

1 **CONSTRUCTION TRADES LICENSING REVISIONS**

2 2013 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Karen Mayne**

5 House Sponsor: _____

6

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies the Utah Construction Trades Licensing Act.

10 **Highlighted Provisions:**

11 This bill:

12 ▶ requires an owner of an unincorporated entity that is engaged in a construction trade
13 to be licensed if the unincorporated entity has more than 15 owners;

14 ▶ requires an unincorporated entity licensee to file an ownership status report and
15 submit a license renewal application if the number of owners of the entity changes
16 by a specified amount;

17 ▶ requires an unincorporated entity providing labor to a licensed entity to file an
18 ownership status report if the number of owners of the entity changes by a specified
19 amount;

20 ▶ provides that the license of an unincorporated entity automatically expires if the
21 entity experiences a specified change in the number of owners unless the entity
22 applies for renewal of the license and the division renews the license;

23 ▶ modifies financial responsibility provisions;

24 ▶ requires government entities to require a contractor to provide proof that the
25 contractor provides workers compensation insurance, pays into the unemployment
26 insurance fund, and withholds applicable taxes from worker pay;

27 ▶ makes it unlawful conduct for an unincorporated entity to have an individual who is



28 an owner of the unincorporated entity engage in a construction trade while using a Social
 29 Security number that does not belong to the individual;
 30 ▶ makes it unlawful conduct for an unincorporated entity that provides labor to a
 31 licensed entity to provide an individual who is an owner of the unincorporated
 32 entity to engage in a construction trade while the individual is using a Social
 33 Security number that does not belong to the individual; and
 34 ▶ makes technical changes.

35 **Money Appropriated in this Bill:**

36 None

37 **Other Special Clauses:**

38 None

39 **Utah Code Sections Affected:**

40 AMENDS:

- 41 **58-55-301**, as last amended by Laws of Utah 2010, Chapter 227
- 42 **58-55-302**, as last amended by Laws of Utah 2012, Chapter 192
- 43 **58-55-303**, as last amended by Laws of Utah 2011, Chapter 367
- 44 **58-55-306**, as last amended by Laws of Utah 2012, Chapter 192
- 45 **58-55-310**, as renumbered and amended by Laws of Utah 1994, Chapter 181
- 46 **58-55-501**, as last amended by Laws of Utah 2012, Chapter 278
- 47 **58-55-503**, as last amended by Laws of Utah 2011, Chapters 195, 340, and 413



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

50 Section 1. Section **58-55-301** is amended to read:

51 **58-55-301. License required -- License classifications.**

52 (1) (a) A person engaged in the construction trades licensed under this chapter, as a
 53 contractor regulated under this chapter, as an alarm business or company, or as an alarm
 54 company agent, and an individual who has an ownership interest in an unincorporated entity
 55 that is engaged in a construction trade and that has more than 15 owners, shall become licensed
 56 under this chapter before engaging in that trade or contracting activity in this state unless
 57 specifically exempted from licensure under Section 58-1-307 or 58-55-305.

58 (b) The license issued under this chapter and the business license issued by the local

59 jurisdiction in which the licensee has its principal place of business shall be the only licenses
60 required for the licensee to engage in a trade licensed by this chapter, within the state.

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

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

- 69 (a) general engineering contractor;
- 70 (b) general building contractor;
- 71 (c) residential and small commercial contractor;
- 72 (d) elevator contractor;
- 73 (e) specialty contractor;
- 74 (f) master plumber;
- 75 (g) residential master plumber;
- 76 (h) journeyman plumber;
- 77 (i) apprentice plumber;
- 78 (j) residential journeyman plumber;
- 79 (k) master electrician;
- 80 (l) residential master electrician;
- 81 (m) journeyman electrician;
- 82 (n) residential journeyman electrician;
- 83 (o) apprentice electrician;
- 84 (p) construction trades instructor:
 - 85 (i) general engineering classification;
 - 86 (ii) general building classification;
 - 87 (iii) electrical classification;
 - 88 (iv) plumbing classification; and
 - 89 (v) mechanical classification;

- 90 (q) alarm company;
- 91 (r) alarm company agent; and
- 92 (s) elevator mechanic.

93 (3) (a) An applicant may apply for a license in one or more classification or specialty
94 contractor subclassification.

95 (b) A license shall be granted in each classification or subclassification for which the
96 applicant qualifies.

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

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

100 **58-55-302. Qualifications for licensure.**

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

- 102 (a) submit an application prescribed by the division;
- 103 (b) pay a fee as determined by the department under Section 63J-1-504;
- 104 (c) (i) meet the examination requirements established by rule by the commission with
105 the concurrence of the director, except for the classifications of apprentice plumber and
106 apprentice electrician for whom no examination is required; or
107 (ii) if required in Section 58-55-304, the individual qualifier must pass the required
108 examination if the applicant is a business entity;
- 109 (d) if an apprentice, identify the proposed supervisor of the apprenticeship;
- 110 (e) if an applicant for a contractor's license:
 - 111 (i) produce satisfactory evidence of financial responsibility, except for a construction
112 trades instructor for whom evidence of financial responsibility is not required;
 - 113 (ii) produce satisfactory evidence of knowledge and experience in the construction
114 industry and knowledge of the principles of the conduct of business as a contractor, reasonably
115 necessary for the protection of the public health, safety, and welfare;
 - 116 (iii) (A) be a licensed master electrician if an applicant for an electrical contractor's
117 license or a licensed master residential electrician if an applicant for a residential electrical
118 contractor's license;
 - 119 (B) be a licensed master plumber if an applicant for a plumbing contractor's license or
120 a licensed master residential plumber if an applicant for a residential plumbing contractor's

121 license; or

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

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

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

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

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

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

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

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

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

140 (i) Utah Department of Commerce;

141 (ii) Division of Corporations and Commercial Code;

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

144 (iv) State Tax Commission; and

145 (v) Internal Revenue Service.

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

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

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

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

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

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

163 (iii) An individual holding a valid plumbing contractor's license or residential
164 plumbing contractor's license, in effect immediately prior to May 5, 2008, is on or after May 5,
165 2008:

166 (A) considered to hold a current master plumber license under this chapter if licensed
167 as a plumbing contractor and a journeyman plumber, and satisfies the requirements of this
168 Subsection (3)(a) for purposes of renewal or reinstatement of that license under Section
169 58-55-303; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

222 or

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

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

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

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

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

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

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

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

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

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

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

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

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

254 (k) An alarm company applicant shall:

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

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

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

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

262 (ii) if a corporation, provide:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 307 (C) registration as is required by applicable law with the:
- 308 (I) Division of Corporations and Commercial Code;
- 309 (II) Unemployment Insurance Division in the Department of Workforce Services, for
- 310 purposes of Title 35A, Chapter 4, Employment Security Act;
- 311 (III) State Tax Commission; and
- 312 (IV) Internal Revenue Service; and
- 313 (xi) meet with the division and board.
- 314 (l) Each applicant for licensure as an alarm company agent shall:
- 315 (i) submit an application in a form prescribed by the division accompanied by
- 316 fingerprint cards;
- 317 (ii) pay a fee determined by the department under Section 63J-1-504;
- 318 (iii) be of good moral character in that the applicant has not been convicted of a felony,
- 319 a misdemeanor involving moral turpitude, or any other crime that when considered with the
- 320 duties and responsibilities of an alarm company agent is considered by the board to indicate
- 321 that the best interests of the public are served by granting the applicant a license;
- 322 (iv) not have been declared by any court of competent jurisdiction incompetent by
- 323 reason of mental defect or disease and not been restored;
- 324 (v) not be currently suffering from habitual drunkenness or from drug addiction or
- 325 dependence; and
- 326 (vi) meet with the division and board if requested by the division or the board.
- 327 (m) (i) Each applicant for licensure as an elevator mechanic shall:
- 328 (A) provide documentation of experience and education credits of not less than three
- 329 years work experience in the elevator industry, in construction, maintenance, or service and
- 330 repair; and
- 331 (B) satisfactorily complete a written examination administered by the division
- 332 established by rule under Section 58-1-203; or
- 333 (C) provide certificates of completion of an apprenticeship program for elevator
- 334 mechanics, having standards substantially equal to those of this chapter and registered with the
- 335 United States Department of Labor Bureau Apprenticeship and Training or a state
- 336 apprenticeship council.
- 337 (ii) (A) If an elevator contractor licensed under this chapter cannot find a licensed

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

411 (10) (a) (i) A licensee that is an unincorporated entity shall file an ownership status
412 report with the division every 90 days after the day on which the license is issued if the licensee
413 has more than five owners who are individuals who:

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

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

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

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

422 (iii) An unincorporated entity licensee that has an increase or decrease in the number of
423 owners described in Subsection (10)(a)(i) equal to 13 or more since the date the licensee last
424 filed an ownership status report shall, within 10 days after the increase or decrease:

425 (A) file an ownership status report with the division; and

426 (B) submit to the division an application for renewal of the licensee's license.

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

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

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

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

433 (ii) be in a format prescribed by the division that includes ~~[the items on the list~~
434 ~~provided under]~~ for each owner, regardless of the owner's percentage ownership in the
435 unincorporated entity, the information described in Subsection(1)(e)(iv); ~~[and]~~

436 (iii) list the name of:

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

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

440 ~~[(iii)]~~ (iv) be accompanied by a fee set by the division in accordance with Section
441 63J-1-504 if the ownership status report indicates there is a change described in Subsection
442 (10)(b)(i).

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

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

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

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

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

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

456 (B) whether the individual will engage in a construction trade; ~~[and]~~

457 (ii) every 90 days after the day on which the unincorporated entity provides the list
458 described in Subsection (11)(a)(i), an ownership status report containing the information that
459 would be required under Subsection (10) if the unincorporated entity were a licensed
460 contractor~~[-]; and~~

461 (iii) an ownership status report described in Subsection (11)(a)(ii), within 10 days after

462 an increase or decrease in the number of owners of the unincorporated entity, if the
463 unincorporated entity has an increase or decrease in the number of owners of the
464 unincorporated entity equal to 13 or more since the date the licensee last filed a list under
465 Subsection (11)(a)(i) or an ownership status report under Subsection (11)(a)(ii).

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

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

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

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

476 **58-55-303. Term of license -- Expiration -- Renewal.**

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

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

481 (c) Notwithstanding a renewal cycle under Subsection (1)(a) or (b), the license of an
482 unincorporated entity automatically expires 90 days after the unincorporated entity has an
483 increase or decrease in the number of owners as described in Subsection 58-55-302(10)(a)(iii)
484 unless:

485 (i) the licensee submits an application for renewal of the license, as required under
486 Subsection 58-55-302(10)(a)(iii)(B); and

487 (ii) the division renews the licensee's license pursuant to the licensee's application for
488 renewal.

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

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

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

493 (c) if the licensee is an apprentice electrician or plumber, journeyman electrician or
494 plumber, master electrician or plumber, residential journeyman electrician or plumber, or
495 residential master electrician or plumber, completion of the number of hours of continuing
496 education specified under Section 58-55-302.7.

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

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

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

- 503 (a) shall pay in full all fines imposed by the division;
- 504 (b) resolve any outstanding citations or disciplinary actions with the division;
- 505 (c) satisfy any Section 58-55-503 judgment and sentence or nontrial resolution;
- 506 (d) complete a new financial responsibility review as required under Section
507 58-55-306, using only titled assets; and

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

510 Section 4. Section **58-55-306** is amended to read:

511 **58-55-306. Financial responsibility.**

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

- 516 (a) (i) completing a questionnaire developed by the division; and
- 517 (ii) signing the questionnaire, certifying that the information provided is true and
518 accurate; or

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

521 (2) A licensee, including an individual who holds an ownership interest in an
522 unincorporated entity licensee, shall maintain financial responsibility throughout the period of
523 licensure.

524 ~~[(2)]~~ (3) The division may audit ~~[an applicant's or licensee's demonstration of]~~ the
525 financial responsibility of an applicant or licensee on a random basis or upon finding of a
526 reasonable need.

527 ~~[(3)]~~ (4) The burden to demonstrate financial responsibility is upon the applicant ~~[or]~~,
528 licensee, or owner of an unincorporated entity licensee, as the case may be.

529 ~~[(4)]~~ (5) (a) ~~[If an applicant for licensure as a contractor or a licensee applying for~~
530 ~~renewal or reinstatement of a contractor's license is an unincorporated entity, the]~~ The division
531 may require each individual who holds an ownership interest in ~~[the]~~ an unincorporated entity
532 applicant or licensee to demonstrate financial responsibility to the division and the
533 commission.

534 (b) In accordance with Subsection ~~[(2)]~~ (3), the division may audit an owner's
535 ~~[demonstration of]~~ financial responsibility ~~[under Subsection (4)(a)]~~ at any time including
536 requesting:

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

539 (ii) a credit report for each owner.

540 (c) If an owner described in Subsection ~~[(4)]~~ (5)(a) fails to demonstrate financial
541 responsibility under this section, the division may:

542 (i) prohibit the licensee or owner from engaging in a construction trade; or

543 (ii) require the owner, applicant, or licensee to submit a bond in an amount and form
544 determined by the commission with the concurrence of the director.

545 Section 5. Section **58-55-310** is amended to read:

546 **58-55-310. Requirements when working for political subdivision or state agency.**

547 Each political subdivision and agency of the state and each board of education which
548 requires the issuance of a permit or license as a precondition to the construction, alteration,
549 improvement, demolition, or other repairs for which a contractor's license is also required
550 under this chapter shall:

551 (1) require that each applicant for a permit or license file a signed statement that the
552 applicant has a current contractor's license with the license number included in the application;

553 (2) require that any representation of exemption from the contractor's licensing law be
554 included in the signed statement and that if that exempt person, firm, corporation, association,

555 or other organization intends to hire a contractor to perform any work under the permit or
556 license, that the license number of that contractor be included in the application, but if a
557 contractor has not been selected at the time of the application for a permit or license, the permit
558 or license shall be issued only on the condition that a currently licensed contractor will be
559 selected and that the license number of the contractor will be given to the issuing public body
560 and displayed on the permit or license; [~~and~~]

561 (3) require that, upon issuance of a permit or license, the contractor affix the
562 contractor's license number to that permit or license for public display[-]; and

563 (4) require the contractor to provide proof that the contractor provides workers'
564 compensation insurance, pays into the unemployment insurance fund, provides health
565 insurance as required under federal or state law, and withholds applicable taxes from worker
566 pay.

567 Section 6. Section **58-55-501** is amended to read:

568 **58-55-501. Unlawful conduct.**

569 Unlawful conduct includes:

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

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

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

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

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

585 (6) applying for or obtaining a building permit for the benefit of or on behalf of any

586 other person who is required to be licensed under this chapter but who is not licensed or is
587 otherwise not entitled to obtain or receive the benefit of the building permit;

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

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

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

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

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

596 (12) if licensed as a specialty contractor in the electrical trade or plumbing trade,
597 journeyman plumber, residential journeyman plumber, journeyman electrician, master
598 electrician, or residential electrician, failing to directly supervise an apprentice under one's
599 supervision or exceeding the number of apprentices one is allowed to have under the speciality
600 contractor's supervision;

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

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

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

614 (16) if licensed under this chapter, willfully or deliberately disregarding or violating:
615 (a) the building or construction laws of this state or any political subdivision;
616 (b) the safety and labor laws applicable to a project;

- 617 (c) any provision of the health laws applicable to a project;
- 618 (d) the workers' compensation insurance laws of the state applicable to a project;
- 619 (e) the laws governing withholdings for employee state and federal income taxes,
620 unemployment taxes, Social Security payroll taxes, or other required withholdings; or
- 621 (f) reporting, notification, and filing laws of this state or the federal government;
- 622 (17) aiding or abetting any person in evading the provisions of this chapter or rules
623 established under the authority of the division to govern this chapter;
- 624 (18) engaging in the construction trade or as a contractor for the construction of
625 residences of up to two units when not currently registered or exempt from registration as a
626 qualified beneficiary under Title 38, Chapter 11, Residence Lien Restriction and Lien Recovery
627 Fund Act;
- 628 (19) failing, as an original contractor, as defined in Section 38-11-102, to include in a
629 written contract the notification required in Section 38-11-108;
- 630 (20) wrongfully filing a preconstruction or construction lien in violation of Section
631 38-1a-308;
- 632 (21) if licensed as a contractor, not completing the approved continuing education
633 required under Section 58-55-302.5;
- 634 (22) an alarm company allowing an employee with a temporary license under Section
635 58-55-312 to engage in conduct on behalf of the company outside the scope of the temporary
636 license, as provided in Subsection 58-55-312(3)(a)(ii);
- 637 (23) an alarm company agent under a temporary license under Section 58-55-312
638 engaging in conduct outside the scope of the temporary license, as provided in Subsection
639 58-55-312(3)(a)(ii);
- 640 (24) (a) an unincorporated entity licensed under this chapter having an individual who
641 owns an interest in the unincorporated entity engage in a construction trade in Utah while not
642 lawfully present in the United States; or
- 643 (b) an unincorporated entity providing labor to an entity licensed under this chapter by
644 providing an individual who owns an interest in the unincorporated entity to engage in a
645 construction trade in Utah while not lawfully present in the United States;
- 646 (25) an unincorporated entity failing to provide the following for an individual who
647 engages, or will engage, in a construction trade in Utah for the unincorporated entity, or for an

648 individual who engages, or will engage, in a construction trade in Utah for a separate entity for
649 which the unincorporated entity provides the individual as labor:

650 (a) workers' compensation coverage:

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

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

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

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

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

662 (i) the contractor uses; and

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

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

666 (27) (a) an unincorporated entity licensed under this chapter having an individual who
667 owns an interest in the unincorporated entity engage in a construction trade in the state while
668 the individual is using a Social Security number that does not belong to that individual; or

669 (b) an unincorporated entity providing labor to an entity licensed under this chapter by
670 providing an individual, who owns an interest in the unincorporated entity, to engage in a
671 construction trade in the state while the individual is using a Social Security number that does
672 not belong to that individual; or

673 (28) a contractor failing to comply with a requirement imposed by a political
674 subdivision, state agency, or board of education under Section 58-55-310.

675 Section 7. Section **58-55-503** is amended to read:

676 **58-55-503. Penalty for unlawful conduct -- Citations.**

677 (1) (a) (i) A person who violates Subsection 58-55-308(2), Subsection 58-55-501(1),
678 (2), (3), (4), (5), (6), (7), (9), (10), (12), (14), (15), (22), (23), (24), (25), [or] (26), (27), or (28),

679 or Subsection 58-55-504(2), or who fails to comply with a citation issued under this section
680 after it is final, is guilty of a class A misdemeanor.

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

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

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

690 (3) Grounds for immediate suspension of the licensee's license by the division and the
691 commission include the issuance of a citation for violation of Subsection 58-55-308(2), Section
692 58-55-501, or Subsection 58-55-504(2), or the failure by a licensee to make application to,
693 report to, or notify the division with respect to any matter for which application, notification, or
694 reporting is required under this chapter or rules adopted under this chapter, including applying
695 to the division for a new license to engage in a new specialty classification or to do business
696 under a new form of organization or business structure, filing with the division current
697 financial statements, notifying the division concerning loss of insurance coverage, or change in
698 qualifier.

699 (4) (a) If upon inspection or investigation, the division concludes that a person has
700 violated the provisions of Subsection 58-55-308(2) or Subsections 58-55-501(1), (2), (3), (9),
701 (10), (12), (14), (19), (21), (22), (23), (24), (25), [or] (26), (27), or (28), or Subsection
702 58-55-504(2), or any rule or order issued with respect to these subsections, and that disciplinary
703 action is appropriate, the director or the director's designee from within the division shall
704 promptly issue a citation to the person according to this chapter and any pertinent rules, attempt
705 to negotiate a stipulated settlement, or notify the person to appear before an adjudicative
706 proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

707 (i) A person who is in violation of the provisions of Subsection 58-55-308(2),
708 Subsection 58-55-501(1), (2), (3), (9), (10), (12), (14), (19), (21), (22), (23), (24), (25), [or]
709 (26), (27), or (28), or Subsection 58-55-504(2), as evidenced by an uncontested citation, a

710 stipulated settlement, or by a finding of violation in an adjudicative proceeding, may be
711 assessed a fine pursuant to this Subsection (4) and may, in addition to or in lieu of, be ordered
712 to cease and desist from violating Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3),
713 (9), (10), (12), (14), (19), (21), (24), (25), [~~or~~] (26), (27), or (28), or Subsection 58-55-504(2).

714 (ii) Except for a cease and desist order, the licensure sanctions cited in Section
715 58-55-401 may not be assessed through a citation.

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

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

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

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

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

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

730 (iii) by mail.

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

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

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

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

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

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

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

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

745 and

746 (iii) for any subsequent offense handled pursuant to Subsection (4)(a), a fine of up to
747 \$2,000 for each day of continued offense.

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

750 (A) the division previously issued a final order determining that a person committed a
751 first or second offense in violation of Subsection 58-55-308(2), Subsection 58-55-501(1), (2),
752 (3), (9), (10), (12), (14), (19), (24), (25), [~~or~~] (26), (27), or (28), or Subsection 58-55-504(2); or

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

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

756 (III) the division determines during an investigation that occurred after the initiation of
757 the action under Subsection (4)(i)(i)(B)(I) that the person committed a second or subsequent
758 violation of the provisions of Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9),
759 (10), (12), (14), (19), (24), (25), [~~or~~] (26), (27), or (28), or Subsection 58-55-504(2); and

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

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

765 (j) In addition to any other licensure sanction or fine imposed under this section, the
766 division shall revoke the license of a licensee that violates Subsection 58-55-501(24) or (25)
767 two or more times within a 12-month period, unless, with respect to a violation of Subsection
768 58-55-501(24), the licensee can demonstrate that the licensee successfully verified the federal
769 legal working status of the individual who was the subject of the violation using a status
770 verification system, as defined in Section 13-47-102.

771 (k) For purposes of this Subsection (4), a violation of Subsection 58-55-501(24) or (25)

772 for each individual is considered a separate violation.

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

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

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

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

Legislative Review Note
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