractor that is an unincorporated entity;

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

(C) engage, or will engage, in a construction trade in Utah as an owner of the contractor described in Subsection (10)(a)(i)(A).

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

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

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

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

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

(ii) be in a format prescribed by the division that includes the items on the list provided under Subsection ~~(1)~~(1)(e)(iv); and

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

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

(i) to determine if financial responsibility has been demonstrated or maintained as required under Section 58-55-306; and

(ii) to determine compliance with Subsection 58-55-501 ~~or (23)~~ (24) ~~or (25)~~ or Subsection 58-55-502(8) or (9).

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

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

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

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

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

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

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

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

Section 2. Section 58-55-302.5 is amended to read:

**58-55-302.5. Continuing education requirements of contractor licensees --**

**Continuing education courses.**

(1) Each contractor licensee under a license issued under this chapter shall complete six hours of approved continuing education during each two-year renewal cycle established by rule under Subsection 58-55-303(1).

(2) (a) The commission shall, with the concurrence of the division, establish by rule a program of approved continuing education for contractor licensees.

(b) Before a new course or a course being considered for reapproval may be included in the program of approved continuing education for contractor licensees, the commission and the division shall invite and consider written input, received within 30 days of the invitation, regarding the course from:

(i) the Associated General Contractors of Utah;

(ii) the Homebuilders Association of Utah; and

(iii) the Utah Subcontractors Council.

(3) The division may contract with a person to establish and maintain a continuing

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education registry to include:

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

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

(c) a list of courses that:

(i) a contractor licensee has completed under the program of approved continuing education; and

(ii) the licensee may access to monitor the licensee's compliance with the continuing education requirement established under Subsection (1).

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

~~{ Section 3. Section 58-55-303 is amended to read:~~

~~58-55-303. Term of license -- Expiration -- Renewal.~~

~~(1) (a) Each license issued under this chapter shall be issued in accordance with a two-year renewal cycle established by rule.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

~~—— Section 4. Section 58-55-305 is amended to read:~~

~~—— **58-55-305. Exemptions from licensure:**~~

~~—— (1) In addition to the exemptions from licensure in Section 58-1-307, the following persons may engage in acts or practices included within the practice of construction trades, subject to the stated circumstances and limitations, without being licensed under this chapter:~~

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

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

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

~~—— (d) sole owners of property engaged in building:~~

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

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~~required to be licensed under this chapter; or~~

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

~~—— (c) (i) a person engaged in construction or renovation of a residential building for noncommercial, nonpublic use if that person:~~

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

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

~~—— (ii) as used in this Subsection (1)(c), "token compensation" means compensation paid by a sole owner of property exempted from licensure under Subsection (1)(d) to a person exempted from licensure under this Subsection (1)(c); that is:~~

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

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

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

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

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

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

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



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~~—— (A) work in the plumbing and electrical trades on a Subsection (1)(h)(i) project within any six-month period of time;~~

~~—— (I) must be performed by a licensed electrical or plumbing contractor, if the project involves an electrical or plumbing system; and~~

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

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

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

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

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

~~—— (F) installation, repair, or replacement of a heating, ventilation, or air conditioning system (HVAC) on a Subsection (1)(h)(i) project must be performed by an HVAC contractor licensed by the division;~~

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

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

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

~~—— (H) if applicable, workers compensation insurance which would cover an employee of~~

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~~the person if that employee worked on the construction project;~~

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

~~—— (j) owners and lessees of property and persons regularly employed for wages by owners or lessees of property or their agents for the purpose of maintaining the property, are exempt from this chapter when doing work upon the property;~~

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

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

~~—— (B) a gas appliance or combustion system; and~~

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

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

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

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

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

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

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

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

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

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

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

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

~~—— (i) gas range;~~

~~—— (ii) gas dryer;~~

~~—— (iii) outdoor gas barbeque; or~~

~~—— (iv) outdoor gas patio heater;~~

~~—— (q) a person performing maintenance on an elevator as defined in [Subsection] Section 58-55-102[(14)], if the maintenance is not related to the operating integrity of the elevator; and~~

~~—— (r) an apprentice or helper of an elevator mechanic licensed under this chapter when working under the general direction of the licensed elevator mechanic.~~

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

~~—— Section 5. Section **58-55-501** is amended to read:~~

~~—— **58-55-501. Unlawful conduct.**~~

~~—— Unlawful conduct includes:~~

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

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

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

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- ~~—— (4) applying for or obtaining a building permit either for oneself or another when not licensed or exempted from licensure as a contractor under this chapter;~~
- ~~—— (5) issuing a building permit to any person for whom there is no evidence of a current license or exemption from licensure as a contractor under this chapter;~~
- ~~—— (6) applying for or obtaining a building permit for the benefit of or on behalf of any other person who is required to be licensed under this chapter but who is not licensed or is otherwise not entitled to obtain or receive the benefit of the building permit;~~
- ~~—— (7) failing to obtain a building permit when required by law or rule;~~
- ~~—— (8) submitting a bid for any work for which a license is required under this chapter by a person not licensed or exempted from licensure as a contractor under this chapter;~~
- ~~—— (9) willfully or deliberately misrepresenting or omitting a material fact in connection with an application to obtain or renew a license under this chapter;~~
- ~~—— (10) allowing one's license to be used by another except as provided by statute or rule;~~
- ~~—— (11) doing business under a name other than the name appearing on the license, except as permitted by statute or rule;~~
- ~~—— (12) if licensed as a specialty contractor in the electrical trade or plumbing trade, journeyman plumber, residential journeyman plumber, journeyman electrician, master electrician, or residential electrician, failing to directly supervise an apprentice under one's supervision or exceeding the number of apprentices one is allowed to have under the specialty contractor's supervision;~~
- ~~—— (13) if licensed as a contractor or representing oneself to be a contractor, receiving any funds in payment for a specific project from an owner or any other person, which funds are to pay for work performed or materials and services furnished for that specific project, and after receiving the funds to exercise unauthorized control over the funds by failing to pay the full amounts due and payable to persons who performed work or furnished materials or services within a reasonable period of time;~~
- ~~—— (14) employing an unlicensed alarm business or company or an unlicensed individual as an alarm company agent, except as permitted under the exemption from licensure provisions under Section 58-1-307;~~
- ~~—— (15) if licensed as an alarm company or alarm company agent, filing with the division fingerprint cards for an applicant which are not those of the applicant, or are in any other way~~

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~~false or fraudulent and intended to mislead the division in its consideration of the applicant for licensure;~~

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

~~—— (a) the building or construction laws of this state or any political subdivision;~~

~~—— (b) the safety and labor laws applicable to a project;~~

~~—— (c) any provision of the health laws applicable to a project;~~

~~—— (d) the workers' compensation insurance laws of the state applicable to a project;~~

~~—— (e) the laws governing withholdings for employee state and federal income taxes, unemployment taxes, Social Security payroll taxes, or other required withholdings; or~~

~~—— (f) reporting, notification, and filing laws of this state or the federal government;~~

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

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

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

~~—— (20) wrongfully filing a preconstruction or construction lien in violation of Section 38-1a-308;~~

~~—— [(21) if licensed as a contractor, not completing the approved continuing education required under Section 58-55-302.5;]~~

~~—— [(22)] (21) an alarm company allowing an employee with a temporary license under Section 58-55-312 to engage in conduct on behalf of the company outside the scope of the temporary license, as provided in Subsection 58-55-312(3)(a)(ii);~~

~~—— [(23)] (22) an alarm company agent under a temporary license under Section 58-55-312 engaging in conduct outside the scope of the temporary license, as provided in Subsection 58-55-312(3)(a)(ii);~~

~~—— [(24)] (23) (a) an unincorporated entity licensed under this chapter having an individual who owns an interest in the unincorporated entity engage in a construction trade in Utah while not lawfully present in the United States; or~~

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

~~\_\_\_\_\_ [(25)] (24) an unincorporated entity failing to provide the following for an individual who engages, or will engage, in a construction trade in Utah for the unincorporated entity, or for an individual who engages, or will engage, in a construction trade in Utah for a separate entity for which the unincorporated entity provides the individual as labor:~~

~~\_\_\_\_\_ (a) workers' compensation coverage:~~

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

~~\_\_\_\_\_ (ii) that would be required under the chapters listed in Subsection [(25)] (24)(a)(i) if the unincorporated entity were licensed under this chapter; and~~

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

~~\_\_\_\_\_ [(26)] (25) the failure of a sign installation contractor or nonelectrical outdoor advertising sign contractor, as classified and defined in division rules, to:~~

~~\_\_\_\_\_ (a) display the contractor's license number prominently on a vehicle that:~~

~~\_\_\_\_\_ (i) the contractor uses; and~~

~~\_\_\_\_\_ (ii) displays the contractor's business name; or~~

~~\_\_\_\_\_ (b) carry a copy of the contractor's license in any other vehicle that the contractor uses at a job site, whether or not the vehicle is owned by the contractor.~~

~~\_\_\_\_\_ Section 6. Section **58-55-503** is amended to read:~~

~~\_\_\_\_\_ **58-55-503. Penalty for unlawful conduct -- Citations:**~~

~~\_\_\_\_\_ (1) (a) (i) A person who violates Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (4), (5), (6), (7), (9), (10), (12), (14), (15), (21), (22), (23), (24), or (25), [or (26),] or Subsection 58-55-504(2), or who fails to comply with a citation issued under this section after it is final, is guilty of a class A misdemeanor.~~

~~\_\_\_\_\_ (ii) As used in this section in reference to Subsection 58-55-504(2), "person" means an individual and does not include a sole proprietorship, joint venture, corporation, limited~~

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~~liability company, association, or organization of any type:~~

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

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

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

~~—— (4) (a) If upon inspection or investigation, the division concludes that a person has violated the provisions of Subsection 58-55-308(2) [or] Subsections 58-55-501(1), (2), (3), (9), (10), (12), (14), (19), (21), (22), (23), (24), or (25), [or (26), or] Subsection 58-55-504(2), or any rule or order issued with respect to these subsections, and that disciplinary action is appropriate, the director or the director's designee from within the division shall promptly issue a citation to the person according to this chapter and any pertinent rules, attempt to negotiate a stipulated settlement, or notify the person to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act:~~

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

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- ~~—— (ii) Except for a cease and desist order, the licensure sanctions cited in Section 58-55-401 may not be assessed through a citation.~~
- ~~—— (b) (i) A citation shall be in writing and describe with particularity the nature of the violation, including a reference to the provision of the chapter, rule, or order alleged to have been violated.~~
- ~~—— (ii) A citation shall clearly state that the recipient must notify the division in writing within 20 calendar days of service of the citation if the recipient wishes to contest the citation at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act.~~
- ~~—— (iii) A citation shall clearly explain the consequences of failure to timely contest the citation or to make payment of any fines assessed by the citation within the time specified in the citation.~~
- ~~—— (c) A citation issued under this section, or a copy of a citation, may be served upon a person upon whom a summons may be served:~~
  - ~~—— (i) in accordance with the Utah Rules of Civil Procedure;~~
  - ~~—— (ii) personally or upon the person's agent by a division investigator or by a person specially designated by the director; or~~
  - ~~—— (iii) by mail.~~
- ~~—— (d) (i) If within 20 calendar days from the service of a citation, the person to whom the citation was issued fails to request a hearing to contest the citation, the citation becomes the final order of the division and is not subject to further agency review.~~
  - ~~—— (ii) The period to contest a citation may be extended by the division for cause.~~
- ~~—— (e) The division may refuse to issue or renew, suspend, revoke, or place on probation the license of a licensee who fails to comply with a citation after it becomes final.~~
- ~~—— (f) The failure of an applicant for licensure to comply with a citation after it becomes final is a ground for denial of license.~~
- ~~—— (g) A citation may not be issued under this section after the expiration of six months following the occurrence of a violation.~~
- ~~—— (h) The director or the director's designee shall assess a fine in accordance with the following:~~
  - ~~—— (i) for a first offense handled pursuant to Subsection (4)(a), a fine of up to \$1,000;~~
  - ~~—— (ii) for a second offense handled pursuant to Subsection (4)(a), a fine of up to \$2,000;~~



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and

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

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

~~—— (A) the division previously issued a final order determining that a person committed a first or second offense in violation of Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9), (10), (12), (14), (19), (23), (24), or (25), [or (26),] or Subsection 58-55-504(2); or~~

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

~~—— (H) a final order has not been issued by the division in the action initiated under Subsection (4)(i)(i)(B)(I);~~

~~—— (III) the division determines during an investigation that occurred after the initiation of the action under Subsection (4)(i)(i)(B)(I) that the person committed a second or subsequent violation of the provisions of Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9), (10), (12), (14), (19), (23), (24), or (25), [or (26),] or Subsection 58-55-504(2); and~~

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

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

~~—— (j) In addition to any other licensure sanction or fine imposed under this section, the division shall revoke the license of a licensee that violates Subsection 58-55-501(23) or (24) [or (25)] two or more times within a 12-month period, unless, with respect to a violation of Subsection 58-55-501[(24)] (23), the licensee can demonstrate that the licensee successfully verified the federal legal working status of the individual who was the subject of the violation using a status verification system, as defined in Section 13-47-102.~~

~~—— (k) For purposes of this Subsection (4), a violation of Subsection 58-55-501(23) or (24) [or (25)] for each individual is considered a separate violation.~~

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

~~—— (b) A penalty that is not paid may be collected by the director by either referring the~~

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~~matter to a collection agency or bringing an action in the district court of the county in which the person against whom the penalty is imposed resides or in the county where the office of the director is located.~~

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

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

~~—— Section 7. **Repealer.**~~

~~—— This bill repeals:~~

~~—— Section 58-55-302.5, **Continuing education requirements of contractor licenses --**~~

~~**Continuing education courses.**~~

**Legislative Review Note**

~~—— as of 2-1-13 8:11 AM~~

~~—— **Office of Legislative Research and General Counsel**~~