

Senator Curtis S. Bramble proposes the following substitute bill:

PROFESSIONAL LICENSING AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: A. Cory Maloy

LONG TITLE

General Description:

This bill modifies provisions related to professional licensing.

Highlighted Provisions:

This bill:

- ▶ modifies definitions;
- ▶ clarifies the purpose of recommendations provided by a licensing board to the director of the Division of Professional Licensing (division);
- ▶ authorizes the director of the division to designate certain professional licensing board members to preside over adjudicative proceedings concerning professional licenses;
- ▶ creates a process for review of the designated professional licensing board members' recommended order after an adjudicative proceeding;
- ▶ modifies licensing requirements for certain funeral service establishments and professionals, landscape architects, security personnel, construction contractors, and deception detection examiners; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None



26 **Other Special Clauses:**

27 None

28 **Utah Code Sections Affected:**

29 AMENDS:

30 **58-1-108**, as last amended by Laws of Utah 2008, Chapter 382

31 **58-1-109**, as last amended by Laws of Utah 2016, Chapter 238

32 **58-1-201**, as last amended by Laws of Utah 2013, Chapter 262

33 **58-1-202**, as last amended by Laws of Utah 2022, Chapter 415

34 **58-1-501**, as last amended by Laws of Utah 2020, Chapters 289, 339

35 **58-9-306**, as last amended by Laws of Utah 2007, Chapter 144

36 **58-53-302**, as last amended by Laws of Utah 2009, Chapter 183

37 **58-55-302.5**, as last amended by Laws of Utah 2021, First Special Session, Chapter 3

38 **58-63-302**, as last amended by Laws of Utah 2022, Chapter 415

39 **58-64-302**, as last amended by Laws of Utah 2020, Chapters 154 and 339



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

42 Section 1. Section **58-1-108** is amended to read:

43 **58-1-108. Adjudicative proceedings.**

44 (1) The division and all boards created under ~~[the authority of]~~ this title, including the
45 members of a board designated under Subsection 58-1-109(3), shall comply with the
46 procedures and requirements of Title 13, Chapter 1, Department of Commerce, and Title 63G,
47 Chapter 4, Administrative Procedures Act, in all of their adjudicative proceedings as defined by
48 Subsection **63G-4-103(1)**.

49 (2) Before proceeding under Section **63G-4-502**, the division shall review the proposed
50 action with a committee of no less than three licensees appointed by the chairman of the
51 licensing board created under this title for the profession of the person against whom the action
52 is proposed.

53 (3) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, a warning
54 or final disposition letter which does not constitute disciplinary action against the addressee,
55 issued in response to a complaint of unprofessional or unlawful conduct under this title, does
56 not constitute an adjudicative proceeding.

57 Section 2. Section 58-1-109 is amended to read:

58 **58-1-109. Presiding officers -- Content of orders -- Recommended orders -- Final**
59 **orders -- Appeal of orders.**

60 (1) (a) Unless otherwise specified by statute or rule made in accordance with Title 63G,
61 Chapter 3, Utah Administrative Rulemaking Act, the presiding officer for adjudicative
62 proceedings before the division [~~shall be~~] is the director. [~~However, pursuant to~~]

63 (b) Under Title 63G, Chapter 4, Administrative Procedures Act, the director may
64 designate in writing an individual or body of individuals to act as presiding officer to conduct
65 or [~~to~~] assist the director in conducting any part or all of an adjudicative proceeding.

66 (2) Unless otherwise specified by the director, an administrative law judge shall be
67 designated as the presiding officer to conduct formal adjudicative proceedings in accordance
68 with Subsection 63G-4-102(4), Sections 63G-4-204 through 63G-4-207, and 63G-4-209.

69 (3) (a) Unless otherwise specified by the director, the licensing board of the
70 [~~occupation or~~] profession that is the subject of the proceedings shall be designated as the
71 presiding officer to serve as fact finder at the evidentiary hearing in a formal adjudicative
72 proceeding.

73 (b) (i) If the licensing board is composed of seven or more members, the director may
74 designate any odd number of board members to represent the licensing board as the presiding
75 officer under Subsection (3)(a).

76 (ii) Notwithstanding Subsection 58-1-201(3), the vote of the majority of the board
77 members designated under Subsection (3)(b)(i) is sufficient authority for the licensing board to
78 act as the presiding officer.

79 (4) (a) At the close of an evidentiary hearing in an adjudicative proceeding, unless
80 otherwise specified by the director, the presiding officer who served as the fact finder at the
81 hearing shall issue a recommended order based [~~upon~~] on the record developed at the hearing
82 determining all issues pending before the division.

83 (b) If the director designates certain licensing board members under Subsection (3)(b)
84 to represent the licensing board described in Subsection (3)(a), the person who is aggrieved by
85 the designated board members' recommended order may petition the licensing board to review
86 the designated board members' recommended order.

87 (c) The licensing board shall issue a recommended order based on the review under

88 Subsection (4)(b) that shall become the recommended order of the presiding officer.

89 (5) (a) (i) The director shall issue a final order affirming the recommended order or
90 modifying or rejecting all or any part of the recommended order and entering new findings of
91 fact, conclusions of law, statement of reasons, and order based ~~[upon]~~ on the director's personal
92 attendance at the hearing or a review of the record developed at the hearing.

93 (ii) Before modifying or rejecting a recommended order, the director shall consult with
94 the presiding officer who issued the recommended order.

95 (b) (i) If the director issues a final order modifying or rejecting a recommended order,
96 the licensing board of the ~~[occupation or]~~ profession that is the subject of the proceeding may,
97 by a two-thirds majority vote of all board members, petition the executive director or designee
98 within the department to review the director's final order.

99 (ii) The executive director's decision shall become the final order of the division.

100 (c) This ~~[subsection]~~ Subsection (5) does not limit the right of the parties to appeal the
101 director's final order by filing a request for agency review under Subsection (8).

102 (6) If the director is unable for any reason to rule ~~[upon]~~ on a recommended order of a
103 presiding officer, the director may designate another person within the division to issue a final
104 order.

105 (7) If the director or the director's designee does not initiate additional fact finding or
106 issue a final order within 20 calendar days after the ~~[date of the]~~ day on which the
107 recommended order of the presiding officer is issued, the recommended order becomes the
108 final order of the director or the director's designee.

109 (8) The final order of the director may be appealed by filing a request for agency
110 review with the executive director or the executive director's designee within the department.

111 (9) The content of all orders shall comply with the requirements of Subsection
112 [63G-4-203\(1\)\(i\)](#) and Sections [63G-4-208](#) and [63G-4-209](#).

113 Section 3. Section **58-1-201** is amended to read:

114 **58-1-201. Boards -- Appointment -- Membership -- Terms -- Vacancies --**
115 **Quorum -- Per diem and expenses -- Chair -- Financial interest or faculty position in**
116 **professional school that teaches continuing education prohibited.**

117 (1) (a) (i) The executive director shall appoint the members of the boards established
118 under this title.

119 (ii) In appointing [~~these~~] the board members the executive director shall give
120 consideration to recommendations by members of the respective [~~occupations and professions~~]
121 profession and [~~by their~~] the profession's organizations.

122 (b) Each board shall be composed of five members, four of whom [~~shall be~~] are
123 licensed or certified practitioners in good standing of the [~~occupation or~~] profession the board
124 represents, and one of whom [~~shall be~~] is a member of the general public, unless otherwise
125 provided under the specific licensing chapter.

126 (c) (i) The name of each [~~person~~] individual appointed to a board shall be submitted to
127 the governor for confirmation or rejection.

128 (ii) If an appointee is rejected by the governor, the executive director shall appoint
129 another [~~person~~] individual in the same manner as set forth in Subsection (1)(a).

130 (2) (a) (i) Except as required by Subsection (2)(b), as terms of current board members
131 expire, the executive director shall appoint each new board member or reappointed board
132 member to a four-year term.

133 (ii) Upon the expiration of the term of a board member, the board member shall
134 continue to serve until a successor is appointed, but for a period not to exceed six months from
135 the expiration date of the board member's term.

136 (b) Notwithstanding the requirements of Subsection (2)(a), the executive director shall,
137 at the time of appointment or reappointment, adjust the length of terms to ensure that the terms
138 of board members are staggered so that approximately half of the board is appointed every two
139 years.

140 (c) A board member may not serve more than two consecutive terms, and a board
141 member who ceases to serve on a board may not serve again on that board until after the
142 expiration of a two-year period beginning from that cessation of service.

143 (d) (i) When a vacancy occurs in the board membership for any reason, the
144 replacement shall be appointed for the unexpired term.

145 (ii) After filling that term, the replacement board member may be appointed for only
146 one additional full term.

147 (e) The director, with the approval of the executive director, may remove a board
148 member and replace the board member in accordance with this section for the following
149 reasons:

150 (i) the board member fails or refuses to fulfill the responsibilities and duties of a board
151 member, including attendance at board meetings;

152 (ii) the board member engages in unlawful or unprofessional conduct; or

153 (iii) if appointed to the board position as a licensed member of the board, the board
154 member fails to maintain a license that is active and in good standing.

155 (3) (a) A majority of the board members constitutes a quorum.

156 (b) [~~A~~] Except as provided in Subsection 58-1-109(3), a quorum is sufficient authority
157 for the board to act.

158 (4) A board member may not receive compensation or benefits for the board member's
159 service, but may receive per diem and travel expenses in accordance with:

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

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

162 (c) rules made by the Division of Finance [~~pursuant to~~] under Sections 63A-3-106 and
163 63A-3-107.

164 (5) Each board shall annually designate one of [~~its~~] the board's members to serve as
165 chair for a one-year period.

166 (6) A board member may not be a member of the faculty of, or have a financial interest
167 in, a vocational or professional college or school that provides continuing education to any
168 licensee if that continuing education is required by statute or rule made in accordance with
169 Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

170 Section 4. Section 58-1-202 is amended to read:

171 **58-1-202. Boards -- Duties, functions, and responsibilities.**

172 (1) [~~The~~] Except as provided in Subsection (2), the duties, functions, and
173 responsibilities of each board established under this title include the following:

174 (a) recommending to the director appropriate rules and statutory changes to improve
175 the health, safety, and financial welfare of the public, including changes to remove regulations
176 that are no longer necessary or effective in protecting the public and enhancing commerce;

177 (b) recommending to the director policy and budgetary matters;

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

179 (d) screening applicants and recommending licensing, renewal, reinstatement, and
180 relicensure actions to the director in writing;

181 (e) assisting the director in establishing standards of supervision for students or persons
182 in training to become qualified to obtain a license in the [~~occupation or~~] profession [it] the
183 board represents; and

184 (f) in accordance with Section 58-1-109, acting as presiding officer in conducting
185 hearings associated with adjudicative proceedings and in issuing recommended orders when so
186 designated by the director.

187 (2) Subsection (1) does not apply to boards created in Title 58, Chapter 55, Utah
188 Construction Trades Licensing Act.

189 (3) (a) Each board or commission established under this title may recommend to the
190 appropriate legislative committee whether the board or commission supports a change to a
191 licensing act.

192 (b) This Subsection (3) does not:

193 (i) require a board's approval to amend a practice act; [~~and~~] or

194 (ii) apply to technical or clarifying amendments to a practice act.

195 Section 5. Section **58-1-501** is amended to read:

196 **58-1-501. Unlawful and unprofessional conduct.**

197 (1) "Unlawful conduct" means conduct, by any person, that is defined as unlawful
198 under this title and includes:

199 (a) practicing or engaging in, representing oneself to be practicing or engaging in, or
200 attempting to practice or engage in any [~~occupation or~~] profession requiring licensure under
201 this title if the person is:

202 (i) not licensed to do so or not exempted from licensure under this title; or

203 (ii) restricted from doing so by a suspended, revoked, restricted, temporary,
204 probationary, or inactive license;

205 (b) (i) impersonating another licensee or practicing [~~an occupation or~~] a profession
206 under a false or assumed name, except as permitted by law; or

207 (ii) for a licensee who has had a license under this title reinstated following disciplinary
208 action, practicing the same [~~occupation or~~] profession using a different name than the name
209 used before the disciplinary action, except as permitted by law and after notice to, and approval
210 by, the division;

211 (c) knowingly employing any other person to practice or engage in or attempt to

212 practice or engage in any [~~occupation or~~] profession licensed under this title if the employee is
213 not licensed to do so under this title;

214 (d) knowingly permitting the person's authority to practice or engage in any
215 [~~occupation or~~] profession licensed under this title to be used by another, except as permitted
216 by law;

217 (e) obtaining a passing score on a licensure examination, applying for or obtaining a
218 license, or otherwise dealing with the division or a licensing board through the use of fraud,
219 forgery, or intentional deception, misrepresentation, misstatement, or omission;

220 (f) (i) issuing, or aiding and abetting in the issuance of, an order or prescription for a
221 drug or device to a person located in this state:

222 (A) without prescriptive authority conferred by a license issued under this title, or by
223 an exemption to licensure under this title; or

224 (B) with prescriptive authority conferred by an exception issued under this title or a
225 multistate practice privilege recognized under this title, if the prescription was issued without
226 first obtaining information, in the usual course of professional practice, that is sufficient to
227 establish a diagnosis, to identify underlying conditions, and to identify contraindications to the
228 proposed treatment; and

229 (ii) Subsection (1)(f)(i) does not apply to treatment rendered in an emergency, on-call
230 or cross coverage situation, provided that the person who issues the prescription has
231 prescriptive authority conferred by a license under this title, or is exempt from licensure under
232 this title; or

233 (g) aiding or abetting any other person to violate any statute, rule, or order regulating
234 [~~an occupation or~~] a profession under this title.

235 (2) "Unprofessional conduct" means conduct, by a licensee or applicant, that is defined
236 as unprofessional conduct under this title or under any rule adopted under this title and
237 includes:

238 (a) violating any statute, rule, or order regulating [~~an occupation or~~] a profession under
239 this title;

240 (b) violating, or aiding or abetting any other person to violate, any generally accepted
241 professional or ethical standard applicable to [~~an occupation or~~] a profession regulated under
242 this title;

243 (c) subject to the provisions of Subsection (4), engaging in conduct that results in
244 conviction, a plea of nolo contendere, or a plea of guilty or nolo contendere that is held in
245 abeyance pending the successful completion of probation with respect to a crime [~~of moral~~
246 ~~turpitude or any other crime~~] that, when considered with the functions and duties of the
247 [~~occupation or~~] profession for which the license was issued or is to be issued, bears a
248 substantial relationship to the licensee's or applicant's ability to safely or competently practice
249 the [~~occupation or~~] profession;

250 (d) engaging in conduct that results in disciplinary action, including reprimand,
251 censure, diversion, probation, suspension, or revocation, by any other licensing or regulatory
252 authority having jurisdiction over the licensee or applicant in the same [~~occupation or~~]
253 profession if the conduct would, in this state, constitute grounds for denial of licensure or
254 disciplinary proceedings under Section 58-1-401;

255 (e) engaging in conduct, including the use of intoxicants, drugs, narcotics, or similar
256 chemicals, to the extent that the conduct does, or might reasonably be considered to, impair the
257 ability of the licensee or applicant to safely engage in the [~~occupation or~~] profession;

258 (f) practicing or attempting to practice [~~an occupation or~~] a profession regulated under
259 this title despite being physically or mentally unfit to do so;

260 (g) practicing or attempting to practice [~~an occupation or~~] a profession regulated under
261 this title through gross incompetence, gross negligence, or a pattern of incompetency or
262 negligence;

263 (h) practicing or attempting to practice [~~an occupation or~~] a profession requiring
264 licensure under this title by any form of action or communication which is false, misleading,
265 deceptive, or fraudulent;

266 (i) practicing or attempting to practice [~~an occupation or~~] a profession regulated under
267 this title beyond the scope of the licensee's competency, abilities, or education;

268 (j) practicing or attempting to practice [~~an occupation or~~] a profession regulated under
269 this title beyond the scope of the licensee's license;

270 (k) verbally, physically, mentally, or sexually abusing or exploiting any person through
271 conduct connected with the licensee's practice under this title or otherwise facilitated by the
272 licensee's license;

273 (l) acting as a supervisor without meeting the qualification requirements for that

274 position that are defined by statute or rule;

275 (m) issuing, or aiding and abetting in the issuance of, an order or prescription for a
276 drug or device:

277 (i) without first obtaining information in the usual course of professional practice, that
278 is sufficient to establish a diagnosis, to identify conditions, and to identify contraindications to
279 the proposed treatment; or

280 (ii) with prescriptive authority conferred by an exception issued under this title, or a
281 multi-state practice privilege recognized under this title, if the prescription was issued without
282 first obtaining information, in the usual course of professional practice, that is sufficient to
283 establish a diagnosis, to identify underlying conditions, and to identify contraindications to the
284 proposed treatment;

285 (n) violating a provision of Section 58-1-501.5; or

286 (o) violating the terms of an order governing a license.

287 (3) Unless otherwise specified by statute or administrative rule, in a civil or
288 administrative proceeding commenced by the division under this title, a person subject to any
289 of the unlawful and unprofessional conduct provisions of this title is strictly liable for each
290 violation.

291 (4) The following are not evidence of engaging in unprofessional conduct under
292 Subsection (2)(c):

293 (a) an arrest not followed by a conviction; or

294 (b) a conviction for which an individual's incarceration has ended more than seven
295 years before the date of the division's consideration, unless:

296 (i) after the incarceration the individual has engaged in additional conduct that results
297 in another conviction, a plea of nolo contendere, or a plea of guilty or nolo contendere that is
298 held in abeyance pending the successful completion of probation; or

299 (ii) the conviction was for:

300 (A) a violent felony as defined in Section 76-3-203.5;

301 (B) a felony related to a criminal sexual act [~~pursuant to~~] under Title 76, Chapter 5,
302 Part 4, Sexual Offenses, or Title 76, Chapter 5b, Sexual Exploitation Act; or

303 (C) a felony related to criminal fraud or embezzlement, including a felony [~~pursuant to~~]
304 under Title 76, Chapter 6, Part 5, Fraud, or Title 76, Chapter 6, Part 4, Theft.

305 Section 6. Section **58-9-306** is amended to read:

306 **58-9-306. License by endorsement.**

307 The division may issue a license by endorsement under this chapter to a person who:

308 (1) provides documentation that the funeral service director's current licensure is

309 active, in good standing, and free from any disciplinary action;

310 (2) submits an application on a form provided by the division;

311 (3) pays a fee determined by the department;

312 (4) ~~[is of good moral character in that the person]~~ has not been convicted of:

313 (a) a first or second degree felony; or

314 ~~[(b) a misdemeanor involving moral turpitude; or]~~

315 ~~[(c)]~~ (b) ~~[any other]~~ crime that when considered with the duties and responsibilities of

316 the license for which the person is applying is considered by the division and the board to

317 indicate that the best interests of the public are not served by granting the applicant a license;

318 (5) has completed five years of lawful and active practice as a licensed funeral service

319 director and embalmer within the 10 years immediately preceding the application for licensure

320 by endorsement;

321 (6) has passed a national examination determined by the division; and

322 (7) has demonstrated competency of the laws and the rules of the state as determined

323 by the division.

324 Section 7. Section **58-53-302** is amended to read:

325 **58-53-302. Qualifications for licensure.**

326 (1) Each applicant for licensure as a landscape architect shall:

327 (a) submit an application in a form prescribed by the division;

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

329 ~~[(c) provide satisfactory evidence of good moral character;]~~

330 ~~[(d)]~~ (c) (i) have graduated and received an earned bachelors or masters degree from a

331 landscape architecture program meeting criteria established by rule by the division in

332 collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative

333 Rulemaking Act; or

334 (ii) have completed not less than eight years of supervised practical experience in

335 landscape architecture which meets the requirements established by rule by the division in

336 collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative
337 Rulemaking Act; and

338 ~~[(e)]~~ (d) have successfully passed examinations established by rule by the division in
339 collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative
340 Rulemaking Act.

341 (2) Satisfactory completion of each year of a landscape architectural program described
342 in Subsection ~~[(1)(d)(i)]~~ (1)(c)(i) is equivalent to one year of experience for purposes of
343 Subsection ~~[(1)(d)(ii)]~~ (1)(c)(ii).

344 Section 8. Section **58-55-302.5** is amended to read:

345 **58-55-302.5. Continuing education requirements for contractor licensees --**

346 **Continuing education courses.**

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

350 (b) Each contractor licensee who has a renewal cycle that ends on or after January 1,
351 2020, ~~shall~~ may complete one hour of approved continuing education on energy conservation
352 as part of the six required hours.

353 (2) (a) The commission shall, with the concurrence of the division, establish by rule
354 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a
355 program of approved continuing education for contractor licensees.

356 (b) Except as provided in ~~[Subsection (2)(c), beginning on or after June 1, 2015]~~
357 Subsections (2)(c) and (e), only courses offered by any of the following may be included in the
358 program of approved continuing education for contractor licensees:

- 359 (i) the Associated General Contractors of Utah;
360 (ii) Associated Builders and Contractors, Utah Chapter;
361 (iii) the Utah Home Builders Association;
362 (iv) the National Electrical Contractors Association Intermountain Chapter;
363 (v) the Utah Plumbing & Heating Contractors Association;
364 (vi) the Independent Electrical Contractors of Utah;
365 (vii) the Rocky Mountain Gas Association;
366 (viii) the Utah Mechanical Contractors Association;

- 367 (ix) the Sheet Metal Contractors Association;
368 (x) the Intermountain Electrical Association;
369 (xi) the Builders Bid Service of Utah; or
370 (xii) Utah Roofing Contractors Association.

371 (c) An approved continuing education program for a contractor licensee may include a
372 course approved by an entity described in Subsections (2)(b)(i) through (2)(b)(iii).

373 (d) (i) Except as provided in Subsections (2)(d)(ii) and (iii), an entity listed in
374 Subsections (2)(b)(iv) through (2)(b)(xii) may only offer and market continuing education
375 courses to a licensee who is a member of the entity.

376 (ii) An entity described in Subsection (2)(b)(iv), (vi), or (x) may offer and market a
377 continuing education course that the entity offers to satisfy the continuing education
378 requirement described in Subsection 58-55-302.7(2)(a) to a contractor in the electrical trade.

379 (iii) An entity described in Subsection (2)(b)(v) or (viii) may offer and market a
380 continuing education course that the entity offers to satisfy the continuing education
381 requirement described in Subsection 58-55-302.7(2)(b) to a contractor in the plumbing trade.

382 (e) [~~On or after June 1, 2015, an~~] An approved continuing education program for a
383 contractor licensee may include a course offered and taught by:

384 (i) a state executive branch agency;

385 (ii) the workers' compensation insurance carrier that provides workers' compensation
386 insurance under Section 31A-22-1001; or

387 (iii) a nationally or regionally accredited college or university that has a physical
388 campus in the state.

389 (f) [~~On or after June 1, 2017, for~~] For a contractor licensee that is licensed in the
390 specialty contractor classification of HVAC contractor, at least three of the six hours described
391 in Subsection (1) shall include continuing education directly related to the installation, repair,
392 or replacement of a heating, ventilation, or air conditioning system.

393 (3) The division may contract with a person to establish and maintain a continuing
394 education registry to include:

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

397 (b) a list of courses that:

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

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

402 (4) The division may charge a fee, as established by the division under Section
403 63J-1-504, to administer the requirements of this section.

404 Section 9. Section 58-63-302 is amended to read:

405 **58-63-302. Qualifications for licensure.**

406 (1) Each applicant for licensure as an armored car company or a contract security
407 company shall:

408 (a) submit an application in a form prescribed by the division;

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

410 (c) have a qualifying agent who:

411 (i) ~~[shall meet]~~ meets with the division and the board and ~~[demonstrate]~~ demonstrates
412 that the applicant and the qualifying agent meet the requirements of this section;

413 (ii) is a resident of the state and is responsible management personnel or an owner of
414 the applicant;

415 (iii) exercises material day-to-day authority in the conduct of the applicant's business
416 by making substantive technical and administrative decisions and whose primary employment
417 is with the applicant;

418 (iv) is not concurrently acting as a qualifying agent or employee of another armored car
419 company or contract security company and is not engaged in any other employment on a
420 regular basis;

421 (v) is not involved in any activity that would conflict with the qualifying agent's duties
422 and responsibilities under this chapter to ensure that the qualifying agent's and the applicant's
423 performance under this chapter does not jeopardize the health or safety of the general public;

424 (vi) is not an employee of a government agency;

425 (vii) passes an examination component established by rule by the division in
426 collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative
427 Rulemaking Act; and

428 (viii) (A) demonstrates 6,000 hours of compensated experience as a manager,

429 supervisor, or administrator of an armored car company or a contract security company; or
430 (B) demonstrates 6,000 hours of supervisory experience acceptable to the division in
431 collaboration with the board with a federal, United States military, state, county, or municipal
432 law enforcement agency;

433 (d) if a corporation, provide:

434 (i) the names, addresses, dates of birth, and social security numbers of all corporate
435 officers, directors, and responsible management personnel; and

436 (ii) the names, addresses, dates of birth, and social security numbers, of all
437 shareholders owning 5% or more of the outstanding shares of the corporation, unless waived by
438 the division if the stock is publicly listed and traded;

439 (e) if a limited liability company, provide:

440 (i) the names, addresses, dates of birth, and social security numbers of all company
441 officers, and responsible management personnel; and

442 (ii) the names, addresses, dates of birth, and social security numbers of all individuals
443 owning 5% or more of the equity of the company;

444 (f) if a partnership, provide the names, addresses, dates of birth, and social security
445 numbers of all general partners, and responsible management personnel;

446 (g) if a proprietorship, provide the names, addresses, dates of birth, and social security
447 numbers of the proprietor, and responsible management personnel;

448 (h) have [~~good moral character in that~~] officers, directors, shareholders described in
449 Subsection (1)(d)(ii), partners, proprietors, and responsible management personnel [~~have~~] who
450 have not been convicted of:

451 (i) a felony; or

452 [~~(ii) a misdemeanor involving moral turpitude; or~~]

453 [~~(iii)~~] (ii) a crime that when considered with the duties and responsibilities of a contract
454 security company or an armored car company by the division and the board indicates that the
455 best interests of the public are not served by granting the applicant a license;

456 (i) document that none of the applicant's officers, directors, shareholders described in
457 Subsection (1)(d)(ii), partners, proprietors, and responsible management personnel:

458 (i) have been declared by a court of competent jurisdiction incompetent by reason of
459 mental defect or disease and not been restored; and

460 (ii) currently suffer from habitual drunkenness or from drug addiction or dependence;

461 (j) file and maintain with the division evidence of:

462 (i) comprehensive general liability insurance in a form and in amounts established by
463 rule by the division in collaboration with the board and in accordance with Title 63G, Chapter
464 3, Utah Administrative Rulemaking Act;

465 (ii) workers' compensation insurance that covers employees of the applicant in
466 accordance with applicable Utah law;

467 (iii) registration with the Division of Corporations and Commercial Code; and

468 (iv) registration as required by applicable law with the:

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

471 (B) State Tax Commission; and

472 (C) Internal Revenue Service; and

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

474 (2) Each applicant for licensure as an armed private security officer [~~shall~~]:

475 (a) shall submit an application in a form prescribed by the division;

476 (b) shall pay a fee determined by the department under Section [63J-1-504](#);

477 (c) [~~have good moral character in that the applicant has not~~] may not have been
478 convicted of:

479 (i) a felony; or

480 [~~(ii) a misdemeanor involving moral turpitude; or~~]

481 [(~~iii~~)] (ii) a crime that when considered with the duties and responsibilities of an armed
482 private security officer by the division and the board indicates that the best interests of the
483 public are not served by granting the applicant a license;

484 (d) may not be prohibited from possession of a firearm or ammunition under 18 U.S.C.
485 Sec. 922(g);

486 (e) may not have been declared incompetent by a court of competent jurisdiction by
487 reason of mental defect or disease and not been restored;

488 (f) may not be currently suffering from habitual drunkenness or from drug addiction or
489 dependence;

490 (g) shall successfully complete basic education and training requirements established

491 by rule by the division in collaboration with the board and in accordance with Title 63G,
492 Chapter 3, Utah Administrative Rulemaking Act, which shall include a minimum of eight
493 hours of classroom or online curriculum;

494 (h) shall successfully complete firearms training requirements established by rule by
495 the division in collaboration with the board and in accordance with Title 63G, Chapter 3, Utah
496 Administrative Rulemaking Act, which shall include a minimum of 12 hours of training;

497 (i) shall pass the examination requirement established by rule by the division in
498 collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative
499 Rulemaking Act; and

500 (j) shall meet with the division and board if requested by the division or the board.

501 (3) Each applicant for licensure as an unarmed private security officer [~~shall~~]:

502 (a) shall submit an application in a form prescribed by the division;

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

504 (c) [~~have good moral character in that the applicant has not~~] may not have been
505 convicted of:

506 (i) a felony; or

507 [~~(ii) a misdemeanor involving moral turpitude; or~~]

508 [(~~iii~~) (ii)] a crime that when considered with the duties and responsibilities of an
509 unarmed private security officer by the division and the board indicates that the best interests of
510 the public are not served by granting the applicant a license;

511 (d) may not have been declared incompetent by a court of competent jurisdiction by
512 reason of mental defect or disease and not been restored;

513 (e) may not be currently suffering from habitual drunkenness or from drug addiction or
514 dependence;

515 (f) shall successfully complete basic education and training requirements established
516 by rule by the division in collaboration with the board and in accordance with Title 63G,
517 Chapter 3, Utah Administrative Rulemaking Act, which shall include a minimum of eight
518 hours of classroom or online curriculum;

519 (g) shall pass the examination requirement established by rule by the division in
520 collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative
521 Rulemaking Act; and

522 (h) shall meet with the division and board if requested by the division or board.
523 (4) Each applicant for licensure as an armored car security officer [~~shall~~]:
524 (a) shall submit an application in a form prescribed by the division;
525 (b) shall pay a fee determined by the department under Section [63J-1-504](#);
526 (c) [~~have good moral character in that the applicant has not~~] may not have been
527 convicted of:
528 (i) a felony; or
529 [~~(ii) a misdemeanor involving moral turpitude; or~~]
530 [(iii)] (ii) a crime that when considered with the duties and responsibilities of an
531 armored car security officer by the division and the board indicates that the best interests of the
532 public are not served by granting the applicant a license;
533 (d) may not be prohibited from possession of a firearm or ammunition under 18 U.S.C.
534 Sec. 922(g);
535 (e) may not have been declared incompetent by a court of competent jurisdiction by
536 reason of mental defect or disease and not been restored;
537 (f) may not be currently suffering from habitual drunkenness or from drug addiction or
538 dependence;
539 (g) shall successfully complete basic education and training requirements established
540 by rule by the division in collaboration with the board and in accordance with Title 63G,
541 Chapter 3, Utah Administrative Rulemaking Act;
542 (h) shall successfully complete firearms training requirements established by rule by
543 the division in collaboration with the board and in accordance with Title 63G, Chapter 3, Utah
544 Administrative Rulemaking Act;
545 (i) shall pass the examination requirements established by rule by the division in
546 collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative
547 Rulemaking Act; and
548 (j) shall meet with the division and board if requested by the division or the board.
549 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
550 division may make a rule establishing when the division shall request a Federal Bureau of
551 Investigation records' review for an applicant who is applying for licensure or licensure renewal
552 under this chapter.

553 (6) To determine if an applicant meets the qualifications of Subsections (1)(h), (2)(c),
554 (3)(c), and (4)(c), the division shall provide an appropriate number of copies of fingerprint
555 cards to the Department of Public Safety with the division's request to:

556 (a) conduct a search of records of the Department of Public Safety for criminal history
557 information relating to each applicant for licensure under this chapter and each applicant's
558 officers, directors, shareholders described in Subsection (1)(d)(ii), partners, proprietors, and
559 responsible management personnel; and

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

562 (7) The Department of Public Safety shall send the division:

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

567 (b) the results of the FBI review concerning an applicant in a timely manner after
568 receipt of information from the FBI.

569 (8) (a) The division shall charge each applicant a fee, in accordance with Section
570 63J-1-504, equal to the cost of performing the records reviews under this section.

571 (b) The division shall pay the Department of Public Safety the costs of all records
572 reviews, and the Department of Public Safety shall pay the FBI the costs of records reviews
573 under this chapter.

574 (9) The division shall use or disseminate the information it obtains from the reviews of
575 criminal history records of the Department of Public Safety and the FBI only to determine if an
576 applicant for licensure or licensure renewal under this chapter is qualified for licensure.

577 Section 10. Section 58-64-302 is amended to read:

578 **58-64-302. Qualifications for licensure.**

579 (1) Each applicant for licensure as a deception detection examiner:

580 (a) shall submit an application in a form prescribed by the division;

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

582 (c) may not have been convicted of a felony~~], a misdemeanor involving moral~~
583 ~~turpitude,~~ or any other crime that when considered with the duties and responsibilities of a

584 deception detection examiner is considered by the division to indicate that the best interests of
585 the public will not be served by granting the applicant a license;

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

588 (e) may not be currently suffering from habitual drunkenness or from drug addiction or
589 dependence;

590 (f) shall have completed one of the following:

591 (i) have earned a bachelor's degree from a four year university or college meeting
592 standards established by the division by rule made in accordance with Title 63G, Chapter 3,
593 Utah Administrative Rulemaking Act;

594 (ii) have completed not less than 8,000 hours of investigation experience approved by
595 the division; or

596 (iii) have completed a combination of university or college education and investigation
597 experience, as defined by rule made by the division in accordance with Title 63G, Chapter 3,
598 Utah Administrative Rulemaking Act, as being equivalent to the requirements under
599 Subsection (1)(f)(i) or (1)(f)(ii);

600 (g) shall have successfully completed a training program in detection deception
601 meeting criteria established by rule made by the division in accordance with Title 63G, Chapter
602 3, Utah Administrative Rulemaking Act; and

603 (h) shall have performed satisfactorily as a licensed deception detection intern for a
604 period of not less than one year and shall have satisfactorily conducted not less than 100
605 deception detection examinations under the supervision of a licensed deception detection
606 examiner.

607 (2) Each applicant for licensure as a deception detection intern:

608 (a) shall submit an application in a form prescribed by the division;

609 (b) shall pay a fee determined by the department under Section [63J-1-504](#);

610 (c) may not have been convicted of a felony~~[, a misdemeanor involving moral~~
611 ~~turpitude,~~] or any other crime that when considered with the duties and responsibilities of a
612 deception detection intern is considered by the division to indicate that the best interests of the
613 public will not be served by granting the applicant a license;

614 (d) may not have been declared by any court of competent jurisdiction incompetent by

615 reason of mental defect or disease and not been restored;

616 (e) may not be currently suffering from habitual drunkenness or from drug addiction or
617 dependence;

618 (f) shall have completed one of the following:

619 (i) have earned a bachelor's degree from a four year university or college meeting
620 standards established by the division by rule made in accordance with Title 63G, Chapter 3,
621 Utah Administrative Rulemaking Act;

622 (ii) have completed not less than 8,000 hours of investigation experience approved by
623 the division; or

624 (iii) have completed a combination of university or college education and investigation
625 experience, as defined by rule made by the division in accordance with Title 63G, Chapter 3,
626 Utah Administrative Rulemaking Act, as being equivalent to the requirements under
627 Subsection (2)(f)(i) or (2)(f)(ii);

628 (g) shall have successfully completed a training program in deception detection
629 meeting criteria established by rule made by the division in accordance with Title 63G, Chapter
630 3, Utah Administrative Rulemaking Act; and

631 (h) shall provide the division with an intern supervision agreement in a form prescribed
632 by the division under which:

633 (i) a licensed deception detection examiner agrees to supervise the intern; and

634 (ii) the applicant agrees to be supervised by that licensed deception detection examiner.

635 (3) Each applicant for licensure as a deception detection examination administrator:

636 (a) shall submit an application in a form prescribed by the division;

637 (b) shall pay a fee determined by the department under Section [63J-1-504](#);

638 (c) may not have been convicted of a felony~~], a misdemeanor involving moral~~
639 ~~turpitude,~~] or any other crime that when considered with the duties and responsibilities of a
640 deception detection examination administrator is considered by the division to indicate that the
641 best interests of the public will not be served by granting the applicant a license;

642 (d) may not have been declared by a court of competent jurisdiction incompetent by
643 reason of mental defect or disease and not been restored;

644 (e) may not be currently suffering from habitual drunkenness or from drug addiction or
645 dependence;

646 (f) shall have earned an associate degree from a state-accredited university or college or
647 have an equivalent number of years' work experience; and

648 (g) shall have successfully completed a training program and have obtained
649 certification in deception detection examination administration provided by the manufacturer
650 of a scientific or technology-based software application solution that is approved by the
651 director.

652 (4) To determine if an applicant meets the qualifications of Subsection (1)(c), (2)(c), or
653 (3)(c) the division shall provide an appropriate number of copies of fingerprint cards to the
654 Department of Public Safety with the division's request to:

655 (a) conduct a search of records of the Department of Public Safety for criminal history
656 information relating to each applicant for licensure under this chapter; and

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

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

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

664 (b) the results of the F.B.I. review concerning an applicant in a timely manner after
665 receipt of information from the F.B.I.

666 (6) (a) The division shall charge each applicant a fee, in accordance with Section
667 63J-1-504, equal to the cost of performing the records reviews under this section.

668 (b) The division shall pay the Department of Public Safety the costs of all records
669 reviews, and the Department of Public Safety shall pay the F.B.I. the costs of records reviews
670 under this chapter.

671 (7) ~~[Information]~~ The division shall use or disseminate information obtained ~~[by the~~
672 ~~division]~~ from the reviews of criminal history records of the Department of Public Safety and
673 the F.B.I. ~~[shall be used or disseminated by the division]~~ only for the purpose of determining if
674 an applicant for licensure under this chapter is qualified for licensure.