

CONSTRUCTION TRADES LICENSING AMENDMENTS

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Peter C. Knudson

House Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Utah Construction Trades Licensing Act.

Highlighted Provisions:

This bill:

- ▶ modifies construction trade licensing provisions to include residential climate control system technicians;
- ▶ sets the residential climate control system technician-to-apprentice ratio;
- ▶ modifies the membership of the Construction Services Commission;
- ▶ modifies the membership of the Plumbers Licensing Board and renames it;
- ▶ authorizes the Division of Occupational and Professional Licensing to issue licenses to various residential climate control system technicians;
- ▶ requires that licensed residential climate control system technicians complete fuel and electricity efficiency education;
- ▶ modifies a provision relating to exemptions from licensure; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:



28 AMENDS:

29 **58-55-102**, as last amended by Laws of Utah 2010, Chapters 27, 53, and 227

30 **58-55-103**, as last amended by Laws of Utah 2010, Chapter 286

31 **58-55-201**, as last amended by Laws of Utah 2008, Chapter 215

32 **58-55-301**, as last amended by Laws of Utah 2010, Chapter 227

33 **58-55-302**, as last amended by Laws of Utah 2010, Chapters 227 and 372

34 **58-55-303**, as last amended by Laws of Utah 2010, Chapters 53, 57, and 227

35 **58-55-305**, as last amended by Laws of Utah 2010, Chapters 27, 227, and 310

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

37 **58-55-501**, as last amended by Laws of Utah 2010, Chapters 53 and 387

38 **58-55-503**, as last amended by Laws of Utah 2010, Chapters 278 and 387

39

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

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

42 **58-55-102. Definitions.**

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

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

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

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

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

56 (2) "Alarm company agent" means any individual employed within this state by a
57 person engaged in the alarm business.

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

59 (a) detecting and signaling unauthorized intrusion or entry into or onto certain
60 premises; or

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

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

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

70 (6) "Apprentice residential climate control system technician" means a person licensed
71 under this chapter as an apprentice residential climate control system technician who is
72 learning the residential climate control system trade under approved supervision of a licensed
73 residential climate control system supervisor.

74 [~~6~~] (7) "Approved continuing education" means instruction provided through courses
75 under a program established under Subsection 58-55-302.5(2).

76 [~~7~~] (8) "Board" means, as applicable, the Electrician Licensing Board, Alarm System
77 Security and Licensing Board, or Plumbers and Residential Climate Control System
78 Technicians Licensing Board created in Section 58-55-201.

79 [~~8~~] (9) "Combustion system" means an assembly consisting of:

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

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

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

86 [~~9~~] (10) "Commission" means the Construction Services Commission created under
87 Section 58-55-103.

88 [~~10~~] (11) "Construction trade" means any trade or occupation involving:

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

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

92 (ii) constructing, remodeling, or repairing a manufactured home or mobile home as
93 defined in Section 58-56-3; or

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

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

100 [~~(H2)~~] (13) (a) "Contractor" means any person who for compensation other than wages
101 as an employee undertakes any work in the construction, plumbing, [~~or~~] electrical, or
102 residential climate control system trade for which licensure is required under this chapter and
103 includes:

104 (i) a person who builds any structure on his own property for the purpose of sale or
105 who builds any structure intended for public use on his own property;

106 (ii) any person who represents himself to be a contractor by advertising or any other
107 means;

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

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

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

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

115 [~~(H3)~~] (14) (a) "Electrical trade" means the performance of any electrical work involved
116 in the installation, construction, alteration, change, repair, removal, or maintenance of facilities,
117 buildings, or appendages or appurtenances.

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

119 (i) transporting or handling electrical materials;

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

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

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

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

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

128 [~~(14)~~] (15) "Elevator" has the same meaning as defined in Section 34A-7-202, except
129 that for purposes of this chapter it does not mean a stair chair, a vertical platform lift, or an
130 incline platform lift.

131 [~~(15)~~] (16) "Elevator contractor" means a sole proprietor, firm, or corporation licensed
132 under this chapter that is engaged in the business of erecting, constructing, installing, altering,
133 servicing, repairing, or maintaining an elevator.

134 [~~(16)~~] (17) "Elevator mechanic" means an individual who is licensed under this chapter
135 as an elevator mechanic and who is engaged in erecting, constructing, installing, altering,
136 servicing, repairing, or maintaining an elevator under the immediate supervision of an elevator
137 contractor.

138 [~~(17)~~] (18) "Employee" means an individual as defined by the division by rule giving
139 consideration to the definition adopted by the Internal Revenue Service and the Department of
140 Workforce Services.

141 [~~(18)~~] (19) "Engage in a construction trade" means to:

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

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

146 [~~(19)~~] (20) (a) "Financial responsibility" means a demonstration of a current and
147 expected future condition of financial solvency evidencing a reasonable expectation to the
148 division and the board that an applicant or licensee can successfully engage in business as a
149 contractor without jeopardy to the public health, safety, and welfare.

150 (b) Financial responsibility may be determined by an evaluation of the total history
151 concerning the licensee or applicant including past, present, and expected condition and record

152 of financial solvency and business conduct.

153 ~~[(20)]~~ (21) "Gas appliance" means any device that uses natural gas to produce light,
154 heat, power, steam, hot water, refrigeration, or air conditioning.

155 ~~[(21)]~~ (22) (a) "General building contractor" means a person licensed under this
156 chapter as a general building contractor qualified by education, training, experience, and
157 knowledge to perform or superintend construction of structures for the support, shelter, and
158 enclosure of persons, animals, chattels, or movable property of any kind or any of the
159 components of that construction except plumbing, electrical work, ~~[mechanical]~~ climate
160 control system work, and manufactured housing installation, for which the general building
161 contractor shall employ the services of a contractor licensed in the particular specialty, except
162 that a general building contractor engaged in the construction of single-family and multifamily
163 residences up to four units may ~~[perform the mechanical work and]~~ hire a licensed plumber
164 ~~[or]~~, electrician, or residential climate control system technician as an employee.

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

169 ~~[(22)]~~ (23) (a) "General engineering contractor" means a person licensed under this
170 chapter as a general engineering contractor qualified by education, training, experience, and
171 knowledge to perform construction of fixed works in any of the following: irrigation, drainage,
172 water, power, water supply, flood control, inland waterways, harbors, railroads, highways,
173 tunnels, airports and runways, sewers and bridges, refineries, pipelines, chemical and industrial
174 plants requiring specialized engineering knowledge and skill, piers, and foundations, or any of
175 the components of those works.

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

178 ~~[(23)]~~ (24) "Immediate supervision" means reasonable direction, oversight, inspection,
179 and evaluation of the work of a person:

180 (a) as the division specifies in rule;

181 (b) by, as applicable, a qualified electrician ~~[or]~~, plumber, or residential climate control
182 system technician;

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

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

185 [~~24~~] (25) "Individual" means a natural person.

186 [~~25~~] (26) "Journeyman electrician" means a person licensed under this chapter as a
187 journeyman electrician having the qualifications, training, experience, and knowledge to wire,
188 install, and repair electrical apparatus and equipment for light, heat, power, and other purposes.

189 [~~26~~] (27) "Journeyman plumber" means a person licensed under this chapter as a
190 journeyman plumber having the qualifications, training, experience, and technical knowledge
191 to engage in the plumbing trade.

192 (28) "Journeyman residential climate control system technician" means a person
193 licensed under this chapter as a journeyman residential climate control system technician
194 having the qualifications, training, experience, and knowledge to:

195 (a) install, service, maintain, and repair a residential climate control system; and

196 (b) supervise the installation, service, maintenance, and repair of a residential climate
197 control system.

198 (29) "Licensed residential climate control system supervisor" means a person who:

199 (a) supervises a licensed residential climate control system technician; and

200 (b) is a master residential climate control system technician or a journeyman residential
201 climate control system technician.

202 [~~27~~] (30) "Master electrician" means a person licensed under this chapter as a master
203 electrician having the qualifications, training, experience, and knowledge to properly plan,
204 layout, and supervise the wiring, installation, and repair of electrical apparatus and equipment
205 for light, heat, power, and other purposes.

206 [~~28~~] (31) "Master plumber" means a person licensed under this chapter as a master
207 plumber having the qualifications, training, experience, and knowledge to properly plan and
208 layout projects and supervise persons in the plumbing trade.

209 (32) "Master residential climate control system technician" means a person licensed
210 under this chapter as a master residential climate control system technician having the
211 qualifications, training, experience, and knowledge to properly plan, lay out, perform, and
212 supervise the installation, service, maintenance, and repair of a residential climate control
213 system.

214 ~~[(29)]~~ (33) "Person" means a natural person, sole proprietorship, joint venture,
215 corporation, limited liability company, association, or organization of any type.

216 ~~[(30)]~~ (34) (a) "Plumbing trade" means the performance of any mechanical work
217 pertaining to the installation, alteration, change, repair, removal, maintenance, or use in
218 buildings, or within three feet beyond the outside walls of buildings of pipes, fixtures, and
219 fittings for:

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

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

227 ~~[(31) (a) "Ratio of apprentices" means, for the purpose of determining compliance with~~
228 ~~the requirements for planned programs of training and electrician apprentice licensing~~
229 ~~applications, the shop ratio of apprentice electricians to journeyman or master electricians shall~~
230 ~~be one journeyman or master electrician to one apprentice on industrial and commercial work,~~
231 ~~and one journeyman or master electrician to three apprentices on residential work.]~~

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

235 ~~[(32)]~~ (35) "Residential and small commercial contractor" means a person licensed
236 under this chapter as a residential and small commercial contractor qualified by education,
237 training, experience, and knowledge to perform or superintend the construction of
238 single-family residences, multifamily residences up to four units, and commercial construction
239 of not more than three stories above ground and not more than 20,000 square feet, or any of the
240 components of that construction except plumbing, electrical work, mechanical work, and
241 manufactured housing installation, for which the residential and small commercial contractor
242 shall employ the services of a contractor licensed in the particular specialty, except that a
243 residential and small commercial contractor engaged in the construction of single-family and
244 multifamily residences up to four units may perform the mechanical work and hire a licensed

245 plumber or electrician as an employee.

246 ~~[(33)]~~ (36) "Residential building~~[" as it relates to"]~~":

247 (a) means, for the license classification of residential journeyman plumber and
248 residential master plumber, [means] a single or multiple family dwelling of up to four units[:];
249 and

250 (b) for the license classifications of journeyman residential climate control system
251 technician and master residential climate control system technician, has the same meaning as
252 the term "building," as defined in the International Residential Code as adopted by the State
253 Construction Code adopted by the Legislature.

254 (37) "Residential climate control system":

255 (a) means a system that provides temperature control for a residential building, or an
256 appendage or appurtenance to a residential building, by air, water, geothermal, or other means;
257 and

258 (b) does not include:

259 (i) equipment that is not regulated by a building code adopted by the state; or

260 (ii) an appliance listed for domestic use, including a refrigerator, range, dryer, or
261 window air conditioner.

262 (38) "Residential climate control system trade" means work involving the installation,
263 construction, alteration, change, repair, removal, or maintenance of a residential climate control
264 system.

265 ~~[(34)]~~ (39) "Residential journeyman electrician" means a person licensed under this
266 chapter as a residential journeyman electrician having the qualifications, training, experience,
267 and knowledge to wire, install, and repair electrical apparatus and equipment for light, heat,
268 power, and other purposes on buildings using primarily nonmetallic sheath cable.

269 ~~[(35)]~~ (40) "Residential journeyman plumber" means a person licensed under this
270 chapter as a residential journeyman plumber having the qualifications, training, experience, and
271 knowledge to engage in the plumbing trade as limited to the plumbing of a residential
272 [buildings] building.

273 ~~[(36)]~~ (41) "Residential master electrician" means a person licensed under this chapter
274 as a residential master electrician having the qualifications, training, experience, and
275 knowledge to properly plan, layout, and supervise the wiring, installation, and repair of

276 electrical apparatus and equipment for light, heat, power, and other purposes on residential
277 projects.

278 [(37)] (42) "Residential master plumber" means a person licensed under this chapter as
279 a residential master plumber having the qualifications, training, experience, and knowledge to
280 properly plan and layout projects and supervise persons in the plumbing trade as limited to the
281 plumbing of a residential [~~buildings~~] building.

282 [(38)] (43) "Residential project," as it relates to an electrician or electrical contractor,
283 means buildings primarily wired with nonmetallic sheathed cable, in accordance with standard
284 rules and regulations governing this work, including the National Electrical Code, and in which
285 the voltage does not exceed 250 volts line to line and 125 volts to ground.

286 [(39)(a)] (44) "Specialty contractor" means a person licensed under this chapter under
287 a specialty contractor classification established by rule, who is qualified by education, training,
288 experience, and knowledge to perform those construction trades and crafts requiring
289 specialized skill, the regulation of which are determined by the division to be in the best
290 interest of the public health, safety, and welfare.

291 [~~(b) A specialty contractor may perform work in crafts or trades other than those in
292 which he is licensed if they are incidental to the performance of his licensed craft or trade.]~~

293 [(40)] (45) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-55-501.

294 [(41)] (46) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-55-502
295 and as may be further defined by rule.

296 [(42)] (47) "Wages" means amounts due to an employee for labor or services whether
297 the amount is fixed or ascertained on a time, task, piece, commission, or other basis for
298 calculating the amount.

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

300 **58-55-103. Construction Services Commission created -- Functions --**
301 **Appointment -- Qualifications and terms of members -- Vacancies -- Expenses --**
302 **Meetings.**

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

304 (b) The commission shall:

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

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

307 are consistent with this chapter including:

308 (A) licensing of various licensees;

309 (B) examination requirements and administration of the examinations, to include
310 approving and establishing a passing score for applicant examinations;

311 (C) standards of supervision for students or persons in training to become qualified to
312 obtain a license in the trade they represent; and

313 (D) standards of conduct for various licensees;

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

315 (iii) except where the boards conduct them, conduct all administrative hearings not
316 delegated to an administrative law judge relating to the licensing of any applicant;

317 (iv) except as otherwise provided in Sections 38-11-207 and 58-55-503, with the
318 concurrence of the director, impose sanctions against licensees and certificate holders with the
319 same authority as the division under Section 58-1-401;

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

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

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

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

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

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

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

332 (2) The commission shall be comprised of [nine] 11 members appointed by the
333 executive director with the approval of the governor from the following groups:

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

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

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

337 [(iv)] (d) [three members shall be the three chair persons from] one member shall be

338 the chair of the Plumbers and Residential Climate Control System Technicians Licensing
339 Board[;];

340 (e) one member shall be the chair of the Alarm System Security and Licensing Board[;
341 and];

342 (f) one member shall be the chair of the Electricians Licensing Board; [and]

343 (g) one member shall be a residential climate control system contractor; and

344 ~~[(v) two]~~ (h) three members shall be from the general public[; ~~provided, however that~~
345 ~~the certified public accountant on the Contractors Licensing Board will continue to serve until~~
346 ~~the current term expires, after which both members under this Subsection (2)(c)(v) shall be~~
347 ~~appointed from the general public].~~

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

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

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

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

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

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

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

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

364 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
365 63A-3-107.

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

368 (b) The director may call additional meetings at the director's discretion, upon the

369 request of the chair, or upon the written request of four or more commission members.

370 (8) (a) [~~Five~~] Six members constitute a quorum for the transaction of business.

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

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

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

377 **58-55-201. Boards created -- Duties.**

378 (1) There is created a Plumbers and Residential Climate Control System Technicians
379 Licensing Board, an Alarm System Security and Licensing Board, and an Electricians
380 Licensing Board. Members of the boards shall be selected to provide representation as follows:

381 (a) (i) The Plumbers and Residential Climate Control System Technicians Licensing
382 Board consists of [~~five~~] seven members as follows:

383 [(+)] (A) two members shall be licensed from among the license classifications of
384 master or journeyman plumber;

385 [(+)] (B) two members shall be licensed plumbing contractors; [~~and~~]

386 [(+)] (C) one member shall be from the public at large with no history of involvement
387 in the construction trades[-]; and

388 (D) two members shall be residential climate control system contractors.

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

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

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

393 (C) one individual representing the general public.

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

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

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

399 (iii) A board member who has, under this Subsection (1)(b)(iii), reviewed a complaint

400 or advised in its investigation is disqualified from participating with the board when the board
401 serves as a presiding officer in an adjudicative proceeding concerning the complaint.

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

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

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

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

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

411 (a) recommending to the commission appropriate rules;

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

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

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

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

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

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

422 **58-55-301. License required -- License classifications.**

423 (1) (a) A person engaged in the construction trades licensed under this chapter, as a
424 contractor regulated under this chapter, as an alarm business or company, or as an alarm
425 company agent, shall become licensed under this chapter before engaging in that trade or
426 contracting activity in this state unless specifically exempted from licensure under Section
427 58-1-307 or 58-55-305.

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

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

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

- 439 (a) general engineering contractor;
- 440 (b) general building contractor;
- 441 (c) residential and small commercial contractor;
- 442 (d) elevator contractor;
- 443 (e) specialty contractor;
- 444 (f) master plumber;
- 445 (g) residential master plumber;
- 446 (h) journeyman plumber;
- 447 (i) apprentice plumber;
- 448 (j) residential journeyman plumber;
- 449 (k) master electrician;
- 450 (l) residential master electrician;
- 451 (m) journeyman electrician;
- 452 (n) residential journeyman electrician;
- 453 (o) apprentice electrician;
- 454 (p) construction trades instructor:
 - 455 (i) general engineering classification;
 - 456 (ii) general building classification;
 - 457 (iii) electrical classification;
 - 458 (iv) plumbing classification; and
 - 459 (v) mechanical classification;
 - 460 (q) alarm company;
 - 461 (r) alarm company agent; [~~and~~]

462 (s) elevator mechanic[-]; and

463 (t) beginning July 1, 2012:

464 (i) master residential climate control system technician;

465 (ii) journeyman residential climate control system technician; and

466 (iii) apprentice residential climate control system technician.

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

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

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

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

474 **58-55-302. Qualifications for licensure.**

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

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

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

478 (c) (i) meet the examination requirements established by rule by the commission with
479 the concurrence of the director, except for the classifications of apprentice plumber [~~and~~],
480 apprentice electrician, and apprentice residential climate control system technician for whom
481 no examination is required; or

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

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

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

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

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

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

493 contractor's license;

494 ~~[(iv)]~~ (B) be a licensed master plumber if an applicant for a plumbing contractor's
495 license or a licensed ~~[master]~~ residential master plumber if an applicant for a residential
496 plumbing contractor's license; ~~[or]~~

497 (C) beginning July 1, 2014, be a licensed master residential climate control system
498 technician if an applicant for a residential climate control system contractor's license; or

499 ~~[(v)]~~ (D) be a licensed elevator mechanic and produce satisfactory evidence of three
500 years experience as an elevator mechanic if an applicant for an elevator contractor's license;
501 and

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

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

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

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

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

513 (i) Utah Department of Commerce;

514 (ii) Division of Corporations and Commercial Code;

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

517 (iv) State Tax Commission; and

518 (v) Internal Revenue Service.

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

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

523 (A) has been a licensed journeyman plumber for at least two years and had two years of

524 supervisory experience as a licensed journeyman plumber in accordance with division rule;

525 (B) has received at least an associate of applied science degree or similar degree
526 following the completion of a course of study approved by the division and had one year of

527 supervisory experience as a licensed journeyman plumber in accordance with division rule; or

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

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

536 (iii) An individual holding a valid plumbing contractor's license or residential
537 plumbing contractor's license, in effect immediately prior to May 5, 2008, is on or after May 5,
538 2008:

539 (A) considered to hold a current master plumber license under this chapter if licensed
540 as a plumbing contractor and a journeyman plumber, and satisfies the requirements of this
541 Subsection (3)(a) for purposes of renewal or reinstatement of that license under Section
542 58-55-303; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

616 (j) The conduct of licensed apprentice electricians and their licensed supervisors shall

617 be in accordance with the following:

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

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

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

627 (k) (i) The apprentice ratio for determining compliance with the requirements for a
628 planned training program and electrician apprentice licensing application is:

629 (A) one journeyman or master electrician to one apprentice on industrial and
630 commercial work; and

631 (B) one journeyman or master electrician to three apprentices on residential work.

632 (ii) The apprentice-to-supervisor ratio for on-the-job training is one-to-one on
633 nonresidential work and up to three-to-one on residential work.

634 (l) An applicant for master residential climate control system technician shall produce
635 satisfactory evidence that the applicant has at least four years practical experience or its
636 equivalent working in the residential climate control system trade, as the division defines by
637 rule.

638 (m) An applicant for journeyman residential climate control system technician shall
639 produce satisfactory evidence that the applicant has:

640 (i) successfully completed two years of training or its equivalent in a residential climate
641 control system training program, as the division defines by rule; and

642 (ii) two years of practical experience or its equivalent in the installation, service,
643 maintenance, and repair of residential climate control system equipment under the supervision
644 of a licensed master or journeyman residential climate control system technician, as the
645 division defines by rule.

646 (n) (i) A licensed apprentice residential climate control system technician shall be
647 under the immediate supervision of a licensed residential climate control system supervisor.

648 (ii) A licensed residential climate control system supervisor may provide immediate
649 supervision to no more than three licensed apprentice residential climate control system
650 technicians on a residential building.

651 (iii) The ratio for determining compliance with the requirements for a licensing
652 application for an apprentice residential climate control system technician is one journeyman or
653 master residential climate control system technician to three apprentices.

654 ~~(k)~~ (o) An alarm company applicant shall:

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

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

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

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

662 (ii) if a corporation, provide:

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

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

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

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

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

677 (iv) if a partnership, provide the names, addresses, dates of birth, Social Security
678 numbers, and fingerprint cards of all general partners, and those responsible management

679 personnel employed within the state or having direct responsibility for managing operations of
680 the applicant within the state;

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

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

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

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

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

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

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

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

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

708 (I) Division of Corporations and Commercial Code;

709 (II) Unemployment Insurance Division in the Department of Workforce Services, for

710 purposes of Title 35A, Chapter 4, Employment Security Act;

711 (III) State Tax Commission; and

712 (IV) Internal Revenue Service; and

713 (xi) meet with the division and board.

714 [~~(H)~~] (p) Each applicant for licensure as an alarm company agent shall:

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

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

718 (iii) be of good moral character in that the applicant has not been convicted of a felony,
719 a misdemeanor involving moral turpitude, or any other crime that when considered with the
720 duties and responsibilities of an alarm company agent is considered by the board to indicate
721 that the best interests of the public are served by granting the applicant a license;

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

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

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

727 [~~(m)~~] (q) (i) Each applicant for licensure as an elevator mechanic shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

772 (b) The division shall pay the Department of Public Safety the costs of all records
773 reviews, and the Department of Public Safety shall pay the F.B.I. the costs of records reviews
774 under this section.

775 (8) Information obtained by the division from the reviews of criminal history records of
776 the Department of Public Safety and the F.B.I. shall be used or disseminated by the division
777 only for the purpose of determining if an applicant for licensure as an alarm company or alarm
778 company agent is qualified for licensure.

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

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

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

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

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

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

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

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

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

799 (B) any corporate officer, director, shareholder holding 25% or more of the stock in the
800 applicant, partner, member, agent acting as a qualifier, or any person occupying a similar
801 status, performing similar functions, or directly or indirectly controlling the applicant has
802 served in any similar capacity with any person or entity which has had a previous license,

803 which was issued under this chapter, suspended or revoked more than one year prior to the date
804 of the applicant's application; or

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

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

810 Section 6. Section **58-55-303** is amended to read:

811 **58-55-303. Term of license -- Expiration -- Renewal.**

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

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

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

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

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

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

824 (d) for a residential climate control system technician licensee, beginning with the first
825 full two-year cycle, as established by the division in rule, that begins after July 1, 2012, having
826 completed, during the two-year license renewal cycle, 12 hours of residential climate control
827 system fuel and electricity efficiency education approved by the division and the board.

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

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

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

- 834 (a) shall pay in full all fines imposed by the division;
- 835 (b) resolve any outstanding citations or disciplinary actions with the division;
- 836 (c) satisfy any Section 58-55-503 judgment and sentence or nontrial resolution;
- 837 (d) complete a new financial responsibility review as required under Section
- 838 58-55-306, using only titled assets; and
- 839 (e) pay in full any reimbursement amount as provided in Title 38, Chapter 11,
- 840 Residence Lien Restriction and Lien Recovery Fund Act.

841 (6) At the time of license renewal, each elevator contract licensee and elevator
842 mechanic licensee shall show satisfactory evidence of having completed eight hours of
843 approved professional education during the last year of a two-year period in accordance with
844 standards defined by rule by the division in accordance with Title 63G, Chapter 3, Utah
845 Administrative Rulemaking Act.

846 Section 7. Section **58-55-305** is amended to read:

847 **58-55-305. Exemptions from licensure.**

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

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

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

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

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

864 (i) no more than one residential structure per year and no more than three residential

865 structures per five years on their property for their own noncommercial, nonpublic use; except,
866 a person other than the property owner or individuals described in Subsection (1)(e), who
867 engages in building the structure must be licensed under this chapter if the person is otherwise
868 required to be licensed under this chapter; or

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

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

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

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

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

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

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

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

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

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

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

896 upon work; and

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

899 (A) work in the plumbing [~~and~~], electrical, and residential climate control system
900 trades on a project described in Subsection (1)(h)(i) [~~project~~] within any six-month period of
901 time:

902 (I) [~~must~~] shall be performed by a licensed electrical [~~or~~], plumbing, or, beginning
903 January 1, 2013, residential climate control system contractor, respectively, if the project
904 involves an electrical [~~or~~], plumbing, or residential climate control system; [~~and~~]

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

908 (III) may be performed by a licensed residential climate control system technician
909 beginning January 1, 2013, if the project involves a component of the system such as a
910 thermostat, transformer, relay, compressor, motor, or blower;

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

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

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

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

924 (F) installation, repair, or replacement of a heating, ventilation, or air conditioning
925 system (HVAC) on a Subsection (1)(h)(i) project [~~must~~] shall be performed by an HVAC
926 contractor or residential climate control system contractor licensed by the division;

- 927 (G) installation, repair, or replacement of a radon mitigation system or a soil
928 depressurization system [~~must~~] shall be performed by a licensed contractor; and
- 929 (H) if the total value of the project is greater than \$1,000, the person shall file with the
930 division a one-time affirmation, subject to periodic reaffirmation as established by division
931 rule, that the person has:
- 932 (I) public liability insurance in coverage amounts and form established by division
933 rule; and
- 934 (II) if applicable, workers compensation insurance which would cover an employee of
935 the person if that employee worked on the construction project;
- 936 (i) a person practicing a specialty contractor classification or construction trade which
937 the director does not classify by administrative rule as significantly impacting the public's
938 health, safety, and welfare;
- 939 (j) owners and lessees of property and persons regularly employed for wages by owners
940 or lessees of property or their agents for the purpose of maintaining the property, are exempt
941 from this chapter when doing work upon the property;
- 942 (k) (i) a person engaged in minor plumbing work that is incidental, as defined by the
943 division by rule, to the replacement or repair of a fixture or an appliance in a residential or
944 small commercial building, or structure used for agricultural use, as defined in Section 58-56-3,
945 provided that no modification is made to:
- 946 (A) existing culinary water, soil, waste, or vent piping; or
947 (B) a gas appliance or combustion system; and
- 948 (ii) except as provided in Subsection (1)(e), installation for the first time of a fixture or
949 an appliance is not included in the exemption provided under Subsection (1)(k)(i);
- 950 (l) a person who ordinarily would be subject to the plumber licensure requirements
951 under this chapter when installing or repairing a water conditioner or other water treatment
952 apparatus if the conditioner or apparatus:
- 953 (i) meets the appropriate state construction codes or local plumbing standards; and
954 (ii) is installed or repaired under the direction of a person authorized to do the work
955 under an appropriate specialty contractor license;
- 956 (m) a person who ordinarily would be subject to the electrician licensure requirements
957 under this chapter when employed by:

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

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

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

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

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

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

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

972 (i) gas range;

973 (ii) gas dryer;

974 (iii) outdoor gas barbeque; or

975 (iv) outdoor gas patio heater;

976 (q) a person performing maintenance on an elevator [~~as defined in Subsection~~
977 ~~58-55-102(14)~~], if the maintenance is not related to the operating integrity of the elevator; and

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

980 (2) A compliance agency as defined in Section 58-56-3 that issues a building permit to
981 a person requesting a permit as a sole owner of property referred to in Subsection (1)(d) shall
982 notify the division, in writing or through electronic transmission, of the issuance of the permit.

983 Section 8. Section **58-55-308** is amended to read:

984 **58-55-308. Scope of practice -- Installation, repair, maintenance, cleaning, or**
985 **replacement of gas appliance or combustion system -- Rules.**

986 (1) (a) The commission, with the concurrence of the director, may adopt reasonable
987 rules pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to define and
988 limit the scope of practice and operating standards of the classifications and subclassifications

989 licensed under this chapter in a manner consistent with established practice in the relevant
990 industry.

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

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

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

999 (i) licensee under this chapter whose license authorizes the licensee to perform the
1000 work described in Subsection (2)(a); and

1001 (ii) person exempt from licensure under Subsection 58-55-305(1)(h).

1002 (c) Any person described in Subsection (2)(b) that performs work described in
1003 Subsection (2)(a):

1004 (i) must first receive training and certification as specified in rules adopted by the
1005 division; and

1006 (ii) shall ensure that any employee authorized under other provisions of this chapter to
1007 perform work described in Subsection (2)(a) has first received training and certification as
1008 specified in rules adopted by the division.

1009 (d) The division may exempt from the training requirements adopted under Subsection
1010 (2)(c) a person that has adequate experience, as determined by the division.

1011 (3) The division may exempt the following individuals from the certification
1012 requirements adopted under Subsection (2)(c):

1013 (a) a person who has passed a test equivalent to the level of testing required by the
1014 division for certification, or has completed an apprenticeship program that teaches the
1015 installation of gas line appliances and is approved by the Federal Bureau of Apprenticeship
1016 Training; and

1017 (b) a person working under the immediate one-to-one supervision of a certified natural
1018 gas technician or a person exempt from certification.

1019 (4) [~~This section does not prohibit a~~ A licensed specialty contractor [~~from accepting~~

1020 ~~and entering]~~ may accept and enter into a contract involving [~~the use of two or more crafts or~~
1021 ~~trades if the performance of the], and perform work in [~~the~~], crafts or trades[;] other than [~~that~~
1022 those in which the contractor is licensed, if the work in those other crafts or trades is incidental
1023 and supplemental to the work for which the contractor is licensed.~~

1024 Section 9. Section **58-55-501** is amended to read:

1025 **58-55-501. Unlawful conduct.**

1026 Unlawful conduct includes:

1027 (1) engaging in a construction trade, acting as a contractor, an alarm business or
1028 company, or an alarm company agent, or representing oneself to be engaged in a construction
1029 trade or to be acting as a contractor in a construction trade requiring licensure, unless the
1030 person doing any of these is appropriately licensed or exempted from licensure under this
1031 chapter;

1032 (2) acting in a construction trade, as an alarm business or company, or as an alarm
1033 company agent beyond the scope of the license held;

1034 (3) hiring or employing in any manner an unlicensed person, other than an employee
1035 for wages who is not required to be licensed under this chapter, to engage in a construction
1036 trade for which licensure is required or to act as a contractor or subcontractor in a construction
1037 trade requiring licensure;

1038 (4) applying for or obtaining a building permit either for oneself or another when not
1039 licensed or exempted from licensure as a contractor under this chapter;

1040 (5) issuing a building permit to any person for whom there is no evidence of a current
1041 license or exemption from licensure as a contractor under this chapter;

1042 (6) applying for or obtaining a building permit for the benefit of or on behalf of any
1043 other person who is required to be licensed under this chapter but who is not licensed or is
1044 otherwise not entitled to obtain or receive the benefit of the building permit;

1045 (7) failing to obtain a building permit when required by law or rule;

1046 (8) submitting a bid for any work for which a license is required under this chapter by a
1047 person not licensed or exempted from licensure as a contractor under this chapter;

1048 (9) willfully or deliberately misrepresenting or omitting a material fact in connection
1049 with an application to obtain or renew a license under this chapter;

1050 (10) allowing one's license to be used by another except as provided by statute or rule;

1051 (11) doing business under a name other than the name appearing on the license, except
1052 as permitted by statute or rule;

1053 (12) ~~[if licensed as a specialty contractor in the electrical trade or plumbing trade,
1054 journeyman plumber, residential journeyman plumber, journeyman electrician, master
1055 electrician, or residential electrician, failing to directly supervise] a licensed supervisor failing
1056 to provide immediate supervision of an apprentice under [one's] the supervisor's supervision or
1057 exceeding the number of apprentices [one] the supervisor is allowed to have under [his] the
1058 supervisor's supervision[;] if the supervisor is licensed as:~~

1059 (a) a special contractor in the electrical, mechanical, or plumbing trade;

1060 (b) a master, residential master, journeyman, or residential journeyman electrician;

1061 (c) a journeyman or residential journeyman plumber; or

1062 (d) beginning July 1, 2012, a master or journeyman residential climate control system
1063 technician;

1064 (13) if licensed as a contractor or representing oneself to be a contractor, receiving any
1065 funds in payment for a specific project from an owner or any other person, which funds are to
1066 pay for work performed or materials and services furnished for that specific project, and after
1067 receiving the funds to exercise unauthorized control over the funds by failing to pay the full
1068 amounts due and payable to persons who performed work or furnished materials or services
1069 within a reasonable period of time;

1070 (14) employing an unlicensed alarm business or company or an unlicensed individual
1071 as an alarm company agent, except as permitted under the exemption from licensure provisions
1072 under Section 58-1-307;

1073 (15) if licensed as an alarm company or alarm company agent, filing with the division
1074 fingerprint cards for an applicant which are not those of the applicant, or are in any other way
1075 false or fraudulent and intended to mislead the division in its consideration of the applicant for
1076 licensure;

1077 (16) if licensed under this chapter, willfully or deliberately disregarding or violating:

1078 (a) the building or construction laws of this state or any political subdivision;

1079 (b) the safety and labor laws applicable to a project;

1080 (c) any provision of the health laws applicable to a project;

1081 (d) the workers' compensation insurance laws of the state applicable to a project;

- 1082 (e) the laws governing withholdings for employee state and federal income taxes,
- 1083 unemployment taxes, FICA, or other required withholdings; or
- 1084 (f) reporting, notification, and filing laws of this state or the federal government;
- 1085 (17) aiding or abetting any person in evading the provisions of this chapter or rules
- 1086 established under the authority of the division to govern this chapter;
- 1087 (18) engaging in the construction trade or as a contractor for the construction of
- 1088 residences of up to two units when not currently registered or exempt from registration as a
- 1089 qualified beneficiary under Title 38, Chapter 11, Residence Lien Restriction and Lien Recovery
- 1090 Fund Act;
- 1091 (19) failing, as an original contractor, as defined in Section 38-11-102, to include in a
- 1092 written contract the notification required in Section 38-11-108;
- 1093 (20) wrongfully filing a mechanics' lien in violation of Section 38-1-25;
- 1094 (21) if licensed as a contractor, not completing the approved continuing education
- 1095 required under Section 58-55-302.5;
- 1096 (22) an alarm company allowing an employee with a temporary license under Section
- 1097 58-55-312 to engage in conduct on behalf of the company outside the scope of the temporary
- 1098 license, as provided in Subsection 58-55-312(3)(a)(ii); ~~and~~
- 1099 (23) an alarm company agent under a temporary license under Section 58-55-312
- 1100 engaging in conduct outside the scope of the temporary license, as provided in Subsection
- 1101 58-55-312(3)(a)(ii)~~]; or~~
- 1102 (24) if licensed as a residential climate control system technician, not completing 12
- 1103 hours of climate control system fuel and electricity efficiency education as required in
- 1104 Subsection 58-55-303(2)(d).

1105 Section 10. Section **58-55-503** is amended to read:

1106 **58-55-503. Penalty for unlawful conduct -- Citations.**

- 1107 (1) (a) (i) A person who violates Subsection 58-55-308(2), Subsection 58-55-501(1),
- 1108 (2), (3), (4), (5), (6), (7), (9), (10), (12), (14), (15), (22), ~~or~~ (23), or (24), or Subsection
- 1109 58-55-504(2), or who fails to comply with a citation issued under this section after it is final, is
- 1110 guilty of a class A misdemeanor.
- 1111 (ii) As used in this section in reference to Subsection 58-55-504(2), "person" means an
- 1112 individual and does not include a sole proprietorship, joint venture, corporation, limited

1113 liability company, association, or organization of any type.

1114 (b) A person who violates the provisions of Subsection 58-55-501(8) may not be
1115 awarded and may not accept a contract for the performance of the work.

1116 (2) A person who violates the provisions of Subsection 58-55-501(13) is guilty of an
1117 infraction unless the violator did so with the intent to deprive the person to whom money is to
1118 be paid of the money received, in which case the violator is guilty of theft, as classified in
1119 Section 76-6-412.

1120 (3) Grounds for immediate suspension of the licensee's license by the division and the
1121 commission include the issuance of a citation for violation of Subsection 58-55-308(2), Section
1122 58-55-501, or Subsection 58-55-504(2), or the failure by a licensee to make application to,
1123 report to, or notify the division with respect to any matter for which application, notification, or
1124 reporting is required under this chapter or rules adopted under this chapter, including applying
1125 to the division for a new license to engage in a new specialty classification or to do business
1126 under a new form of organization or business structure, filing with the division current
1127 financial statements, notifying the division concerning loss of insurance coverage, or change in
1128 qualifier.

1129 (4) (a) If upon inspection or investigation, the division concludes that a person has
1130 violated the provisions of Subsection 58-55-308(2) or Subsections 58-55-501(1), (2), (3), (9),
1131 (10), (12), (14), (19), (21), (22), [or] (23), or (24), or Subsection 58-55-504(2), or any rule or
1132 order issued with respect to these subsections, and that disciplinary action is appropriate, the
1133 director or the director's designee from within the division shall promptly issue a citation to the
1134 person according to this chapter and any pertinent rules, attempt to negotiate a stipulated
1135 settlement, or notify the person to appear before an adjudicative proceeding conducted under
1136 Title 63G, Chapter 4, Administrative Procedures Act.

1137 (i) A person who is in violation of the provisions of Subsection 58-55-308(2),
1138 Subsection 58-55-501(1), (2), (3), (9), (10), (12), (14), (19), (21), (22), [or] (23), or (24), or
1139 Subsection 58-55-504(2), as evidenced by an uncontested citation, a stipulated settlement, or
1140 by a finding of violation in an adjudicative proceeding, may be assessed a fine pursuant to this
1141 Subsection (4) and may, in addition to or in lieu of, be ordered to cease and desist from
1142 violating Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9), (10), (12), (14), (19),
1143 or (21), or Subsection 58-55-504(2).

1144 (ii) Except for a cease and desist order, the licensure sanctions cited in Section
1145 58-55-401 may not be assessed through a citation.

1146 (iii) (A) A person who receives a citation or is fined for violating Subsection
1147 58-55-501(21) may also be issued a cease and desist order from engaging in work to be
1148 performed by a contractor licensed under this chapter unless the person meets the continuing
1149 education requirement within 30 days after receipt of the citation or fine.

1150 (B) The order, if issued, shall be removed upon the person's completion of the
1151 continuing education requirement.

1152 (C) This Subsection (4)(a)(iii) is repealed effective July 1, 2010.

1153 (b) (i) Each citation shall be in writing and describe with particularity the nature of the
1154 violation, including a reference to the provision of the chapter, rule, or order alleged to have
1155 been violated.

1156 (ii) The citation shall clearly state that the recipient must notify the division in writing
1157 within 20 calendar days of service of the citation if the recipient wishes to contest the citation
1158 at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act.

1159 (iii) The citation shall clearly explain the consequences of failure to timely contest the
1160 citation or to make payment of any fines assessed by the citation within the time specified in
1161 the citation.

1162 (c) Each citation issued under this section, or a copy of each citation, may be served
1163 upon a person upon whom a summons may be served:

1164 (i) in accordance with the Utah Rules of Civil Procedure;

1165 (ii) personally or upon the person's agent by a division investigator or by a person
1166 specially designated by the director; or

1167 (iii) by mail.

1168 (d) (i) If within 20 calendar days from the service of a citation, the person to whom the
1169 citation was issued fails to request a hearing to contest the citation, the citation becomes the
1170 final order of the division and is not subject to further agency review.

1171 (ii) The period to contest a citation may be extended by the division for cause.

1172 (e) The division may refuse to issue or renew, suspend, revoke, or place on probation
1173 the license of a licensee who fails to comply with a citation after it becomes final.

1174 (f) The failure of an applicant for licensure to comply with a citation after it becomes

1175 final is a ground for denial of license.

1176 (g) No citation may be issued under this section after the expiration of six months
1177 following the occurrence of any violation.

1178 (h) Fines shall be assessed by the director or the director's designee according to the
1179 following:

1180 (i) for a first offense handled pursuant to Subsection (4)(a), a fine of up to \$1,000;

1181 (ii) for a second offense handled pursuant to Subsection (4)(a), a fine of up to \$2,000;

1182 and

1183 (iii) for any subsequent offense handled pursuant to Subsection (4)(a), a fine of up to
1184 \$2,000 for each day of continued offense.

1185 (i) (i) For purposes of issuing a final order under this section and assessing a fine under
1186 Subsection (4)(h), an offense constitutes a second or subsequent offense if:

1187 (A) the division previously issued a final order determining that a person committed a
1188 first or second offense in violation of Subsection 58-55-308(2), Subsection 58-55-501(1), (2),
1189 (3), (9), (10), (12), (14), or (19), or Subsection 58-55-504(2); or

1190 (B) (I) the division initiated an action for a first or second offense;

1191 (II) no final order has been issued by the division in the action initiated under
1192 Subsection (4)(i)(i)(B)(I);

1193 (III) the division determines during an investigation that occurred after the initiation of
1194 the action under Subsection (4)(i)(i)(B)(I) that the person committed a second or subsequent
1195 violation of the provisions of Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9),
1196 (10), (12), (14), or (19), or Subsection 58-55-504(2); and

1197 (IV) after determining that the person committed a second or subsequent offense under
1198 Subsection (4)(i)(i)(B)(III), the division issues a final order on the action initiated under
1199 Subsection (4)(i)(i)(B)(I).

1200 (ii) In issuing a final order for a second or subsequent offense under Subsection
1201 (4)(i)(i), the division shall comply with the requirements of this section.

1202 (5) (a) A penalty imposed by the director under Subsection (4)(h) shall be deposited
1203 into the Commerce Service Account created by Section 13-1-2.

1204 (b) A penalty which is not paid may be collected by the director by either referring the
1205 matter to a collection agency or bringing an action in the district court of the county in which

1206 the person against whom the penalty is imposed resides or in the county where the office of the
1207 director is located.

1208 (c) A county attorney or the attorney general of the state is to provide legal assistance
1209 and advice to the director in any action to collect the penalty.

1210 (d) In an action brought to enforce the provisions of this section, reasonable attorney's
1211 fees and costs shall be awarded.

Legislative Review Note
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