

1 **CONTRACTOR LICENSING AND CONTINUING EDUCATION**

2 **AMENDMENTS**

3 2014 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Wayne A. Harper**

6 House Sponsor: Eric K. Hutchings

7

8 **LONG TITLE**

9 **General Description:**

10 This bill amends requirements related to the professional licensing of contractors.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ modifies the requirements for licensure as a contractor, including:
 - 14 • modifying the experience requirement;
 - 15 • adding a 40-hour course of instruction; and
 - 16 • repealing continuing education requirements; and
- 17 ▶ makes technical changes.

18 **Money Appropriated in this Bill:**

19 None

20 **Other Special Clauses:**

21 None

22 **Utah Code Sections Affected:**

23 AMENDS:

24 **58-55-102**, as last amended by Laws of Utah 2013, Chapter 36

25 **58-55-302**, as last amended by Laws of Utah 2013, Chapters 57, 426, and 430

26 **58-55-303**, as last amended by Laws of Utah 2013, Chapter 57

27 **58-55-305**, as last amended by Laws of Utah 2013, Chapters 430 and 449



28 **58-55-501**, as last amended by Laws of Utah 2013, Chapter 57

29 **58-55-503**, as last amended by Laws of Utah 2013, Chapter 57

30 REPEALS:

31 **58-55-302.5**, as last amended by Laws of Utah 2013, Chapter 430

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

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

35 **58-55-102. Definitions.**

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

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

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

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

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

49 (2) "Alarm company agent":

50 (a) except as provided in Subsection (2)(b), means any individual employed within this
51 state by an alarm business; and

52 (b) does not include an individual who:

53 (i) is not engaged in the sale, installation, maintenance, alteration, repair, replacement,
54 servicing, or monitoring of an alarm system; and

55 (ii) does not, during the normal course of the individual's employment with an alarm
56 business, use or have access to sensitive alarm system information.

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

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

59 premises; or

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

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

65 (5) "Apprentice plumber" means a person licensed under this chapter as an apprentice
66 plumber who is learning the plumbing trade under the immediate supervision of a master
67 plumber, residential master plumber, journeyman plumber, or a residential journeyman
68 plumber.

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

71 ~~[(7)]~~ (6) "Board" means the Electrician Licensing Board, Alarm System Security and
72 Licensing Board, or Plumbers Licensing Board created in Section 58-55-201.

73 ~~[(8)]~~ (7) "Combustion system" means an assembly consisting of:

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

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

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

80 ~~[(9)]~~ (8) "Commission" means the Construction Services Commission created under
81 Section 58-55-103.

82 ~~[(10)]~~ (9) "Construction trade" means any trade or occupation involving:

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

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

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

90 ~~[(11)]~~ (10) "Construction trades instructor" means a person licensed under this chapter
91 to teach one or more construction trades in both a classroom and project environment, where a
92 project is intended for sale to or use by the public and is completed under the direction of the
93 instructor, who has no economic interest in the project.

94 ~~[(12)]~~ (11) (a) "Contractor" means any person who for compensation other than wages
95 as an employee undertakes any work in the construction, plumbing, or electrical trade for
96 which licensure is required under this chapter and includes:

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

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

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

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

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

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

108 ~~[(13)]~~ (12) (a) "Electrical trade" means the performance of any electrical work involved
109 in the installation, construction, alteration, change, repair, removal, or maintenance of facilities,
110 buildings, or appendages or appurtenances.

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

112 (i) transporting or handling electrical materials;

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

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

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

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

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

121 ~~[(14)]~~ (13) "Elevator" has the same meaning as defined in Section 34A-7-202, except
122 that for purposes of this chapter it does not mean a stair chair, a vertical platform lift, or an
123 incline platform lift.

124 ~~[(15)]~~ (14) "Elevator contractor" means a sole proprietor, firm, or corporation licensed
125 under this chapter that is engaged in the business of erecting, constructing, installing, altering,
126 servicing, repairing, or maintaining an elevator.

127 ~~[(16)]~~ (15) "Elevator mechanic" means an individual who is licensed under this chapter
128 as an elevator mechanic and who is engaged in erecting, constructing, installing, altering,
129 servicing, repairing, or maintaining an elevator under the immediate supervision of an elevator
130 contractor.

131 ~~[(17)]~~ (16) "Employee" means an individual as defined by the division by rule giving
132 consideration to the definition adopted by the Internal Revenue Service and the Department of
133 Workforce Services.

134 ~~[(18)]~~ (17) "Engage in a construction trade" means to:

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

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

139 ~~[(19)]~~ (18) (a) "Financial responsibility" means a demonstration of a current and
140 expected future condition of financial solvency evidencing a reasonable expectation to the
141 division and the board that an applicant or licensee can successfully engage in business as a
142 contractor without jeopardy to the public health, safety, and welfare.

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

146 ~~[(20)]~~ (19) "Gas appliance" means any device that uses natural gas to produce light,
147 heat, power, steam, hot water, refrigeration, or air conditioning.

148 ~~[(21)]~~ (20) (a) "General building contractor" means a person licensed under this
149 chapter as a general building contractor qualified by education, training, experience, and
150 knowledge to perform or superintend construction of structures for the support, shelter, and
151 enclosure of persons, animals, chattels, or movable property of any kind or any of the

152 components of that construction except plumbing, electrical work, mechanical work, work
153 related to the operating integrity of an elevator, and manufactured housing installation, for
154 which the general building contractor shall employ the services of a contractor licensed in the
155 particular specialty, except that a general building contractor engaged in the construction of
156 single-family and multifamily residences up to four units may perform the mechanical work
157 and hire a licensed plumber or electrician as an employee.

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

162 ~~[(22)]~~ (21) (a) "General engineering contractor" means a person licensed under this
163 chapter as a general engineering contractor qualified by education, training, experience, and
164 knowledge to perform construction of fixed works in any of the following: irrigation, drainage,
165 water, power, water supply, flood control, inland waterways, harbors, railroads, highways,
166 tunnels, airports and runways, sewers and bridges, refineries, pipelines, chemical and industrial
167 plants requiring specialized engineering knowledge and skill, piers, and foundations, or any of
168 the components of those works.

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

171 ~~[(23)]~~ (22) "Immediate supervision" means reasonable direction, oversight, inspection,
172 and evaluation of the work of a person:

173 (a) as the division specifies in rule;

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

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

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

177 ~~[(24)]~~ (23) "Individual" means a natural person.

178 ~~[(25)]~~ (24) "Journeyman electrician" means a person licensed under this chapter as a
179 journeyman electrician having the qualifications, training, experience, and knowledge to wire,
180 install, and repair electrical apparatus and equipment for light, heat, power, and other purposes.

181 ~~[(26)]~~ (25) "Journeyman plumber" means a person licensed under this chapter as a
182 journeyman plumber having the qualifications, training, experience, and technical knowledge

183 to engage in the plumbing trade.

184 ~~[(27)]~~ (26) "Master electrician" means a person licensed under this chapter as a master
185 electrician having the qualifications, training, experience, and knowledge to properly plan,
186 layout, and supervise the wiring, installation, and repair of electrical apparatus and equipment
187 for light, heat, power, and other purposes.

188 ~~[(28)]~~ (27) "Master plumber" means a person licensed under this chapter as a master
189 plumber having the qualifications, training, experience, and knowledge to properly plan and
190 layout projects and supervise persons in the plumbing trade.

191 ~~[(29)]~~ (28) "Person" means a natural person, sole proprietorship, joint venture,
192 corporation, limited liability company, association, or organization of any type.

193 ~~[(30)]~~ (29) (a) "Plumbing trade" means the performance of any mechanical work
194 pertaining to the installation, alteration, change, repair, removal, maintenance, or use in
195 buildings, or within three feet beyond the outside walls of buildings of pipes, fixtures, and
196 fittings for:

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

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

204 ~~[(31)]~~ (30) (a) "Ratio of apprentices" means, for the purpose of determining
205 compliance with the requirements for planned programs of training and electrician apprentice
206 licensing applications, the shop ratio of apprentice electricians to journeyman or master
207 electricians shall be one journeyman or master electrician to one apprentice on industrial and
208 commercial work, and one journeyman or master electrician to three apprentices on residential
209 work.

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

213 ~~[(32)]~~ (31) "Residential and small commercial contractor" means a person licensed

214 under this chapter as a residential and small commercial contractor qualified by education,
215 training, experience, and knowledge to perform or superintend the construction of
216 single-family residences, multifamily residences up to four units, and commercial construction
217 of not more than three stories above ground and not more than 20,000 square feet, or any of the
218 components of that construction except plumbing, electrical work, mechanical work, and
219 manufactured housing installation, for which the residential and small commercial contractor
220 shall employ the services of a contractor licensed in the particular specialty, except that a
221 residential and small commercial contractor engaged in the construction of single-family and
222 multifamily residences up to four units may perform the mechanical work and hire a licensed
223 plumber or electrician as an employee.

224 ~~[(33)]~~ (32) "Residential building," as it relates to the license classification of residential
225 journeyman plumber and residential master plumber, means a single or multiple family
226 dwelling of up to four units.

227 ~~[(34)]~~ (33) "Residential journeyman electrician" means a person licensed under this
228 chapter as a residential journeyman electrician having the qualifications, training, experience,
229 and knowledge to wire, install, and repair electrical apparatus and equipment for light, heat,
230 power, and other purposes on buildings using primarily nonmetallic sheath cable.

231 ~~[(35)]~~ (34) "Residential journeyman plumber" means a person licensed under this
232 chapter as a residential journeyman plumber having the qualifications, training, experience, and
233 knowledge to engage in the plumbing trade as limited to the plumbing of residential buildings.

234 ~~[(36)]~~ (35) "Residential master electrician" means a person licensed under this chapter
235 as a residential master electrician having the qualifications, training, experience, and
236 knowledge to properly plan, layout, and supervise the wiring, installation, and repair of
237 electrical apparatus and equipment for light, heat, power, and other purposes on residential
238 projects.

239 ~~[(37)]~~ (36) "Residential master plumber" means a person licensed under this chapter as
240 a residential master plumber having the qualifications, training, experience, and knowledge to
241 properly plan and layout projects and supervise persons in the plumbing trade as limited to the
242 plumbing of residential buildings.

243 ~~[(38)]~~ (37) "Residential project," as it relates to an electrician or electrical contractor,
244 means buildings primarily wired with nonmetallic sheathed cable, in accordance with standard

245 rules and regulations governing this work, including the National Electrical Code, and in which
246 the voltage does not exceed 250 volts line to line and 125 volts to ground.

247 ~~[(39)]~~ (38) "Sensitive alarm system information" means:

248 (a) a pass code or other code used in the operation of an alarm system;

249 (b) information on the location of alarm system components at the premises of a
250 customer of the alarm business providing the alarm system;

251 (c) information that would allow the circumvention, bypass, deactivation, or other
252 compromise of an alarm system of a customer of the alarm business providing the alarm
253 system; and

254 (d) any other similar information that the division by rule determines to be information
255 that an individual employed by an alarm business should use or have access to only if the
256 individual is licensed as provided in this chapter.

257 ~~[(40)]~~ (39) (a) "Specialty contractor" means a person licensed under this chapter under
258 a specialty contractor classification established by rule, who is qualified by education, training,
259 experience, and knowledge to perform those construction trades and crafts requiring
260 specialized skill, the regulation of which are determined by the division to be in the best
261 interest of the public health, safety, and welfare.

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

265 ~~[(41)]~~ (40) "Unincorporated entity" means an entity that is not:

266 (a) an individual;

267 (b) a corporation; or

268 (c) publicly traded.

269 ~~[(42)]~~ (41) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-55-501.

270 ~~[(43)]~~ (42) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-55-502
271 and as may be further defined by rule.

272 ~~[(44)]~~ (43) "Wages" means amounts due to an employee for labor or services whether
273 the amount is fixed or ascertained on a time, task, piece, commission, or other basis for
274 calculating the amount.

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

276 **58-55-302. Qualifications for licensure.**

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

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

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

280 (c) (i) meet the examination requirements established by rule by the commission with
281 the concurrence of the director, except for the classifications of apprentice plumber and
282 apprentice electrician for whom no examination is required; or283 (ii) if required in Section 58-55-304, the individual qualifier must pass the required
284 examination if the applicant is a business entity;

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

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

287 (i) produce satisfactory evidence of financial responsibility, except for a construction
288 trades instructor for whom evidence of financial responsibility is not required;289 (ii) produce satisfactory evidence of [~~knowledge and at least~~];290 (A) two years full-time paid employment experience in the construction industry,
291 which experience, unless more specifically described in this section, may be related to any
292 contracting classification; and293 (B) knowledge of the principles of the conduct of business as a contractor, reasonably
294 necessary for the protection of the public health, safety, and welfare;295 (iii) complete a 40-hour course established by rule by the commission with the
296 concurrence of the director, which course may include:297 (A) construction business practices;298 (B) bookkeeping fundamentals;299 (C) mechanics lien fundamentals; and300 (D) other aspects of business and construction principles considered important by the
301 commission with the concurrence of the director;302 [~~(iii)~~] (iv) (A) be a licensed master electrician if an applicant for an electrical
303 contractor's license or a licensed master residential electrician if an applicant for a residential
304 electrical contractor's license;305 (B) be a licensed master plumber if an applicant for a plumbing contractor's license or
306 a licensed master residential plumber if an applicant for a residential plumbing contractor's

307 license; or

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

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

313 (A) the individual's name, address, birth date, and Social Security number; and

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

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

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

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

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

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

326 (i) Utah Department of Commerce;

327 (ii) Division of Corporations and Commercial Code;

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

330 (iv) State Tax Commission; and

331 (v) Internal Revenue Service.

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

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

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

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

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

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

349 (iii) An individual holding a valid plumbing contractor's license or residential
350 plumbing contractor's license, in effect immediately prior to May 5, 2008, is on or after May 5,
351 2008:

352 (A) considered to hold a current master plumber license under this chapter if licensed
353 as a plumbing contractor and a journeyman plumber, and satisfies the requirements of this
354 Subsection (3)(a) for purposes of renewal or reinstatement of that license under Section
355 58-55-303; and

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

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

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

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

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

368 (i) successful completion of the equivalent of at least four years of full-time training

369 and instruction as a licensed apprentice plumber under supervision of a licensed master
370 plumber or journeyman plumber and in accordance with a planned program of training
371 approved by the division;

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

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

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

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

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

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

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

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

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

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

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

399 (ii) is a graduate of an electrical trade school, having received an associate of applied

400 sciences degree following successful completion of a course of study approved by the division,
401 and has two years of practical experience as a licensed journeyman electrician;

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

403 (iv) meets the qualifications determined by the board to be equivalent to Subsection

404 (3)(f)(i), (ii), or (iii).

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

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

408 or

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

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

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

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

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

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

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

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

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

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

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

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

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

440 (k) An alarm company applicant shall:

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

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

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

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

448 (ii) if a corporation, provide:

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

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

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

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

461 (B) the names, addresses, dates of birth, Social Security numbers, and fingerprint cards

462 of all individuals owning 5% or more of the equity of the company;

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

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

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

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

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

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

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

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

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

- 493 (C) registration as is required by applicable law with the:
494 (I) Division of Corporations and Commercial Code;
495 (II) Unemployment Insurance Division in the Department of Workforce Services, for
496 purposes of Title 35A, Chapter 4, Employment Security Act;
497 (III) State Tax Commission; and
498 (IV) Internal Revenue Service; and
499 (xi) meet with the division and board.
- 500 (l) Each applicant for licensure as an alarm company agent shall:
501 (i) submit an application in a form prescribed by the division accompanied by
502 fingerprint cards;
503 (ii) pay a fee determined by the department under Section 63J-1-504;
504 (iii) be of good moral character in that the applicant has not been convicted of a felony,
505 a misdemeanor involving moral turpitude, or any other crime that when considered with the
506 duties and responsibilities of an alarm company agent is considered by the board to indicate
507 that the best interests of the public are served by granting the applicant a license;
508 (iv) not have been declared by any court of competent jurisdiction incompetent by
509 reason of mental defect or disease and not been restored;
510 (v) not be currently suffering from habitual drunkenness or from drug addiction or
511 dependence; and
512 (vi) meet with the division and board if requested by the division or the board.
- 513 (m) (i) Each applicant for licensure as an elevator mechanic shall:
514 (A) provide documentation of experience and education credits of not less than three
515 years work experience in the elevator industry, in construction, maintenance, or service and
516 repair; and
517 (B) satisfactorily complete a written examination administered by the division
518 established by rule under Section 58-1-203; or
519 (C) provide certificates of completion of an apprenticeship program for elevator
520 mechanics, having standards substantially equal to those of this chapter and registered with the
521 United States Department of Labor Bureau Apprenticeship and Training or a state
522 apprenticeship council.
- 523 (ii) (A) If an elevator contractor licensed under this chapter cannot find a licensed

524 elevator mechanic to perform the work of erecting, constructing, installing, altering, servicing,
525 repairing, or maintaining an elevator, the contractor may:

- 526 (I) notify the division of the unavailability of licensed personnel; and
- 527 (II) request the division issue a temporary elevator mechanic license to an individual
- 528 certified by the contractor as having an acceptable combination of documented experience and
- 529 education to perform the work described in this Subsection (3)(m)(ii)(A).

530 (B) (I) The division may issue a temporary elevator mechanic license to an individual

531 certified under Subsection (3)(m)(ii)(A)(II) upon application by the individual, accompanied by

532 the appropriate fee as determined by the department under Section [63J-1-504](#).

533 (II) The division shall specify the time period for which the license is valid and may

534 renew the license for an additional time period upon its determination that a shortage of

535 licensed elevator mechanics continues to exist.

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

537 division may make rules establishing when Federal Bureau of Investigation records shall be

538 checked for applicants as an alarm company or alarm company agent.

539 (5) To determine if an applicant meets the qualifications of Subsections (3)(k)(vii) and

540 (3)(l)(iii), the division shall provide an appropriate number of copies of fingerprint cards to the

541 Department of Public Safety with the division's request to:

542 (a) conduct a search of records of the Department of Public Safety for criminal history

543 information relating to each applicant for licensure as an alarm company or alarm company

544 agent and each applicant's officers, directors, shareholders described in Subsection

545 (3)(k)(ii)(B), partners, proprietors, and responsible management personnel; and

546 (b) forward to the Federal Bureau of Investigation a fingerprint card of each applicant

547 requiring a check of records of the Federal Bureau of Investigation for criminal history

548 information under this section.

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

550 (a) a written record of criminal history, or certification of no criminal history record, as

551 contained in the records of the Department of Public Safety in a timely manner after receipt of

552 a fingerprint card from the division and a request for review of Department of Public Safety

553 records; and

554 (b) the results of the Federal Bureau of Investigation review concerning an applicant in

555 a timely manner after receipt of information from the Federal Bureau of Investigation.

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

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

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

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

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

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

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

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

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

581 (iv) (A) the applicant includes an individual who was an owner, director, or officer of
582 an unincorporated entity at the time the entity's license under this chapter was revoked; and

583 (B) the application for licensure is filed within 60 months after the revocation of the
584 unincorporated entity's license.

585 (b) An application for licensure under this chapter shall be reviewed by the appropriate

586 licensing board prior to approval if:

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

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

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

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

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

601 (10) (a) (i) A licensee that is an unincorporated entity shall file an ownership status
602 report with the division every 30 days after the day on which the license is issued if the licensee
603 has more than five owners who are individuals who:

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

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

608 (C) engage, or will engage, in a construction trade in the state as owners of the
609 contractor described in Subsection (10)(a)(i)(A).

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

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

613 (i) specify each addition or deletion of an owner:

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

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

617 ownership status report is filed;

618 (ii) be in a format prescribed by the division that includes for each owner, regardless of
619 the owner's percentage ownership in the unincorporated entity, the information described in
620 Subsection(1)(e)(iv);

621 (iii) list the name of:

622 (A) each officer or manager of the unincorporated entity; and

623 (B) each other individual involved in the operation, supervision, or management of the
624 unincorporated entity; and

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

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

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

631 (ii) to determine compliance with Subsection 58-55-501(23), (24), [~~(25), or (27)~~] or
632 (26) or Subsection 58-55-502(8) or (9).

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

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

639 (A) the individual's name, address, birth date, and Social Security number; and

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

641 (ii) every 30 days after the day on which the unincorporated entity provides the list
642 described in Subsection (11)(a)(i), an ownership status report containing the information that
643 would be required under Subsection (10) if the unincorporated entity were a licensed
644 contractor.

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

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

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

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

655 **58-55-303. Term of license -- Expiration -- Renewal.**

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

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

660 (c) (i) Notwithstanding a renewal cycle under Subsection (1)(a) or (b), notwithstanding
661 Title 63G, Chapter 4, Administrative Procedures Act, and subject to Subsection (1)(c)(ii), a
662 license is automatically suspended 60 days after the licensee:

663 (A) becomes, after the time of licensing, an unincorporated entity that is subject to the
664 ownership status report filing requirements of Subsection 58-55-302(10)(a)(i); or

665 (B) transfers its license to an unincorporated entity that is subject to the ownership
666 status report filing requirements of Subsection 58-55-302(10)(a)(i).

667 (ii) An automatic suspension does not occur under Subsection (1)(c)(i) if, before the
668 expiration of the 60-day period in Subsection (1)(c)(i):

669 (A) the licensee submits an application for renewal of the license; and

670 (B) the division renews the licensee's license pursuant to the licensee's application for
671 renewal.

672 (iii) Within 30 days after the effective date of a suspension under Subsection (1)(c)(i),
673 the commission shall, in accordance with Title 63G, Chapter 4, Administrative Procedures Act,
674 make a final determination concerning the suspension.

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

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

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

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

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

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

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

- 689 (a) shall pay in full all fines imposed by the division;
- 690 (b) resolve any outstanding citations or disciplinary actions with the division;
- 691 (c) satisfy any Section 58-55-503 judgment and sentence or nontrial resolution;
- 692 (d) complete a new financial responsibility review as required under Section
693 58-55-306, using only titled assets; and

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

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

697 **58-55-305. Exemptions from licensure.**

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

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

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

710 sites, and lumbering;

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

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

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

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

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

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

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

728 (ii) as used in this Subsection (1)(e), "token compensation" means compensation paid
729 by a sole owner of property exempted from licensure under Subsection (1)(d) to a person
730 exempted from licensure under this Subsection (1)(e), that is:

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

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

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

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

- 741 (g) a contractor submitting a bid on a federal aid highway project, if, before
742 undertaking construction under that bid, the contractor is licensed under this chapter;
- 743 (h) (i) a person engaged in the alteration, repair, remodeling, or addition to or
744 improvement of a building with a contracted or agreed value of less than \$3,000, including
745 both labor and materials, and including all changes or additions to the contracted or agreed
746 upon work; and
- 747 (ii) notwithstanding Subsection (1)(h)(i) and except as otherwise provided in this
748 section:
- 749 (A) work in the plumbing and electrical trades on a Subsection (1)(h)(i) project within
750 any six month period of time:
- 751 (I) must be performed by a licensed electrical or plumbing contractor, if the project
752 involves an electrical or plumbing system; and
- 753 (II) may be performed by a licensed journeyman electrician or plumber or an individual
754 referred to in Subsection (1)(h)(ii)(A)(I), if the project involves a component of the system
755 such as a faucet, toilet, fixture, device, outlet, or electrical switch;
- 756 (B) installation, repair, or replacement of a residential or commercial gas appliance or a
757 combustion system on a Subsection (1)(h)(i) project must be performed by a person who has
758 received certification under Subsection 58-55-308(2) except as otherwise provided in
759 Subsection 58-55-308(2)(d) or 58-55-308(3);
- 760 (C) installation, repair, or replacement of water-based fire protection systems on a
761 Subsection (1)(h)(i) project must be performed by a licensed fire suppression systems
762 contractor or a licensed journeyman plumber;
- 763 (D) work as an alarm business or company or as an alarm company agent shall be
764 performed by a licensed alarm business or company or a licensed alarm company agent, except
765 as otherwise provided in this chapter;
- 766 (E) installation, repair, or replacement of an alarm system on a Subsection (1)(h)(i)
767 project must be performed by a licensed alarm business or company or a licensed alarm
768 company agent;
- 769 (F) installation, repair, or replacement of a heating, ventilation, or air conditioning
770 system (HVAC) on a Subsection (1)(h)(i) project must be performed by an HVAC contractor
771 licensed by the division;

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

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

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

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

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

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

787 (k) (i) a person engaged in minor plumbing work that is incidental, as defined by the
788 division by rule, to the replacement or repair of a fixture or an appliance in a residential or
789 small commercial building, or structure used for agricultural use, as defined in Section
790 [15A-1-202](#), provided that no modification is made to:

791 (A) existing culinary water, soil, waste, or vent piping; or
792 (B) a gas appliance or combustion system; and

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

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

798 (i) meets the appropriate state construction codes or local plumbing standards; and
799 (ii) is installed or repaired under the direction of a person authorized to do the work
800 under an appropriate specialty contractor license;

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

- 803 (i) railroad corporations, telephone corporations or their corporate affiliates, elevator
804 contractors or constructors, or street railway systems; or
- 805 (ii) public service corporations, rural electrification associations, or municipal utilities
806 who generate, distribute, or sell electrical energy for light, heat, or power;
- 807 (n) a person involved in minor electrical work incidental to a mechanical or service
808 installation, including the outdoor installation of an above-ground, prebuilt hot tub;
- 809 (o) a person who ordinarily would be subject to the electrician licensure requirements
810 under this chapter but who during calendar years 2009, 2010, or 2011 was issued a specialty
811 contractor license for the electrical work associated with the installation, repair, or maintenance
812 of solar energy panels, may continue the limited electrical work for solar energy panels under a
813 specialty contractor license;
- 814 (p) a student participating in construction trade education and training programs
815 approved by the commission with the concurrence of the director under the condition that:
- 816 (i) all work intended as a part of a finished product on which there would normally be
817 an inspection by a building inspector is, in fact, inspected and found acceptable by a licensed
818 building inspector; and
- 819 (ii) a licensed contractor obtains the necessary building permits;
- 820 (q) a delivery person when replacing any of the following existing equipment with a
821 new gas appliance, provided there is an existing gas shutoff valve at the appliance:
- 822 (i) gas range;
- 823 (ii) gas dryer;
- 824 (iii) outdoor gas barbeque; or
- 825 (iv) outdoor gas patio heater;
- 826 (r) a person performing maintenance on an elevator as defined in [~~Subsection~~] Section
827 58-55-102~~[(14)]~~, if the maintenance is not related to the operating integrity of the elevator; and
- 828 (s) an apprentice or helper of an elevator mechanic licensed under this chapter when
829 working under the general direction of the licensed elevator mechanic.
- 830 (2) A compliance agency as defined in Section 15A-1-202 that issues a building permit
831 to a person requesting a permit as a sole owner of property referred to in Subsection (1)(d) shall
832 notify the division, in writing or through electronic transmission, of the issuance of the permit.
- 833 Section 5. Section **58-55-501** is amended to read:

834 **58-55-501. Unlawful conduct.**

835 Unlawful conduct includes:

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

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

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

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

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

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

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

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

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

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

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

862 (12) if licensed as a specialty contractor in the electrical trade or plumbing trade,
863 journeyman plumber, residential journeyman plumber, journeyman electrician, master
864 electrician, or residential electrician, failing to directly supervise an apprentice under one's

865 supervision or exceeding the number of apprentices one is allowed to have under the speciality
866 contractor's supervision;

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

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

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

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

- 881 (a) the building or construction laws of this state or any political subdivision;
- 882 (b) the safety and labor laws applicable to a project;
- 883 (c) any provision of the health laws applicable to a project;
- 884 (d) the workers' compensation insurance laws of the state applicable to a project;
- 885 (e) the laws governing withholdings for employee state and federal income taxes,
886 unemployment taxes, Social Security payroll taxes, or other required withholdings; or
- 887 (f) reporting, notification, and filing laws of this state or the federal government;

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

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

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

896 (20) wrongfully filing a preconstruction or construction lien in violation of Section
897 38-1a-308;

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

900 [~~(22)~~] (21) an alarm company allowing an employee with a temporary license under
901 Section 58-55-312 to engage in conduct on behalf of the company outside the scope of the
902 temporary license, as provided in Subsection 58-55-312(3)(a)(ii);

903 [~~(23)~~] (22) an alarm company agent under a temporary license under Section 58-55-312
904 engaging in conduct outside the scope of the temporary license, as provided in Subsection
905 58-55-312(3)(a)(ii);

906 [~~(24)~~] (23) (a) an unincorporated entity licensed under this chapter having an individual
907 who owns an interest in the unincorporated entity engage in a construction trade in Utah while
908 not lawfully present in the United States; or

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

912 [~~(25)~~] (24) an unincorporated entity failing to provide the following for an individual
913 who engages, or will engage, in a construction trade in Utah for the unincorporated entity, or
914 for an individual who engages, or will engage, in a construction trade in Utah for a separate
915 entity for which the unincorporated entity provides the individual as labor:

916 (a) workers' compensation coverage:

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

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

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

925 [~~(26)~~] (25) the failure of a sign installation contractor or nonelectrical outdoor
926 advertising sign contractor, as classified and defined in division rules, to:

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

928 (i) the contractor uses; and

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

930 (b) carry a copy of the contractor's license in any other vehicle that the contractor uses

931 at a job site, whether or not the vehicle is owned by the contractor;

932 ~~[(27)]~~ (26) (a) an unincorporated entity licensed under this chapter having an individual

933 who owns an interest in the unincorporated entity engage in a construction trade in the state

934 while the individual is using a Social Security number that does not belong to that individual;

935 or

936 (b) an unincorporated entity providing labor to an entity licensed under this chapter by

937 providing an individual, who owns an interest in the unincorporated entity, to engage in a

938 construction trade in the state while the individual is using a Social Security number that does

939 not belong to that individual; or

940 ~~[(28)]~~ (27) a contractor failing to comply with a requirement imposed by a political

941 subdivision, state agency, or board of education under Section 58-55-310.

942 Section 6. Section 58-55-503 is amended to read:

943 **58-55-503. Penalty for unlawful conduct -- Citations.**

944 (1) (a) (i) A person who violates Subsection 58-55-308(2), Subsection 58-55-501(1),

945 (2), (3), (4), (5), (6), (7), (9), (10), (12), (14), (15), (21), (22), (23), (24), (25), (26), or (27), ~~[or~~

946 ~~(28);]~~ or Subsection 58-55-504(2), or who fails to comply with a citation issued under this

947 section after it is final, is guilty of a class A misdemeanor.

948 (ii) As used in this section in reference to Subsection 58-55-504(2), "person" means an

949 individual and does not include a sole proprietorship, joint venture, corporation, limited

950 liability company, association, or organization of any type.

951 (b) A person who violates the provisions of Subsection 58-55-501(8) may not be

952 awarded and may not accept a contract for the performance of the work.

953 (2) A person who violates the provisions of Subsection 58-55-501(13) is guilty of an

954 infraction unless the violator did so with the intent to deprive the person to whom money is to

955 be paid of the money received, in which case the violator is guilty of theft, as classified in

956 Section 76-6-412.

957 (3) Grounds for immediate suspension of the licensee's license by the division and the

958 commission include the issuance of a citation for violation of Subsection 58-55-308(2), Section
959 58-55-501, or Subsection 58-55-504(2), or the failure by a licensee to make application to,
960 report to, or notify the division with respect to any matter for which application, notification, or
961 reporting is required under this chapter or rules adopted under this chapter, including applying
962 to the division for a new license to engage in a new specialty classification or to do business
963 under a new form of organization or business structure, filing with the division current
964 financial statements, notifying the division concerning loss of insurance coverage, or change in
965 qualifier.

966 (4) (a) If upon inspection or investigation, the division concludes that a person has
967 violated the provisions of Subsection 58-55-308(2) [~~or Subsections~~], Subsection 58-55-501(1),
968 (2), (3), (9), (10), (12), (14), (19), (21), (22), (23), (24), (25), (26), or (27), [~~or (28);~~] or
969 Subsection 58-55-504(2), or any rule or order issued with respect to these subsections, and that
970 disciplinary action is appropriate, the director or the director's designee from within the
971 division shall promptly issue a citation to the person according to this chapter and any pertinent
972 rules, attempt to negotiate a stipulated settlement, or notify the person to appear before an
973 adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

974 (i) A person who is in violation of the provisions of Subsection 58-55-308(2),
975 Subsection 58-55-501(1), (2), (3), (9), (10), (12), (14), (19), (21), (22), (23), (24), (25), (26), or
976 (27), [~~or (28);~~] or Subsection 58-55-504(2), as evidenced by an uncontested citation, a
977 stipulated settlement, or by a finding of violation in an adjudicative proceeding, may be
978 assessed a fine pursuant to this Subsection (4) and may, in addition to or in lieu of, be ordered
979 to cease and desist from violating Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3),
980 (9), (10), (12), (14), (19), [~~(21);~~] (23), (24), (25), (26), or (27), [~~or (28);~~] or Subsection
981 58-55-504(2).

982 (ii) Except for a cease and desist order, the licensure sanctions cited in Section
983 58-55-401 may not be assessed through a citation.

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

987 (ii) A citation shall clearly state that the recipient must notify the division in writing
988 within 20 calendar days of service of the citation if the recipient wishes to contest the citation

989 at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act.

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

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

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

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

998 (iii) by mail.

999 (d) (i) If within 20 calendar days from the service of a citation, the person to whom the
1000 citation was issued fails to request a hearing to contest the citation, the citation becomes the
1001 final order of the division and is not subject to further agency review.

1002 (ii) The period to contest a citation may be extended by the division for cause.

1003 (e) The division may refuse to issue or renew, suspend, revoke, or place on probation
1004 the license of a licensee who fails to comply with a citation after it becomes final.

1005 (f) The failure of an applicant for licensure to comply with a citation after it becomes
1006 final is a ground for denial of license.

1007 (g) A citation may not be issued under this section after the expiration of six months
1008 following the occurrence of a violation.

1009 (h) The director or the director's designee shall assess a fine in accordance with the
1010 following:

1011 (i) for a first offense handled pursuant to Subsection (4)(a), a fine of up to \$1,000;

1012 (ii) for a second offense handled pursuant to Subsection (4)(a), a fine of up to \$2,000;

1013 and

1014 (iii) for any subsequent offense handled pursuant to Subsection (4)(a), a fine of up to
1015 \$2,000 for each day of continued offense.

1016 (i) (i) For purposes of issuing a final order under this section and assessing a fine under
1017 Subsection (4)(h), an offense constitutes a second or subsequent offense if:

1018 (A) the division previously issued a final order determining that a person committed a
1019 first or second offense in violation of Subsection 58-55-308(2), Subsection 58-55-501(1), (2),

1020 (3), (9), (10), (12), (14), (19), (23), (24), (25), (26), or (27), [~~or (28)~~]; or Subsection
1021 58-55-504(2); or

1022 (B) (I) the division initiated an action for a first or second offense;

1023 (II) a final order has not been issued by the division in the action initiated under
1024 Subsection (4)(i)(i)(B)(I);

1025 (III) the division determines during an investigation that occurred after the initiation of
1026 the action under Subsection (4)(i)(i)(B)(I) that the person committed a second or subsequent
1027 violation of the provisions of Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9),
1028 (10), (12), (14), (19), (23), (24), (25), (26), or (27), [~~or (28)~~]; or Subsection 58-55-504(2); and

1029 (IV) after determining that the person committed a second or subsequent offense under
1030 Subsection (4)(i)(i)(B)(III), the division issues a final order on the action initiated under
1031 Subsection (4)(i)(i)(B)(I).

1032 (ii) In issuing a final order for a second or subsequent offense under Subsection
1033 (4)(i)(i), the division shall comply with the requirements of this section.

1034 (j) In addition to any other licensure sanction or fine imposed under this section, the
1035 division shall revoke the license of a licensee that violates Subsection 58-55-501(23) or (24)
1036 [~~or (25)~~] two or more times within a 12-month period, unless, with respect to a violation of
1037 Subsection 58-55-501[(~~24~~)](23), the licensee can demonstrate that the licensee successfully
1038 verified the federal legal working status of the individual who was the subject of the violation
1039 using a status verification system, as defined in Section 13-47-102.

1040 (k) For purposes of this Subsection (4), a violation of Subsection 58-55-501(23) or (24)
1041 [~~or (25)~~] for each individual is considered a separate violation.

1042 (5) (a) A penalty imposed by the director under Subsection (4)(h) shall be deposited
1043 into the Commerce Service Account created by Section 13-1-2.

1044 (b) A penalty that is not paid may be collected by the director by either referring the
1045 matter to a collection agency or bringing an action in the district court of the county in which
1046 the person against whom the penalty is imposed resides or in the county where the office of the
1047 director is located.

1048 (c) A county attorney or the attorney general of the state is to provide legal assistance
1049 and advice to the director in any action to collect the penalty.

1050 (d) In an action brought to enforce the provisions of this section, reasonable attorney

1051 fees and costs shall be awarded.

1052 Section 7. **Repealer.**

1053 This bill repeals:

1054 Section **58-55-302.5, Continuing education requirements of contractor licensees --**

1055 **Continuing education courses.**

Legislative Review Note
as of 2-12-14 4:12 PM

Office of Legislative Research and General Counsel