

# Utah Construction Trades Licensing Act

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## EXCERPTS FROM UTAH CODE, TITLE 58, CHAPTER 55

### Part 1 - General Provisions

#### 58-55-101. Short title.

This chapter is known as the "Utah Construction Trades Licensing Act."

Renumbered and Amended by Chapter 181, 1994 General Session

#### 58-55-102. Definitions.

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

- (1) (a) "Alarm business or company" means a person engaged in the sale, installation, maintenance, alteration, repair, replacement, servicing, or monitoring of an alarm system, except as provided in Subsection (1)(b).
- (b) "Alarm business or company" does not include:
  - (i) a person engaged in the manufacture or sale of alarm systems unless:
    - (A) that person is also engaged in the installation, maintenance, alteration, repair, replacement, servicing, or monitoring of alarm systems;
    - (B) the manufacture or sale occurs at a location other than a place of business established by the person engaged in the manufacture or sale; or
    - (C) the manufacture or sale involves site visits at the place or intended place of installation of an alarm system; or
  - (ii) an owner of an alarm system, or an employee of the owner of an alarm system who is engaged in installation, maintenance, alteration, repair, replacement, servicing, or monitoring of the alarm system owned by that owner.
- (2) "Alarm company agent":
  - (a) except as provided in Subsection (2)(b), means any individual employed within this state by an alarm business; and
  - (b) does not include an individual who:
    - (i) is not engaged in the sale, installation, maintenance, alteration, repair, replacement, servicing, or monitoring of an alarm system; and
    - (ii) does not, during the normal course of the individual's employment with an alarm business, use or have access to sensitive alarm system information.

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- (3) "Alarm system" means equipment and devices assembled for the purpose of:
- (a) detecting and signaling unauthorized intrusion or entry into or onto certain premises; or
  - (b) signaling a robbery or attempted robbery on protected premises.
- (4) "Apprentice electrician" means a person licensed under this chapter as an apprentice electrician who is learning the electrical trade under the immediate supervision of a master electrician, residential master electrician, a journeyman electrician, or a residential journeyman electrician.
- (5) "Apprentice plumber" means a person licensed under this chapter as an apprentice plumber who is learning the plumbing trade under the immediate supervision of a master plumber, residential master plumber, journeyman plumber, or a residential journeyman plumber.
- (6) "Approved continuing education" means instruction provided through courses under a program established under Subsection 58-55-302.5(2).
- (7) "Board" means the Electrician Licensing Board, Alarm System Security and Licensing Board, or Plumbers Licensing Board created in Section 58-55-201.
- (8) "Combustion system" means an assembly consisting of:
- (a) piping and components with a means for conveying, either continuously or intermittently, natural gas from the outlet of the natural gas provider's meter to the burner of the appliance;
  - (b) the electric control and combustion air supply and venting systems, including air ducts; and
  - (c) components intended to achieve control of quantity, flow, and pressure.
- (9) "Commission" means the Construction Services Commission created under Section 58-55-103.
- (10) "Construction trade" means any trade or occupation involving:
- (a)
    - (i) construction, alteration, remodeling, repairing, wrecking or demolition, addition to, or improvement of any building, highway, road, railroad, dam, bridge, structure, excavation or other project, development, or improvement to other than personal property; and
    - (ii) constructing, remodeling, or repairing a manufactured home or mobile home as defined in Section 15A-1-302; or
  - (b) installation or repair of a residential or commercial natural gas appliance or combustion system.
- (11) "Construction trades instructor" means a person licensed under this chapter to teach one or more construction trades in both a classroom and project environment, where a project is intended for sale to or use by the public and is completed under the direction of the instructor, who has no economic interest in the project.
- (12) (a) "Contractor" means any person who for compensation other than wages as an employee undertakes any work in the construction, plumbing, or electrical trade for which licensure is required under this chapter and includes:
- (i) a person who builds any structure on the person's own property for the purpose of sale or who builds any structure intended for public use on the person's own property;
  - (ii) any person who represents that the person is a contractor by advertising or any other means;
  - (iii) any person engaged as a maintenance person, other than an employee, who regularly engages in activities set forth under the definition of "construction trade";

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- (iv) any person engaged in any construction trade for which licensure is required under this chapter; or
    - (v) a construction manager who performs management and counseling services on a construction project for a fee.
  - (b) "Contractor" does not include an alarm company or alarm company agent.
  - (13) (a) "Electrical trade" means the performance of any electrical work involved in the installation, construction, alteration, change, repair, removal, or maintenance of facilities, buildings, or appendages or appurtenances.
  - (b) "Electrical trade" does not include:
    - (i) transporting or handling electrical materials;
    - (ii) preparing clearance for raceways for wiring; or
    - (iii) work commonly done by unskilled labor on any installations under the exclusive control of electrical utilities.
  - (c) For purposes of Subsection (13)(b):
    - (i) no more than one unlicensed person may be so employed unless more than five licensed electricians are employed by the shop; and
    - (ii) a shop may not employ unlicensed persons in excess of the five-to-one ratio permitted by this Subsection (13)(c).
  - (14) "Elevator" has the same meaning as defined in Section 34A-7-202, except that for purposes of this chapter it does not mean a stair chair, a vertical platform lift, or an incline platform lift.
  - (15) "Elevator contractor" means a sole proprietor, firm, or corporation licensed under this chapter that is engaged in the business of erecting, constructing, installing, altering, servicing, repairing, or maintaining an elevator.
  - (16) "Elevator mechanic" means an individual who is licensed under this chapter as an elevator mechanic and who is engaged in erecting, constructing, installing, altering, servicing, repairing, or maintaining an elevator under the immediate supervision of an elevator contractor.
  - (17) "Employee" means an individual as defined by the division by rule giving consideration to the definition adopted by the Internal Revenue Service and the Department of Workforce Services.
  - (18) "Engage in a construction trade" means to:
    - (a) engage in, represent oneself to be engaged in, or advertise oneself as being engaged in a construction trade; or
    - (b) use the name "contractor" or "builder" or in any other way lead a reasonable person to believe one is or will act as a contractor.
  - (19) (a) "Financial responsibility" means a demonstration of a current and expected future condition of financial solvency evidencing a reasonable expectation to the division and the board that an applicant or licensee can successfully engage in business as a contractor without jeopardy to the public health, safety, and welfare.
  - (b) Financial responsibility may be determined by an evaluation of the total history concerning the licensee or applicant including past, present, and expected condition and record of financial solvency and business conduct.
  - (20) "Gas appliance" means any device that uses natural gas to produce light, heat, power, steam, hot water, refrigeration, or air conditioning.

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- (21) (a) "General building contractor" means a person licensed under this chapter as a general building contractor qualified by education, training, experience, and knowledge to perform or superintend construction of structures for the support, shelter, and enclosure of persons, animals, chattels, or movable property of any kind or any of the components of that construction except plumbing, electrical work, mechanical work, work related to the operating integrity of an elevator, and manufactured housing installation, for which the general building contractor shall employ the services of a contractor licensed in the particular specialty, except that a general building contractor engaged in the construction of single-family and multifamily residences up to four units may perform the mechanical work and hire a licensed plumber or electrician as an employee.
- (b) The division may by rule exclude general building contractors from engaging in the performance of other construction specialties in which there is represented a substantial risk to the public health, safety, and welfare, and for which a license is required unless that general building contractor holds a valid license in that specialty classification.
- (22) (a) "General engineering contractor" means a person licensed under this chapter as a general engineering contractor qualified by education, training, experience, and knowledge to perform construction of fixed works in any of the following: irrigation, drainage, water, power, water supply, flood control, inland waterways, harbors, railroads, highways, tunnels, airports and runways, sewers and bridges, refineries, pipelines, chemical and industrial plants requiring specialized engineering knowledge and skill, piers, and foundations, or any of the components of those works.
- (b) A general engineering contractor may not perform construction of structures built primarily for the support, shelter, and enclosure of persons, animals, and chattels.
- (23) "Immediate supervision" means reasonable direction, oversight, inspection, and evaluation of the work of a person:
- (a) as the division specifies in rule;
- (b) by, as applicable, a qualified electrician or plumber;
- (c) as part of a planned program of training; and
- (d) to ensure that the end result complies with applicable standards.
- (24) "Individual" means a natural person.
- (25) "Journeyman electrician" means a person licensed under this chapter as a journeyman electrician having the qualifications, training, experience, and knowledge to wire, install, and repair electrical apparatus and equipment for light, heat, power, and other purposes.
- (26) "Journeyman plumber" means a person licensed under this chapter as a journeyman plumber having the qualifications, training, experience, and technical knowledge to engage in the plumbing trade.
- (27) "Master electrician" means a person licensed under this chapter as a master electrician having the qualifications, training, experience, and knowledge to properly plan, layout, and supervise the wiring, installation, and repair of electrical apparatus and equipment for light, heat, power, and other purposes.
- (28) "Master plumber" means a person licensed under this chapter as a master plumber having the qualifications, training, experience, and knowledge to properly plan and layout projects and supervise persons in the plumbing trade.
- (29) "Person" means a natural person, sole proprietorship, joint venture, corporation, limited liability company, association, or organization of any type.

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- (30) (a) "Plumbing trade" means the performance of any mechanical work pertaining to the installation, alteration, change, repair, removal, maintenance, or use in buildings, or within three feet beyond the outside walls of buildings of pipes, fixtures, and fittings for:
- (i) delivery of the water supply;
  - (ii) discharge of liquid and water carried waste; or
  - (iii) the building drainage system within the walls of the building.
- (b) "Plumbing trade" includes work pertaining to the water supply, distribution pipes, fixtures and fixture traps, soil, waste and vent pipes, and the building drain and roof drains together with their devices, appurtenances, and connections where installed within the outside walls of the building.
- (31) (a) "Ratio of apprentices" means, for the purpose of determining compliance with the requirements for planned programs of training and electrician apprentice licensing applications, the shop ratio of apprentice electricians to journeyman or master electricians shall be one journeyman or master electrician to one apprentice on industrial and commercial work, and one journeyman or master electrician to three apprentices on residential work.
- (b) On-the-job training shall be under circumstances in which the ratio of apprentices to supervisors is in accordance with a ratio of one-to-one on nonresidential work and up to three apprentices to one supervisor on residential projects.
- (32) "Residential and small commercial contractor" means a person licensed under this chapter as a residential and small commercial contractor qualified by education, training, experience, and knowledge to perform or superintend the construction of single-family residences, multifamily residences up to four units, and commercial construction of not more than three stories above ground and not more than 20,000 square feet, or any of the components of that construction except plumbing, electrical work, mechanical work, and manufactured housing installation, for which the residential and small commercial contractor shall employ the services of a contractor licensed in the particular specialty, except that a residential and small commercial contractor engaged in the construction of single-family and multifamily residences up to four units may perform the mechanical work and hire a licensed plumber or electrician as an employee.
- (33) "Residential building," as it relates to the license classification of residential journeyman plumber and residential master plumber, means a single or multiple family dwelling of up to four units.
- (34) "Residential journeyman electrician" means a person licensed under this chapter as a residential journeyman electrician having the qualifications, training, experience, and knowledge to wire, install, and repair electrical apparatus and equipment for light, heat, power, and other purposes on buildings using primarily nonmetallic sheath cable.
- (35) "Residential journeyman plumber" means a person licensed under this chapter as a residential journeyman plumber having the qualifications, training, experience, and knowledge to engage in the plumbing trade as limited to the plumbing of residential buildings.
- (36) "Residential master electrician" means a person licensed under this chapter as a residential master electrician having the qualifications, training, experience, and knowledge to properly plan, layout, and supervise the wiring, installation, and repair of electrical apparatus and equipment for light, heat, power, and other purposes on residential projects.
- (37) "Residential master plumber" means a person licensed under this chapter as a residential master plumber having the qualifications, training, experience, and knowledge to properly plan and layout projects and supervise persons in the plumbing trade as limited to the plumbing of residential buildings.

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- (38) "Residential project," as it relates to an electrician or electrical contractor, means buildings primarily wired with nonmetallic sheathed cable, in accordance with standard rules and regulations governing this work, including the National Electrical Code, and in which the voltage does not exceed 250 volts line to line and 125 volts to ground.
- (39) "Sensitive alarm system information" means:
- (a) a pass code or other code used in the operation of an alarm system;
  - (b) information on the location of alarm system components at the premises of a customer of the alarm business providing the alarm system;
  - (c) information that would allow the circumvention, bypass, deactivation, or other compromise of an alarm system of a customer of the alarm business providing the alarm system; and
  - (d) any other similar information that the division by rule determines to be information that an individual employed by an alarm business should use or have access to only if the individual is licensed as provided in this chapter.
- (40) (a) "Specialty contractor" means a person licensed under this chapter under a specialty contractor classification established by rule, who is qualified by education, training, experience, and knowledge to perform those construction trades and crafts requiring specialized skill, the regulation of which are determined by the division to be in the best interest of the public health, safety, and welfare.
- (b) A specialty contractor may perform work in crafts or trades other than those in which the specialty contractor is licensed if they are incidental to the performance of the specialty contractor's licensed craft or trade.
- (41) "Unincorporated entity" means an entity that is not:
- (a) an individual;
  - (b) a corporation; or
  - (c) publicly traded.
- (42) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-55-501.
- (43) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-55-502 and as may be further defined by rule.
- (44) "Wages" means amounts due to an employee for labor or services whether the amount is fixed or ascertained on a time, task, piece, commission, or other basis for calculating the amount.

Amended by Chapter 81, 2014 General Session

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

- (1) (a) There is created within the division the Construction Services Commission.
- (b) The commission shall:
  - (i) with the concurrence of the director, make reasonable rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer and enforce this chapter which are consistent with this chapter including:
    - (A) licensing of various licensees;
    - (B) examination requirements and administration of the examinations, to include approving and establishing a passing score for applicant examinations;

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- (C) standards of supervision for students or persons in training to become qualified to obtain a license in the trade they represent; and
    - (D) standards of conduct for various licensees;
  - (ii) approve or disapprove fees adopted by the division under Section 63J-1-504;
  - (iii) except where the boards conduct them, conduct all administrative hearings not delegated to an administrative law judge relating to the licensing of any applicant;
  - (iv) except as otherwise provided in Sections 38-11-207 and 58-55-503, with the concurrence of the director, impose sanctions against licensees and certificate holders with the same authority as the division under Section 58-1-401;
  - (v) advise the director on the administration and enforcement of any matters affecting the division and the construction industry;
  - (vi) advise the director on matters affecting the division budget;
  - (vii) advise and assist trade associations in conducting construction trade seminars and industry education and promotion; and
  - (viii) perform other duties as provided by this chapter.
- (2)
- (a) Initially the commission shall be comprised of the five members of the Contractors Licensing Board and two of the three chair persons from the Plumbers Licensing Board, the Alarm System Security and Licensing Board, and the Electricians Licensing Board.
  - (b) The terms of office of the commission members who are serving on the Contractors Licensing Board shall continue as they serve on the commission.
  - (c) Beginning July 1, 2004, the commission shall be comprised of nine members appointed by the executive director with the approval of the governor from the following groups:
    - (i) one member shall be a licensed general engineering contractor;
    - (ii) one member shall be a licensed general building contractor;
    - (iii) two members shall be licensed residential and small commercial contractors;
    - (iv) three members shall be the three chair persons from the Plumbers Licensing Board, the Alarm System Security and Licensing Board, and the Electricians Licensing Board; and
    - (v) two members shall be from the general public, provided, however that the certified public accountant on the Contractors Licensing Board will continue to serve until the current term expires, after which both members under this Subsection (2)(c)(v) shall be appointed from the general public.
- (3)
- (a) Except as required by Subsection (3)(b), as terms of current commission members expire, the executive director with the approval of the governor shall appoint each new member or reappointed member to a four-year term ending June 30.
  - (b) Notwithstanding the requirements of Subsection (3)(a), the executive director with the approval of the governor shall, at the time of appointment or reappointment, adjust the length of terms to stagger the terms of commission members so that approximately 1/2 of the commission members are appointed every two years.
  - (c) A commission member may not serve more than two consecutive terms.
- (4) The commission shall elect annually one of its members as chair, for a term of one year.
- (5) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

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- (6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
    - (a) Section 63A-3-106;
    - (b) Section 63A-3-107; and
    - (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.
  - (7)
    - (a) The commission shall meet at least monthly unless the director determines otherwise.
    - (b) The director may call additional meetings at the director's discretion, upon the request of the chair, or upon the written request of four or more commission members.
  - (8)
    - (a) Five members constitute a quorum for the transaction of business.
    - (b) If a quorum is present when a vote is taken, the affirmative vote of commission members present is the act of the commission.
  - (9) The commission shall comply with the procedures and requirements of Title 13, Chapter 1, Department of Commerce, and Title 63G, Chapter 4, Administrative Procedures Act, in all of its adjudicative proceedings.

Amended by Chapter 286, 2010 General Session

## **Part 2 - Board**

### **58-55-201. Board created - Duties.**

- (1) There is created a Plumbers Licensing Board, an Alarm System Security and Licensing Board, and an Electricians Licensing Board. Members of the boards shall be selected to provide representation as follows:
  - (a) The Plumbers Licensing Board consists of five members as follows:
    - (i) two members shall be licensed from among the license classifications of master or journeyman plumber;
    - (ii) two members shall be licensed plumbing contractors; and
    - (iii) one member shall be from the public at large with no history of involvement in the construction trades.
  - (b)
    - (i) The Alarm System Security and Licensing Board consists of five members as follows:
      - (A) three individuals who are officers or owners of a licensed alarm business;
      - (B) one individual from among nominees of the Utah Peace Officers Association; and
      - (C) one individual representing the general public.
    - (ii) The Alarm System Security and Licensing Board shall designate one of its members on a permanent or rotating basis to:
      - (A) assist the division in reviewing complaints concerning the unlawful or unprofessional conduct of a licensee; and
      - (B) advise the division in its investigation of these complaints.



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- (iii) A board member who has, under this Subsection (1)(b)(iii), reviewed a complaint or advised in its investigation is disqualified from participating with the board when the board serves as a presiding officer in an adjudicative proceeding concerning the complaint.
  - (c) The Electricians Licensing Board consists of five members as follows:
    - (i) two members shall be licensed from among the license classifications of master or journeyman electrician, of whom one shall represent a union organization and one shall be selected having no union affiliation;
    - (ii) two shall be licensed electrical contractors of whom one shall represent a union organization and one shall be selected having no union affiliation; and
    - (iii) one member shall be from the public at large with no history of involvement in the construction trades or union affiliation.
  - (2) The duties, functions, and responsibilities of each board include the following:
    - (a) recommending to the commission appropriate rules;
    - (b) recommending to the commission policy and budgetary matters;
    - (c) approving and establishing a passing score for applicant examinations;
    - (d) overseeing the screening of applicants for licensing, renewal, reinstatement, and relicensure;
    - (e) assisting the commission in establishing standards of supervision for students or persons in training to become qualified to obtain a license in the occupation or profession it represents; and
    - (f) acting as presiding officer in conducting hearings associated with the adjudicative proceedings and in issuing recommended orders when so authorized by the commission.

Amended by Chapter 215, 2008 General Session

### **Part 3 - Licensing**

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

- (1)
  - (a) A person engaged in the construction trades licensed under this chapter, as a contractor regulated under this chapter, as an alarm business or company, or as an alarm company agent, shall become licensed under this chapter before engaging in that trade or contracting activity in this state unless specifically exempted from licensure under Section 58-1-307 or 58-55-305.
  - (b) The license issued under this chapter and the business license issued by the local jurisdiction in which the licensee has its principal place of business shall be the only licenses required for the licensee to engage in a trade licensed by this chapter, within the state.
  - (c) Neither the state nor any of its political subdivisions may require of a licensee any additional business licenses, registrations, certifications, contributions, donations, or anything else established for the purpose of qualifying a licensee under this chapter to do business in that local jurisdiction, except for contract prequalification procedures required by state agencies, or the payment of any fee for the license, registration, or certification established as a condition to do business in that local jurisdiction.

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- (2) The division shall issue licenses under this chapter to qualified persons in the following classifications:
- (a) general engineering contractor;
  - (b) general building contractor;
  - (c) residential and small commercial contractor;
  - (d) elevator contractor;
  - (e) specialty contractor;
  - (f) master plumber;
  - (g) residential master plumber;
  - (h) journeyman plumber;
  - (i) apprentice plumber;
  - (j) residential journeyman plumber;
  - (k) master electrician;
  - (l) residential master electrician;
  - (m) journeyman electrician;
  - (n) residential journeyman electrician;
  - (o) apprentice electrician;
  - (p) construction trades instructor:
    - (i) general engineering classification;
    - (ii) general building classification;
    - (iii) electrical classification;
    - (iv) plumbing classification; and
    - (v) mechanical classification;
  - (q) alarm company;
  - (r) alarm company agent; and
  - (s) elevator mechanic.
- (3) (a) An applicant may apply for a license in one or more classification or specialty contractor subclassification.
- (b) A license shall be granted in each classification or subclassification for which the applicant qualifies.
- (c) A separate application and fee must be submitted for each license classification or subclassification.

Amended by Chapter 227, 2010 General Session

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

- (1) Each applicant for a license under this chapter shall:
- (a) submit an application prescribed by the division;
  - (b) pay a fee as determined by the department under Section 63J-1-504;

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- (c) (i) meet the examination requirements established by rule by the commission with the concurrence of the director, except for the classifications of apprentice plumber and apprentice electrician for whom no examination is required; or
  - (ii) if required in Section 58-55-304, the individual qualifier must pass the required examination if the applicant is a business entity;
  - (d) if an apprentice, identify the proposed supervisor of the apprenticeship;
  - (e) if an applicant for a contractor's license:
    - (i) produce satisfactory evidence of financial responsibility, except for a construction trades instructor for whom evidence of financial responsibility is not required;
    - (ii) produce satisfactory evidence of:
      - (A) two years full-time paid employment experience in the construction industry, which experience, unless more specifically described in this section, may be related to any contracting classification; and
      - (B) knowledge of the principles of the conduct of business as a contractor, reasonably necessary for the protection of the public health, safety, and welfare;
    - (iii) except as otherwise provided by rule by the commission with the concurrence of the director, complete a 20-hour course established by rule by the commission with the concurrence of the director, which course may include:
      - (A) construction business practices;
      - (B) bookkeeping fundamentals;
      - (C) mechanics lien fundamentals; and
      - (D) other aspects of business and construction principles considered important by the commission with the concurrence of the director;
    - (iv)
      - (A) be a licensed master electrician if an applicant for an electrical contractor's license or a licensed master residential electrician if an applicant for a residential electrical contractor's license;
      - (B) be a licensed master plumber if an applicant for a plumbing contractor's license or a licensed master residential plumber if an applicant for a residential plumbing contractor's license; or
      - (C) be a licensed elevator mechanic and produce satisfactory evidence of three years experience as an elevator mechanic if an applicant for an elevator contractor's license; and
    - (v) when the applicant is an unincorporated entity, provide a list of the one or more individuals who hold an ownership interest in the applicant as of the day on which the application is filed that includes for each individual:
      - (A) the individual's name, address, birth date, and Social Security number; and
      - (B) whether the individual will engage in a construction trade; and
  - (f) if an applicant for a construction trades instructor license, satisfy any additional requirements established by rule.

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- (2) After approval of an applicant for a contractor's license by the applicable board and the division, the applicant shall file the following with the division before the division issues the license:
- (a) proof of workers' compensation insurance which covers employees of the applicant in accordance with applicable Utah law;
  - (b) proof of public liability insurance in coverage amounts and form established by rule except for a construction trades instructor for whom public liability insurance is not required; and
  - (c) proof of registration as required by applicable law with the:
    - (i) Utah Department of Commerce;
    - (ii) Division of Corporations and Commercial Code;
    - (iii) Unemployment Insurance Division in the Department of Workforce Services, for purposes of Title 35A, Chapter 4, Employment Security Act;
    - (iv) State Tax Commission; and
    - (v) Internal Revenue Service.
- (3) In addition to the general requirements for each applicant in Subsection (1), applicants shall comply with the following requirements to be licensed in the following classifications:
- (a)
    - (i) A master plumber shall produce satisfactory evidence that the applicant:
      - (A) has been a licensed journeyman plumber for at least two years and had two years of supervisory experience as a licensed journeyman plumber in accordance with division rule;
      - (B) has received at least an associate of applied science degree or similar degree following the completion of a course of study approved by the division and had one year of supervisory experience as a licensed journeyman plumber in accordance with division rule; or
      - (C) meets the qualifications determined by the division in collaboration with the board to be equivalent to Subsection (3)(a)(i)(A) or (B).
    - (ii) An individual holding a valid Utah license as a journeyman plumber, based on at least four years of practical experience as a licensed apprentice under the supervision of a licensed journeyman plumber and four years as a licensed journeyman plumber, in effect immediately prior to May 5, 2008, is on and after May 5, 2008, considered to hold a current master plumber license under this chapter, and satisfies the requirements of this Subsection (3)(a) for the purpose of renewal or reinstatement of that license under Section 58-55-303.
    - (iii) An individual holding a valid plumbing contractor's license or residential plumbing contractor's license, in effect immediately prior to May 5, 2008, is on or after May 5, 2008:
      - (A) considered to hold a current master plumber license under this chapter if licensed as a plumbing contractor and a journeyman plumber, and satisfies the requirements of this Subsection (3)(a) for purposes of renewal or reinstatement of that license under Section 58-55-303; and
      - (B) considered to hold a current residential master plumber license under this chapter if licensed as a residential plumbing contractor and a residential journeyman plumber, and satisfies the requirements of this

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Subsection (3)(a) for purposes of renewal or reinstatement of that license under Section 58-55-303.

- (b) A master residential plumber applicant shall produce satisfactory evidence that the applicant:
  - (i) has been a licensed residential journeyman plumber for at least two years and had two years of supervisory experience as a licensed residential journeyman plumber in accordance with division rule; or
  - (ii) meets the qualifications determined by the division in collaboration with the board to be equivalent to Subsection (3)(b)(i).
- (c) A journeyman plumber applicant shall produce satisfactory evidence of:
  - (i) successful completion of the equivalent of at least four years of full-time training and instruction as a licensed apprentice plumber under supervision of a licensed master plumber or journeyman plumber and in accordance with a planned program of training approved by the division;
  - (ii) at least eight years of full-time experience approved by the division in collaboration with the Plumbers Licensing Board; or
  - (iii) satisfactory evidence of meeting the qualifications determined by the board to be equivalent to Subsection (3)(c)(i) or (c)(ii).
- (d) A residential journeyman plumber shall produce satisfactory evidence of:
  - (i) completion of the equivalent of at least three years of full-time training and instruction as a licensed apprentice plumber under the supervision of a licensed residential master plumber, licensed residential journeyman plumber, or licensed journeyman plumber in accordance with a planned program of training approved by the division;
  - (ii) completion of at least six years of full-time experience in a maintenance or repair trade involving substantial plumbing work; or
  - (iii) meeting the qualifications determined by the board to be equivalent to Subsection (3)(d)(i) or (d)(ii).
- (e) The conduct of licensed apprentice plumbers and their licensed supervisors shall be in accordance with the following:
  - (i) while engaging in the trade of plumbing, a licensed apprentice plumber shall be under the immediate supervision of a licensed master plumber, licensed residential master plumber, licensed journeyman plumber, or a licensed residential journeyman plumber; and
  - (ii) a licensed apprentice plumber in the fourth through tenth year of training may work without supervision for a period not to exceed eight hours in any 24-hour period, but if the apprentice does not become a licensed journeyman plumber or licensed residential journeyman plumber by the end of the tenth year of apprenticeship, this nonsupervision provision no longer applies.
- (f) A master electrician applicant shall produce satisfactory evidence that the applicant:
  - (i) is a graduate electrical engineer of an accredited college or university approved by the division and has one year of practical electrical experience as a licensed apprentice electrician;

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- (ii) is a graduate of an electrical trade school, having received an associate of applied sciences degree following successful completion of a course of study approved by the division, and has two years of practical experience as a licensed journeyman electrician;
    - (iii) has four years of practical experience as a journeyman electrician; or
    - (iv) meets the qualifications determined by the board to be equivalent to Subsection (3)(f)(i), (ii), or (iii).
  - (g) A master residential electrician applicant shall produce satisfactory evidence that the applicant:
    - (i) has at least two years of practical experience as a residential journeyman electrician; or
    - (ii) meets the qualifications determined by the board to be equivalent to this practical experience.
  - (h) A journeyman electrician applicant shall produce satisfactory evidence that the applicant:
    - (i) has successfully completed at least four years of full-time training and instruction as a licensed apprentice electrician under the supervision of a master electrician or journeyman electrician and in accordance with a planned training program approved by the division;
    - (ii) has at least eight years of full-time experience approved by the division in collaboration with the Electricians Licensing Board; or
    - (iii) meets the qualifications determined by the board to be equivalent to Subsection (3)(h)(i) or (ii).
  - (i) A residential journeyman electrician applicant shall produce satisfactory evidence that the applicant:
    - (i) has successfully completed two years of training in an electrical training program approved by the division;
    - (ii) has four years of practical experience in wiring, installing, and repairing electrical apparatus and equipment for light, heat, and power under the supervision of a licensed master, journeyman, residential master, or residential journeyman electrician; or
    - (iii) meets the qualifications determined by the division and applicable board to be equivalent to Subsection (3)(i)(i) or (ii).
  - (j) The conduct of licensed apprentice electricians and their licensed supervisors shall be in accordance with the following:
    - (i) A licensed apprentice electrician shall be under the immediate supervision of a licensed master, journeyman, residential master, or residential journeyman electrician. An apprentice in the fourth year of training may work without supervision for a period not to exceed eight hours in any 24-hour period.
    - (ii) A licensed master, journeyman, residential master, or residential journeyman electrician may have under immediate supervision on a residential project up to three licensed apprentice electricians.
    - (iii) A licensed master or journeyman electrician may have under immediate supervision on nonresidential projects only one licensed apprentice electrician.

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- (k) An alarm company applicant shall:
- (i) have a qualifying agent who is an officer, director, partner, proprietor, or manager of the applicant who:
    - (A) demonstrates 6,000 hours of experience in the alarm company business;
    - (B) demonstrates 2,000 hours of experience as a manager or administrator in the alarm company business or in a construction business; and
    - (C) passes an examination component established by rule by the commission with the concurrence of the director;
  - (ii) if a corporation, provide:
    - (A) the names, addresses, dates of birth, Social Security numbers, and fingerprint cards of all corporate officers, directors, and those responsible management personnel employed within the state or having direct responsibility for managing operations of the applicant within the state; and
    - (B) the names, addresses, dates of birth, Social Security numbers, and fingerprint cards of all shareholders owning 5% or more of the outstanding shares of the corporation, except this shall not be required if the stock is publicly listed and traded;
  - (iii) if a limited liability company, provide:
    - (A) the names, addresses, dates of birth, Social Security numbers, and fingerprint cards of all company officers, and those responsible management personnel employed within the state or having direct responsibility for managing operations of the applicant within the state; and
    - (B) the names, addresses, dates of birth, Social Security numbers, and fingerprint cards of all individuals owning 5% or more of the equity of the company;
  - (iv) if a partnership, provide the names, addresses, dates of birth, Social Security numbers, and fingerprint cards of all general partners, and those responsible management personnel employed within the state or having direct responsibility for managing operations of the applicant within the state;
  - (v) if a proprietorship, provide the names, addresses, dates of birth, Social Security numbers, and fingerprint cards of the proprietor, and those responsible management personnel employed within the state or having direct responsibility for managing operations of the applicant within the state;
  - (vi) if a trust, provide the names, addresses, dates of birth, Social Security numbers, and fingerprint cards of the trustee, and those responsible management personnel employed within the state or having direct responsibility for managing operations of the applicant within the state;
  - (vii) be of good moral character in that officers, directors, shareholders described in Subsection (3)(k)(ii)(B), partners, proprietors, trustees, and responsible management personnel have not been convicted of a felony, a misdemeanor involving moral turpitude, or any other crime that when considered with the duties and responsibilities of an alarm company is considered by the board to indicate that the best interests of the public are served by granting the applicant a license;
  - (viii) document that none of the applicant's officers, directors, shareholders described in Subsection (3)(k)(ii)(B), partners, proprietors, trustees, and responsible

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- management personnel have been declared by any court of competent jurisdiction incompetent by reason of mental defect or disease and not been restored;
- (ix) document that none of the applicant's officers, directors, shareholders described in Subsection (3)(k)(ii)(B), partners, proprietors, and responsible management personnel are currently suffering from habitual drunkenness or from drug addiction or dependence;
  - (x) file and maintain with the division evidence of:
    - (A) comprehensive general liability insurance in form and in amounts to be established by rule by the commission with the concurrence of the director;
    - (B) workers' compensation insurance that covers employees of the applicant in accordance with applicable Utah law; and
    - (C) registration as is required by applicable law with the:
      - (I) Division of Corporations and Commercial Code;
      - (II) Unemployment Insurance Division in the Department of Workforce Services, for purposes of Title 35A, Chapter 4, Employment Security Act;
      - (III) State Tax Commission; and
      - (IV) Internal Revenue Service; and
  - (xi) meet with the division and board.
- (l) Each applicant for licensure as an alarm company agent shall:
- (i) submit an application in a form prescribed by the division accompanied by fingerprint cards;
  - (ii) pay a fee determined by the department under Section 63J-1-504;
  - (iii) be of good moral character in that the applicant has not been convicted of a felony, a misdemeanor involving moral turpitude, or any other crime that when considered with the duties and responsibilities of an alarm company agent is considered by the board to indicate that the best interests of the public are served by granting the applicant a license;
  - (iv) not have been declared by any court of competent jurisdiction incompetent by reason of mental defect or disease and not been restored;
  - (v) not be currently suffering from habitual drunkenness or from drug addiction or dependence; and
  - (vi) meet with the division and board if requested by the division or the board.
- (m) (i) Each applicant for licensure as an elevator mechanic shall:
- (A) provide documentation of experience and education credits of not less than three years work experience in the elevator industry, in construction, maintenance, or service and repair; and
  - (B) satisfactorily complete a written examination administered by the division established by rule under Section 58-1-203; or
  - (C) provide certificates of completion of an apprenticeship program for elevator mechanics, having standards substantially equal to those of this chapter and registered with the United States Department of Labor Bureau Apprenticeship and Training or a state apprenticeship council.



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- (ii)
      - (A) If an elevator contractor licensed under this chapter cannot find a licensed elevator mechanic to perform the work of erecting, constructing, installing, altering, servicing, repairing, or maintaining an elevator, the contractor may:
        - (I) notify the division of the unavailability of licensed personnel; and
        - (II) request the division issue a temporary elevator mechanic license to an individual certified by the contractor as having an acceptable combination of documented experience and education to perform the work described in this Subsection (3)(m)(ii)(A).
      - (B)
        - (I) The division may issue a temporary elevator mechanic license to an individual certified under Subsection (3)(m)(ii)(A)(II) upon application by the individual, accompanied by the appropriate fee as determined by the department under Section 63J-1-504.
        - (II) The division shall specify the time period for which the license is valid and may renew the license for an additional time period upon its determination that a shortage of licensed elevator mechanics continues to exist.
  - (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules establishing when Federal Bureau of Investigation records shall be checked for applicants as an alarm company or alarm company agent.
  - (5) To determine if an applicant meets the qualifications of Subsections (3)(k)(vii) and (3)(l)(iii), the division shall provide an appropriate number of copies of fingerprint cards to the Department of Public Safety with the division's request to:
    - (a) conduct a search of records of the Department of Public Safety for criminal history information relating to each applicant for licensure as an alarm company or alarm company agent and each applicant's officers, directors, shareholders described in Subsection (3)(k)(ii)(B), partners, proprietors, and responsible management personnel; and
    - (b) forward to the Federal Bureau of Investigation a fingerprint card of each applicant requiring a check of records of the Federal Bureau of Investigation for criminal history information under this section.
  - (6) The Department of Public Safety shall send to the division:
    - (a) a written record of criminal history, or certification of no criminal history record, as contained in the records of the Department of Public Safety in a timely manner after receipt of a fingerprint card from the division and a request for review of Department of Public Safety records; and
    - (b) the results of the Federal Bureau of Investigation review concerning an applicant in a timely manner after receipt of information from the Federal Bureau of Investigation.
  - (7)
    - (a) The division shall charge each applicant for licensure as an alarm company or alarm company agent a fee, in accordance with Section 63J-1-504, equal to the cost of performing the records reviews under this section.
    - (b) The division shall pay the Department of Public Safety the costs of all records reviews, and the Department of Public Safety shall pay the Federal Bureau of Investigation the costs of records reviews under this section.
  - (8) Information obtained by the division from the reviews of criminal history records of the Department of Public Safety and the Federal Bureau of Investigation shall be used or disseminated by the

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division only for the purpose of determining if an applicant for licensure as an alarm company or alarm company agent is qualified for licensure.

- (9) (a) An application for licensure under this chapter shall be denied if:
- (i) the applicant has had a previous license, which was issued under this chapter, suspended or revoked within one year prior to the date of the applicant's application;
  - (ii) (A) the applicant is a partnership, corporation, or limited liability company; and  
(B) any corporate officer, director, shareholder holding 25% or more of the stock in the applicant, partner, member, agent acting as a qualifier, or any person occupying a similar status, performing similar functions, or directly or indirectly controlling the applicant has served in any similar capacity with any person or entity which has had a previous license, which was issued under this chapter, suspended or revoked within one year prior to the date of the applicant's application;
  - (iii) (A) the applicant is an individual or sole proprietorship; and  
(B) any owner or agent acting as a qualifier has served in any capacity listed in Subsection (9)(a)(ii)(B) in any entity which has had a previous license, which was issued under this chapter, suspended or revoked within one year prior to the date of the applicant's application; or
  - (iv) (A) the applicant includes an individual who was an owner, director, or officer of an unincorporated entity at the time the entity's license under this chapter was revoked; and  
(B) the application for licensure is filed within 60 months after the revocation of the unincorporated entity's license.
- (b) An application for licensure under this chapter shall be reviewed by the appropriate licensing board prior to approval if:
- (i) the applicant has had a previous license, which was issued under this chapter, suspended or revoked more than one year prior to the date of the applicant's application;
  - (ii) (A) the applicant is a partnership, corporation, or limited liability company; and  
(B) any corporate officer, director, shareholder holding 25% or more of the stock in the applicant, partner, member, agent acting as a qualifier, or any person occupying a similar status, performing similar functions, or directly or indirectly controlling the applicant has served in any similar capacity with any person or entity which has had a previous license, which was issued under this chapter, suspended or revoked more than one year prior to the date of the applicant's application; or
  - (iii) (A) the applicant is an individual or sole proprietorship; and  
(B) any owner or agent acting as a qualifier has served in any capacity listed in Subsection (9)(b)(ii)(B) in any entity which has had a previous license, which was issued under this chapter, suspended or revoked more than one year prior to the date of the applicant's application.
- (10) (a) (i) A licensee that is an unincorporated entity shall file an ownership status report with the division every 30 days after the day on which the license is issued if the licensee has more than five owners who are individuals who:

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- (A) own an interest in the contractor that is an unincorporated entity;
      - (B) own, directly or indirectly, less than an 8% interest, as defined by rule made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in the unincorporated entity; and
      - (C) engage, or will engage, in a construction trade in the state as owners of the contractor described in Subsection (10)(a)(i)(A).
    - (ii) If the licensee has five or fewer owners described in Subsection (10)(a)(i), the licensee shall provide the ownership status report with an application for renewal of licensure.
  - (b) An ownership status report required under this Subsection (10) shall:
    - (i) specify each addition or deletion of an owner:
      - (A) for the first ownership status report, after the day on which the unincorporated entity is licensed under this chapter; and
      - (B) for a subsequent ownership status report, after the day on which the previous ownership status report is filed;
    - (ii) be in a format prescribed by the division that includes for each owner, regardless of the owner's percentage ownership in the unincorporated entity, the information described in Subsection(1)(e)(v);
    - (iii) list the name of:
      - (A) each officer or manager of the unincorporated entity; and
      - (B) each other individual involved in the operation, supervision, or management of the unincorporated entity; and
    - (iv) be accompanied by a fee set by the division in accordance with Section 63J-1-504 if the ownership status report indicates there is a change described in Subsection (10)(b)(i).
  - (c) The division may, at any time, audit an ownership status report under this Subsection (10):
    - (i) to determine if financial responsibility has been demonstrated or maintained as required under Section 58-55-306; and
    - (ii) to determine compliance with Subsection 58-55-501(24), (25), or (27) or Subsection 58-55-502(8) or (9).
  - (11) (a) An unincorporated entity that provides labor to an entity licensed under this chapter by providing an individual who owns an interest in the unincorporated entity to engage in a construction trade in Utah shall file with the division:
    - (i) before the individual who owns an interest in the unincorporated entity engages in a construction trade in Utah, a current list of the one or more individuals who hold an ownership interest in the unincorporated entity that includes for each individual:
      - (A) the individual's name, address, birth date, and Social Security number; and
      - (B) whether the individual will engage in a construction trade; and
    - (ii) every 30 days after the day on which the unincorporated entity provides the list described in Subsection (11)(a)(i), an ownership status report containing the information that would be required under Subsection (10) if the unincorporated entity were a licensed contractor.

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- (b) When filing an ownership list described in Subsection (11)(a)(i) or an ownership status report described in Subsection (11)(a)(ii), an unincorporated entity shall pay a fee set by the division in accordance with Section 63J-1-504.
  - (12) This chapter may not be interpreted to create or support an express or implied independent contractor relationship between an unincorporated entity described in Subsection (10) or (11) and the owners of the unincorporated entity for any purpose, including income tax withholding.
  - (13) A Social Security number provided under Subsection (1)(e)(v) is a private record under Subsection 63G-2-302(1)(i).

Amended by Chapter 258, 2015 General Session

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

- (1) Each contractor licensee under a license issued under this chapter shall complete six hours of approved continuing education during each two-year renewal cycle established by rule under Subsection 58-55-303(1).
- (2)
  - (a) The commission shall, with the concurrence of the division, establish by rule a program of approved continuing education for contractor licensees.
  - (b) Beginning on or after June 1, 2015, only courses offered by any of the following may be included in the program of approved continuing education for contractor licensees:
    - (i) the Associated General Contractors of Utah;
    - (ii) Associated Builders and Contractors, Utah Chapter;
    - (iii) the Home Builders Association of Utah;
    - (iv) the National Electrical Contractors Association;
    - (v) the Utah Plumbing & Heating Contractors Association;
    - (vi) the Independent Electrical Contractors of Utah;
    - (vii) the Rocky Mountain Gas Association;
    - (viii) the Utah Mechanical Contractors Association;
    - (ix) the Sheet Metal Contractors Association;
    - (x) the Intermountain Electrical Association;
    - (xi) the Builders Bid Service of Utah;
    - (xii) Utah Roofing Contractors Association;
    - (xiii) a nationally or regionally accredited college or university that has a physical campus in the state; or
    - (xiv) an agency of the state.
  - (c) Each entity listed in Subsections (2)(b)(iv) through (2)(b)(xii) may only offer and market continuing education courses to a licensee who is a member of the entity.
- (3) The division may contract with a person to establish and maintain a continuing education registry to include:
  - (a) a list of courses that the division has approved for inclusion in the program of approved continuing education; and
  - (b) a list of courses that:
    - (i) a contractor licensee has completed under the program of approved continuing education; and

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- (ii) the licensee may access to monitor the licensee's compliance with the continuing education requirement established under Subsection (1).
  - (4) The division may charge a fee, as established by the division under Section 63J-1-504, to administer the requirements of this section.

Amended by Chapter 148, 2015 General Session

**58-55-302.7 Continuing education requirements for electricians, elevator mechanics, and plumbers.**

- (1) As used in this section:
  - (a) "Licensed electrician" means an individual licensed under this chapter as an apprentice electrician, journeyman electrician, master electrician, residential journeyman electrician, or residential master electrician.
  - (b) "Licensed elevator mechanic" means an individual licensed under this chapter as an elevator mechanic.
  - (c) "Licensed plumber" means an individual licensed under this chapter as an apprentice plumber, journeyman plumber, master plumber, residential journeyman plumber, or residential master plumber.
- (2) Beginning December 1, 2010, during each two-year renewal cycle established by rule under Subsection 58-55-303(1):
  - (a) a licensed electrician shall complete 16 hours of continuing education under the continuing education program established under this section;
  - (b) a licensed plumber shall complete 12 hours of continuing education under the continuing education program established under this section; and
  - (c) a licensed elevator mechanic shall complete eight hours of continuing education under the continuing education program established under this section.
- (3) The commission shall, with the concurrence of the division, establish by rule:
  - (a) a continuing education program for licensed electricians;
  - (b) a continuing education program for licensed elevator mechanics; and
  - (c) a continuing education program for licensed plumbers.
- (4) The division may contract with a person to establish and maintain a continuing education registry to include:
  - (a) an online application for a continuing education course provider to apply to the division for approval of the course for inclusion in the continuing education program;
  - (b) a list of courses that the division has approved for inclusion in the continuing education program; and
  - (c) a list of courses that:
    - (i) a licensed electrician, licensed elevator mechanic, or licensed plumber has completed under the continuing education program; and
    - (ii) the licensed electrician, licensed elevator mechanic, or licensed plumber may access to monitor compliance with the continuing education requirement under Subsection (2).
- (5) The division may charge a fee, established by the division under Section 63J-1-504, to administer the requirements of this section.

Amended by Chapter 367, 2011 General Session

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

- (1)
  - (a) Each license issued under this chapter shall be issued in accordance with a two-year renewal cycle established by rule.
  - (b) The division may by rule extend or shorten a renewal period by as much as one year to stagger the renewal cycle it administers.
  - (c)
    - (i) Notwithstanding a renewal cycle under Subsection (1)(a) or (b), notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, and subject to Subsection (1)(c)(ii), a license is automatically suspended 60 days after the licensee:
      - (A) becomes, after the time of licensing, an unincorporated entity that is subject to the ownership status report filing requirements of Subsection 58-55-302(10)(a)(i); or
      - (B) transfers its license to an unincorporated entity that is subject to the ownership status report filing requirements of Subsection 58-55-302(10)(a)(i).
    - (ii) An automatic suspension does not occur under Subsection (1)(c)(i) if, before the expiration of the 60-day period in Subsection (1)(c)(i):
      - (A) the licensee submits an application for renewal of the license; and
      - (B) the division renews the licensee's license pursuant to the licensee's application for renewal.
    - (iii) Within 30 days after the effective date of a suspension under Subsection (1)(c)(i), the commission shall, in accordance with Title 63G, Chapter 4, Administrative Procedures Act, make a final determination concerning the suspension.
- (2) At the time of renewal, the licensee shall show satisfactory evidence of:
  - (a) continuing financial responsibility as required under Section 58-55-306;
  - (b) for a contractor licensee, completion of six hours of approved continuing education, as required in Section 58-55-302.5; and
  - (c) if the licensee is an apprentice electrician or plumber, journeyman electrician or plumber, master electrician or plumber, residential journeyman electrician or plumber, or residential master electrician or plumber, completion of the number of hours of continuing education specified under Section 58-55-302.7.
- (3) Each license automatically expires on the expiration date shown on the license unless the licensee renews the license in accordance with Section 58-1-308.
- (4) The requirements of Subsection 58-55-302(9) shall also apply to applicants seeking to renew or reinstate a license.
- (5) In addition to any other requirements imposed by law, if a license has been suspended or revoked for any reason, the applicant:
  - (a) shall pay in full all fines imposed by the division;
  - (b) resolve any outstanding citations or disciplinary actions with the division;
  - (c) satisfy any Section 58-55-503 judgment and sentence or nontrial resolution;
  - (d) complete a new financial responsibility review as required under Section 58-55-306, using only titled assets; and
  - (e) pay in full any reimbursement amount as provided in Title 38, Chapter 11, Residence Lien Restriction and Lien Recovery Fund Act.

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**58-55-304 Licensee names - License number use - License qualifier.**

- (1) No license may be issued by the division in a name that is identical to or so resembles the name of another licensee that the division determines that it may result in confusion or mistake.
- (2) The contractor's license number shall be made a part of all permit applications, contracts, agreements, or bids when a license is required.
- (3) The division may issue a license in the name of an individual or the name of a business entity for which the individual acts as a qualifier, in accordance with the following:
  - (a) An individual shall:
    - (i) submit an application in the individual's name;
    - (ii) demonstrate the individual's own financial responsibility; and
    - (iii) pass the required examination and meet all other requirements of this chapter.
  - (b) A business entity shall:
    - (i) submit the application in the name of and on behalf of the business entity;
    - (ii) list the individual as the qualifier;
    - (iii) demonstrate financial responsibility of the business entity if applying for a contractor's license;
    - (iv) provide evidence that the individual qualifier has passed the required examination; and
    - (v) meet all other requirements of this chapter.
- (4) A person acting as a qualifier for a business entity licensee must demonstrate to the division that the individual is an owner, officer, or manager within that business entity who exercises material authority in the conduct of that business entity's contracting business by:
  - (a) making substantive technical and administrative decisions relating to the work performed for which a license is required under this chapter;
  - (b) hiring, promoting, transferring, laying off, disciplining, directing, or discharging employees of the licensee either by himself or through others; and
  - (c) not being involved in any other employment or activity which conflicts with the individual's duties and responsibilities to ensure the licensee's performance of work regulated under this chapter does not jeopardize the public health, safety, and welfare.
- (5)
  - (a) Except as provided in Subsections (5)(b) and (c), it is the duty and responsibility of the licensee and the qualifier to comply with the provisions of this section. Failure to comply with the requirements of this section may be considered unprofessional conduct by the licensee, the qualifier, or both.
  - (b) If a licensee business entity has maintained its license and has not violated the requirements of this chapter or Sections 58-55-101 through 58-55-604 for a period of 10 consecutive years, the business entity may maintain its license under this chapter by recording an active employee name and registration/license number from the applicable trade on the renewal application in order to comply with the individual qualifier requirements of this section. However, this Subsection (5)(b) shall not apply if more than 50% of the ownership of the business entity has been transferred at any time during the ten-year period.
  - (c) If a plumbing or electrical business entity has maintained its license and has not violated the requirements of this chapter or Sections 58-55-101 through 58-55-604 for a period of five consecutive years, the business entity may maintain its license under this chapter



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by recording an active employee name and registration/license number from the applicable trade on the renewal application in order to comply with the individual qualifier requirements of this section. However, this Subsection (5)(c) shall not apply if more than 50% of the ownership of the business entity has been transferred at any time during the five-year period.

- (6) If an individual qualifying on behalf of a business entity issued a license under this chapter ceases association with that entity as required in Subsection (4), the licensee shall notify the division in writing within 10 days after cessation of association or employment. If notice is given, the license shall remain in force for 60 days after the date of cessation of association or employment. The licensee shall replace the original qualifier with another individual qualifier within the 60-day period or the license shall be automatically suspended.
- (7) Failure to notify the division of cessation of association or employment of a qualifier as required in Subsection (6) may result in immediate suspension of the license upon a finding of good cause.

Amended by Chapter 14, 2004 General Session

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

- (1) In addition to the exemptions from licensure in Section 58-1-307, the following persons may engage in acts or practices included within the practice of construction trades, subject to the stated circumstances and limitations, without being licensed under this chapter:
  - (a) an authorized representative of the United States government or an authorized employee of the state or any of its political subdivisions when working on construction work of the state or the subdivision, and when acting within the terms of the person's trust, office, or employment;
  - (b) a person engaged in construction or operation incidental to the construction and repair of irrigation and drainage ditches of regularly constituted irrigation districts, reclamation districts, and drainage districts or construction and repair relating to farming, dairying, agriculture, livestock or poultry raising, metal and coal mining, quarries, sand and gravel excavations, well drilling, as defined in Section 73-3-25, hauling to and from construction sites, and lumbering;
  - (c) public utilities operating under the rules of the Public Service Commission on work incidental to their own business;
  - (d) sole owners of property engaged in building:
    - (i) no more than one residential structure per year and no more than three residential structures per five years on their property for their own noncommercial, nonpublic use; except, a person other than the property owner or individuals described in Subsection (1)(e), who engages in building the structure must be licensed under this chapter if the person is otherwise required to be licensed under this chapter; or
    - (ii) structures on their property for their own noncommercial, nonpublic use which are incidental to a residential structure on the property, including sheds, carports, or detached garages;
  - (e)
    - (i) a person engaged in construction or renovation of a residential building for noncommercial, nonpublic use if that person:
      - (A) works without compensation other than token compensation that is not considered salary or wages; and
      - (B) works under the direction of the property owner who engages in building the structure; and



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- (ii) as used in this Subsection (1)(e), "token compensation" means compensation paid by a sole owner of property exempted from licensure under Subsection (1)(d) to a person exempted from licensure under this Subsection (1)(e), that is:
      - (A) minimal in value when compared with the fair market value of the services provided by the person;
      - (B) not related to the fair market value of the services provided by the person; and
      - (C) is incidental to the providing of services by the person including paying for or providing meals or refreshment while services are being provided, or paying reasonable transportation costs incurred by the person in travel to the site of construction;
  - (f) a person engaged in the sale or merchandising of personal property that by its design or manufacture may be attached, installed, or otherwise affixed to real property who has contracted with a person, firm, or corporation licensed under this chapter to install, affix, or attach that property;
  - (g) a contractor submitting a bid on a federal aid highway project, if, before undertaking construction under that bid, the contractor is licensed under this chapter;
  - (h)
    - (i) a person engaged in the alteration, repair, remodeling, or addition to or improvement of a building with a contracted or agreed value of less than \$3,000, including both labor and materials, and including all changes or additions to the contracted or agreed upon work; and
    - (ii) notwithstanding Subsection (1)(h)(i) and except as otherwise provided in this section:
      - (A) work in the plumbing and electrical trades on a Subsection (1)(h)(i) project within any six month period of time:
        - (I) must be performed by a licensed electrical or plumbing contractor, if the project involves an electrical or plumbing system; and
        - (II) may be performed by a licensed journeyman electrician or plumber or an individual referred to in Subsection (1)(h)(ii)(A)(I), if the project involves a component of the system such as a faucet, toilet, fixture, device, outlet, or electrical switch;
      - (B) installation, repair, or replacement of a residential or commercial gas appliance or a combustion system on a Subsection (1)(h)(i) project must be performed by a person who has received certification under Subsection 58-55-308(2) except as otherwise provided in Subsection 58-55-308(2)(d) or 58-55-308(3);
      - (C) Installation, repair, or replacement of water-based fire protection systems on a Subsection (1)(h)(i) project must be performed by a licensed fire suppression systems contractor or a licensed journeyman plumber;
      - (D) work as an alarm business or company or as an alarm company agent shall be performed by a licensed alarm business or company or a licensed alarm company agent, except as otherwise provided in this chapter;
      - (E) installation, repair, or replacement of an alarm system on a Subsection (1)(h)(i) project must be performed by a licensed alarm business or company or a licensed alarm company agent;

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- (F) installation, repair, or replacement of a heating, ventilation, or air conditioning system (HVAC) on a Subsection (1)(h)(i) project must be performed by an HVAC contractor licensed by the division;
    - (G) installation, repair, or replacement of a radon mitigation system or a soil depressurization system must be performed by a licensed contractor; and
    - (H) if the total value of the project is greater than \$1,000, the person shall file with the division a one-time affirmation, subject to periodic reaffirmation as established by division rule, that the person has:
      - (I) public liability insurance in coverage amounts and form established by division rule; and
      - (II) if applicable, workers compensation insurance which would cover an employee of the person if that employee worked on the construction project;
  - (i) a person practicing a specialty contractor classification or construction trade which the director does not classify by administrative rule as significantly impacting the public's health, safety, and welfare;
  - (j) owners and lessees of property and persons regularly employed for wages by owners or lessees of property or their agents for the purpose of maintaining the property, are exempt from this chapter when doing work upon the property;
  - (k)
    - (i) a person engaged in minor plumbing work that is incidental, as defined by the division by rule, to the replacement or repair of a fixture or an appliance in a residential or small commercial building, or structure used for agricultural use, as defined in Section 15A-1-202, provided that no modification is made to:
      - (A) existing culinary water, soil, waste, or vent piping; or
      - (B) a gas appliance or combustion system; and
    - (ii) except as provided in Subsection (1)(e), installation for the first time of a fixture or an appliance is not included in the exemption provided under Subsection (1)(k)(i);
  - (l) a person who ordinarily would be subject to the plumber licensure requirements under this chapter when installing or repairing a water conditioner or other water treatment apparatus if the conditioner or apparatus:
    - (i) meets the appropriate state construction codes or local plumbing standards; and
    - (ii) is installed or repaired under the direction of a person authorized to do the work under an appropriate specialty contractor license;
  - (m) a person who ordinarily would be subject to the electrician licensure requirements under this chapter when employed by:
    - (i) railroad corporations, telephone corporations or their corporate affiliates, elevator contractors or constructors, or street railway systems; or
    - (ii) public service corporations, rural electrification associations, or municipal utilities who generate, distribute, or sell electrical energy for light, heat, or power;
  - (n) a person involved in minor electrical work incidental to a mechanical or service installation, including the outdoor installation of an above-ground, prebuilt hot tub;
  - (o) a person who ordinarily would be subject to the electrician licensure requirements under this chapter but who during calendar years 2009, 2010, or 2011 was issued a specialty contractor license for the electrical work associated with the installation, repair, or

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maintenance of solar energy panels, may continue the limited electrical work for solar energy panels under a specialty contractor license;

- (p) a student participating in construction trade education and training programs approved by the commission with the concurrence of the director under the condition that:
    - (i) all work intended as a part of a finished product on which there would normally be an inspection by a building inspector is, in fact, inspected and found acceptable by a licensed building inspector; and
    - (ii) a licensed contractor obtains the necessary building permits;
  - (q) a delivery person when replacing any of the following existing equipment with a new gas appliance, provided there is an existing gas shutoff valve at the appliance:
    - (i) gas range;
    - (ii) gas dryer;
    - (iii) outdoor gas barbeque; or
    - (iv) outdoor gas patio heater;
  - (r) a person performing maintenance on an elevator as defined in Subsection 58-55-102(14), if the maintenance is not related to the operating integrity of the elevator; and
  - (s) an apprentice or helper of an elevator mechanic licensed under this chapter when working under the general direction of the licensed elevator mechanic.
- (2) A compliance agency as defined in Section 15A-1-202 that issues a building permit to a person requesting a permit as a sole owner of property referred to in Subsection (1)(d) shall notify the division, in writing or through electronic transmission, of the issuance of the permit.

Amended by Chapter 430, 2013 General Session. Amended by Chapter 449, 2013 General Session

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

- (1) An applicant for licensure as a contractor, and a licensee applying for renewal or reinstatement of a contractor's license shall demonstrate to the division and the commission the applicant's or licensee's financial responsibility before the issuance of or the renewal or reinstatement of a license by:
  - (a)
    - (i) completing a questionnaire developed by the division; and
    - (ii) signing the questionnaire, certifying that the information provided is true and accurate; or
  - (b) submitting a bond in an amount and form determined by the commission with the concurrence of the director.
- (2) A licensee, including an individual who holds an ownership interest in an unincorporated entity licensee, shall maintain financial responsibility throughout the period of licensure.
- (3) The division may audit the financial responsibility of an applicant or licensee on a random basis or upon finding of a reasonable need.
- (4) The burden to demonstrate financial responsibility is upon the applicant, licensee, or owner of an unincorporated entity licensee, as the case may be.
- (5)
  - (a) In determining the financial responsibility of an applicant or licensee described in Subsection (1) that is an unincorporated entity, the division:
    - (i) shall consider the personal financial information of each individual who holds an ownership interest in the unincorporated entity; and

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- (ii) may, at any time:
    - (A) audit the personal financial information of any individual who holds an ownership interest in the unincorporated entity; or
    - (B) request and obtain a credit report on the individual.
  - (b) If, based on the personal financial information of one or more individuals who hold an ownership interest in the unincorporated entity, the division determines that the applicant or licensee lacks financial responsibility to engage successfully in business as a contractor, the division may:
    - (i) prohibit the individual or individuals from engaging in a construction trade;
    - (ii) prohibit the applicant or licensee from engaging in a construction trade, unless the individual or individuals dissociate from the applicant or licensee within 10 days after the division makes the determination of a lack of financial responsibility; or
    - (iii) require the individual or individuals, applicant, or licensee to submit a bond that is in a form determined by the commission with the concurrence of the director and in an amount that is:
      - (A) determined by the commission with the concurrence of the director; or
      - (B) 20% of the annual gross distributions from the unincorporated entity to its owners and that includes coverage for unpaid obligations incurred by the licensee contractor and any failure of the licensee contractor owners to pay income taxes and self-employment taxes on the gross distributions from the unincorporated entity to its owners.

Amended by Chapter 57, 2013 General Session

**58-55-307 Confidentiality of records and reports.**

- (1) Credit reports, financial statements, and other information submitted to the division by or at the request and direction of an applicant or licensee for the purpose of supporting a representation of financial responsibility constitute protected records under Title 63G, Chapter 2, Government Records Access and Management Act.
- (2) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the records described in Subsection (1) are not open for public inspection and are not subject to discovery in civil or administrative proceedings.

Amended by Chapter 382, 2008 General Session

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

- (1) (a) The commission, with the concurrence of the director, may adopt reasonable rules pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to define and limit the scope of practice and operating standards of the classifications and subclassifications licensed under this chapter in a manner consistent with established practice in the relevant industry.
- (b) The commission and the director may limit the field and scope of operations of a licensee under this chapter in accordance with the rules and the public health, safety, and welfare, based on the licensee's education, training, experience, knowledge, and financial responsibility.

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- (2)
    - (a) The work and scope of practice covered by this Subsection (2) is the installation, repair, maintenance, cleaning, or replacement of a residential or commercial gas appliance or combustion system.
    - (b) The provisions of this Subsection (2) apply to any:
      - (i) licensee under this chapter whose license authorizes the licensee to perform the work described in Subsection (2)(a); and
      - (ii) person exempt from licensure under Subsection 58-55-305(1)(h).
    - (c) Any person described in Subsection (2)(b) that performs work described in Subsection (2)(a):
      - (i) must first receive training and certification as specified in rules adopted by the division; and
      - (ii) shall ensure that any employee authorized under other provisions of this chapter to perform work described in Subsection (2)(a) has first received training and certification as specified in rules adopted by the division.
    - (d) The division may exempt from the training requirements adopted under Subsection (2)(c) a person that has adequate experience, as determined by the division.
  - (3) The division may exempt the following individuals from the certification requirements adopted under Subsection (2)(c):
    - (a) a person who has passed a test equivalent to the level of testing required by the division for certification, or has completed an apprenticeship program that teaches the installation of gas line appliances and is approved by the Federal Bureau of Apprenticeship Training; and
    - (b) a person working under the immediate one-to-one supervision of a certified natural gas technician or a person exempt from certification.
  - (4) This section does not prohibit a licensed specialty contractor from accepting and entering into a contract involving the use of two or more crafts or trades if the performance of the work in the crafts or trades, other than that in which the contractor is licensed, is incidental and supplemental to the work for which the contractor is licensed.

Amended by Chapter 382, 2008 General Session

**58-55-308.1 Definitions - Installation of natural gas facilities - Scope of practice.**

- (1) As used in this section:
  - (a) "Gas corporation" is as defined in Section 54-2-1.
  - (b) "Minimum system" means the minimum natural gas facilities necessary to serve each intended consumer, as determined by a gas corporation.
  - (c)
    - (i) "Natural gas facilities" means:
      - (A) one or more natural gas mains;
      - (B) one or more natural gas service lines; or
      - (C) a combination of Subsections (1)(c)(i)(A) and (B); and
    - (ii) "Natural gas facilities" includes any necessary appurtenant facilities.
  - (d)
    - (i) "Natural gas main" means a natural gas distribution pipeline that delivers natural gas to another natural gas distribution supply line or to a natural gas service line.
    - (ii) "Natural gas main" does not include a natural gas service line.

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- (e) "Natural gas service line" means a natural gas pipeline that carries natural gas from a natural gas main to a meter for use by the ultimate consumer.
  - (f) "Natural gas tariff specifications" means the standards and specifications:
    - (i) for the construction of natural gas facilities; and
    - (ii) that are:
      - (A) established by a gas corporation; and
      - (B) included in the gas corporation's tariff that is approved by the Public Service Commission.
  - (g) "Qualifying installer" means a person who:
    - (i) a gas corporation approves to install natural gas facilities; and
    - (ii) is:
      - (A) licensed under this chapter; and
      - (B) authorized to install natural gas facilities within the person's scope of practice as established by statute or administrative rule.
- (2) A qualifying installer may install natural gas facilities.
  - (3) (a) Except as provided in Subsections (3)(b) and (c), a qualifying installer shall pay the costs to install natural gas facilities.
  - (b) A gas corporation shall pay the costs of the following services related to natural gas facilities installed by a qualifying installer:
    - (i) engineering;
    - (ii) inspection;
    - (iii) mapping; and
    - (iv) locating.
  - (c) If a gas corporation requires a qualifying installer to install natural gas facilities that are greater than the minimum system, the gas corporation shall pay any difference in cost between the required natural gas facilities and the minimum system.
  - (4) A gas corporation shall inspect and test natural gas facilities that a qualifying installer installs to verify that the natural gas facilities comply with applicable federal, state, and local law and natural gas tariff specifications.
  - (5) A gas corporation is not required to supply natural gas to or accept ownership of natural gas facilities until the gas corporation completes all necessary inspections and testing to verify that the natural gas facilities have been installed and tested in compliance with applicable federal, state, and local law and natural gas tariff specifications.

Enacted by Chapter 326, 2014 General Session

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

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

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

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- (2) require that any representation of exemption from the contractor's licensing law be included in the signed statement and that if that exempt person, firm, corporation, association, or other organization intends to hire a contractor to perform any work under the permit or license, that the license number of that contractor be included in the application, but if a contractor has not been selected at the time of the application for a permit or license, the permit or license shall be issued only on the condition that a currently licensed contractor will be selected and that the license number of the contractor will be given to the issuing public body and displayed on the permit or license;
  - (3) require that, upon issuance of a permit or license, the contractor affix the contractor's license number to that permit or license for public display; and
  - (4) require the contractor to provide proof that the contractor provides workers' compensation insurance, pays into the unemployment insurance fund, provides health insurance as required under federal or state law, and withholds applicable taxes from worker pay.

Amended by Chapter 57, 2013 General Session

#### **58-55-311 Evidence of licensure.**

An individual licensed as an alarm company agent shall:

- (1) carry a copy of the individual's license on the individual's person at all times while acting as a licensee;
- (2) display the license upon the request of a peace officer, a representative of the division, or a representative of a customer of the alarm company.

Renumbered and Amended by Chapter 317, 2000 General Session

#### **58-55-312 Interim and temporary permits for alarm company agents.**

- (1) Upon receipt of a complete application for licensure in accordance with Section 58-55-302, an applicant for licensure as an alarm company agent may be issued:
  - (a) an interim permit; or
  - (b) subject to Subsection (3), a temporary permit.
- (2)
  - (a) Each interim permit shall expire 90 days after it is issued or on the date on which the applicant is issued a license, whichever is earlier.
  - (b) The division may reissue an interim permit if the delay in approving a license is beyond the control or influence of the interim permit holder.
- (3)
  - (a) The division may issue a temporary permit to an applicant for a license as an alarm company agent if:
    - (i) the division has received a background check on the applicant from the Bureau of Criminal Identification;
    - (ii)
      - (A) the applicant is or will be employed at a call center, office, or administrative facility of an alarm company; and
      - (B) the applicant's only contact with a customer or potential customer of the alarm company is:
        - (I) from the call center, office, or administrative facility; and
        - (II) by telephone or other remote communication method; and

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- (iii) the alarm company by which the applicant is or will be employed affirms in writing to the division that the applicant, if issued a temporary license, will act only within the scope of the temporary license, as provided in Subsection (3)(a)(ii).
  - (b) A temporary license under this section expires the earliest of:
    - (i) 90 days after it is issued;
    - (ii) the date on which the individual to whom the temporary license is issued leaves the employment of the alarm company that employs the individual at the time the temporary license is issued; and
    - (iii) the date on which the division issues a regular license to the applicant or denies the applicant's application.

(4) An interim permit holder may engage in the scope of an alarm company agent.

Amended by Chapter 387, 2010 General Session

#### **Part 4 - License Denial and Discipline**

##### **58-55-401 Grounds for denial of license and disciplinary proceedings.**

- (1) In accordance with Section 58-1-401, the division may:
  - (a) refuse to issue a license to an applicant;
  - (b) refuse to renew the license of a licensee;
  - (c) revoke the right of a licensee to recover from the Residence Lien Recovery Fund created by Section 38-11-201;
  - (d) revoke, suspend, restrict, or place on probation the license of a licensee;
  - (e) issue a public or private reprimand to a licensee; and
  - (f) issue a cease and desist order.
- (2) In addition to an action taken under Subsection (1), the division may take an action described in Subsection 58-1-401(2) in relation to a license as a contractor, if:
  - (a) the applicant or licensee is an unincorporated entity; and
  - (b) an individual who holds an ownership interest in the applicant or licensee engages in:
    - (i) unlawful conduct as described in Section 58-55-501; or
    - (ii) unprofessional conduct as described in Section 58-55-502.

Amended by Chapter 413, 2011 General Session

##### **58-55-402 Investigation of regulated activity.**

- (1) The division shall be responsible for the investigation of persons and activities in violation of the provisions of this chapter.
- (2) (a) Investigation by the division shall include investigations of:
  - (i) licensees engaged in unlawful or unprofessional conduct; and
  - (ii) unlicensed persons engaged in the conduct of activity or work regulated under this chapter and for which a license is required.
- (b) (i) As used in this Subsection (2)(b), "sign contractor":



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- (A) means a sign installation contractor or nonelectrical outdoor advertising sign contractor, as classified and defined in division rules; and
    - (B) does not include a sign installation contractor or nonelectrical outdoor advertising sign contractor, as classified and defined in division rules, that is subject to Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act.
  - (ii) The division shall maintain a record of the number of unlicensed persons found to have engaged each year in the conduct of activity or work regulated under this chapter for which a license as a sign contractor is required, including the location where a violation occurred.
  - (3) The division shall decline to proceed with investigation of the violation of any provisions of this chapter if the division finds there is no apparent material jeopardy to the public health, safety, and welfare.
  - (4) The division shall have no responsibility for the inspection of construction work performed in the state to determine compliance with applicable codes, or industry and workmanship standards, except as provided in Subsections 58-1-501(2)(g), 58-55-502(2), (3), and (4), and 58-55-501(16).
  - (5) Authorized representatives of the division shall be permitted to enter upon the premises or site of work regulated under this chapter for the purpose of determining compliance with the provisions of this chapter.

Amended by Chapter 195, 2011 General Session

#### **58-55-403 Minimum time for division action.**

The division has at least five working days after receiving an application for licensure to determine whether to issue a license under this chapter.

Amended by Chapter 233, 2000 General Session

### **Part 5 - Unlawful and Unprofessional Conduct - Penalties**

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

Unlawful conduct includes:

- (1) engaging in a construction trade, acting as a contractor, an alarm business or company, or an alarm company agent, or representing oneself to be engaged in a construction trade or to be acting as a contractor in a construction trade requiring licensure, unless the person doing any of these is appropriately licensed or exempted from licensure under this chapter;
- (2) acting in a construction trade, as an alarm business or company, or as an alarm company agent beyond the scope of the license held;
- (3) hiring or employing a person who is not licensed under this chapter to perform work on a project, unless the person:
  - (a) is an employee of a person licensed under this chapter for wages; and
  - (b) is not required to be licensed under this chapter;
- (4) applying for or obtaining a building permit either for oneself or another when not licensed or exempted from licensure as a contractor under this chapter;
- (5) issuing a building permit to any person for whom there is no evidence of a current license or exemption from licensure as a contractor under this chapter;

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- (6) applying for or obtaining a building permit for the benefit of or on behalf of any other person who is required to be licensed under this chapter but who is not licensed or is otherwise not entitled to obtain or receive the benefit of the building permit;
  - (7) failing to obtain a building permit when required by law or rule;
  - (8) submitting a bid for any work for which a license is required under this chapter by a person not licensed or exempted from licensure as a contractor under this chapter;
  - (9) willfully or deliberately misrepresenting or omitting a material fact in connection with an application to obtain or renew a license under this chapter;
  - (10) allowing one's license to be used by another except as provided by statute or rule;
  - (11) doing business under a name other than the name appearing on the license, except as permitted by statute or rule;
  - (12) if licensed as a specialty contractor in the electrical trade or plumbing trade, journeyman plumber, residential journeyman plumber, journeyman electrician, master electrician, or residential electrician, failing to directly supervise an apprentice under one's supervision or exceeding the number of apprentices one is allowed to have under the specialty contractor's supervision;
  - (13) if licensed as a contractor or representing oneself to be a contractor, receiving any funds in payment for a specific project from an owner or any other person, which funds are to pay for work performed or materials and services furnished for that specific project, and after receiving the funds to exercise unauthorized control over the funds by failing to pay the full amounts due and payable to persons who performed work or furnished materials or services within a reasonable period of time;
  - (14) employing an unlicensed alarm business or company or an unlicensed individual as an alarm company agent, except as permitted under the exemption from licensure provisions under Section 58-1-307;
  - (15) if licensed as an alarm company or alarm company agent, filing with the division fingerprint cards for an applicant which are not those of the applicant, or are in any other way false or fraudulent and intended to mislead the division in its consideration of the applicant for licensure;
  - (16) if licensed under this chapter, willfully or deliberately disregarding or violating:
    - (a) the building or construction laws of this state or any political subdivision;
    - (b) the safety and labor laws applicable to a project;
    - (c) any provision of the health laws applicable to a project;
    - (d) the workers' compensation insurance laws of the state applicable to a project;
    - (e) the laws governing withholdings for employee state and federal income taxes, unemployment taxes, Social Security payroll taxes, or other required withholdings; or
    - (f) reporting, notification, and filing laws of this state or the federal government;
  - (17) aiding or abetting any person in evading the provisions of this chapter or rules established under the authority of the division to govern this chapter;
  - (18) engaging in the construction trade or as a contractor for the construction of residences of up to two units when not currently registered or exempt from registration as a qualified beneficiary under Title 38, Chapter 11, Residence Lien Restriction and Lien Recovery Fund Act;
  - (19) failing, as an original contractor, as defined in Section 38-11-102, to include in a written contract the notification required in Section 38-11-108;
  - (20) wrongfully filing a preconstruction or construction lien in violation of Section 38-1a-308;

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- (21) if licensed as a contractor, not completing the approved continuing education required under Section 58-55-302.5;
  - (22) an alarm company allowing an employee with a temporary license under Section 58-55-312 to engage in conduct on behalf of the company outside the scope of the temporary license, as provided in Subsection 58-55-312(3)(a)(ii);
  - (23) an alarm company agent under a temporary license under Section 58-55-312 engaging in conduct outside the scope of the temporary license, as provided in Subsection 58-55-312(3)(a) (ii);
  - (24)
    - (a) an unincorporated entity licensed under this chapter having an individual who owns an interest in the unincorporated entity engage in a construction trade in Utah while not lawfully present in the United States; or
    - (b) an unincorporated entity providing labor to an entity licensed under this chapter by providing an individual who owns an interest in the unincorporated entity to engage in a construction trade in Utah while not lawfully present in the United States;
  - (25) an unincorporated entity failing to provide the following for an individual who engages, or will engage, in a construction trade in Utah for the unincorporated entity, or for an individual who engages, or will engage, in a construction trade in Utah for a separate entity for which the unincorporated entity provides the individual as labor:
    - (a) workers' compensation coverage:
      - (i) to the extent required by Title 34A, Chapter 2, Workers' Compensation Act, and Title 34A, Chapter 3, Utah Occupational Disease Act; or
      - (ii) that would be required under the chapters listed in Subsection (25)(a)(i) if the unincorporated entity were licensed under this chapter; and
    - (b) unemployment compensation in accordance with Title 35A, Chapter 4, Employment Security Act, for an individual who owns, directly or indirectly, less than an 8% interest in the unincorporated entity, as defined by rule made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
  - (26) the failure of a sign installation contractor or nonelectrical outdoor advertising sign contractor, as classified and defined in division rules, to:
    - (a) display the contractor's license number prominently on a vehicle that:
      - (i) the contractor uses; and
      - (ii) displays the contractor's business name; or
    - (b) carry a copy of the contractor's license in any other vehicle that the contractor uses at a job site, whether or not the vehicle is owned by the contractor;
  - (27)
    - (a) an unincorporated entity licensed under this chapter having an individual who owns an interest in the unincorporated entity engage in a construction trade in the state while the individual is using a Social Security number that does not belong to that individual; or
    - (b) an unincorporated entity providing labor to an entity licensed under this chapter by providing an individual, who owns an interest in the unincorporated entity, to engage in a construction trade in the state while the individual is using a Social Security number that does not belong to that individual;
  - (28) a contractor failing to comply with a requirement imposed by a political subdivision, state agency, or board of education under Section 58-55-310; or
  - (29) failing to timely comply with the requirements described in Section 58-55-605.

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## **58-55-502 Unprofessional conduct.**

Unprofessional conduct includes:

- (1) failing to establish, maintain, or demonstrate financial responsibility while licensed as a contractor under this chapter;
- (2) disregarding or violating through gross negligence or a pattern of negligence:
  - (a) the building or construction laws of this state or any political subdivision;
  - (b) the safety and labor laws applicable to a project;
  - (c) any provision of the health laws applicable to a project;
  - (d) the workers' compensation insurance laws of this state applicable to a project;
  - (e) the laws governing withholdings for employee state and federal income taxes, unemployment taxes, Social Security payroll taxes, or other required withholdings; or
  - (f) any reporting, notification, and filing laws of this state or the federal government;
- (3) any willful, fraudulent, or deceitful act by a licensee, caused by a licensee, or at a licensee's direction which causes material injury to another;
- (4) contract violations that pose a threat or potential threat to the public health, safety, and welfare including:
  - (a) willful, deliberate, or grossly negligent departure from or disregard for plans or specifications, or abandonment or failure to complete a project without the consent of the owner or the owner's duly authorized representative or the consent of any other person entitled to have the particular project completed in accordance with the plans, specifications, and contract terms;
  - (b) failure to deposit funds to the benefit of an employee as required under any written contractual obligation the licensee has to the employee;
  - (c) failure to maintain in full force and effect any health insurance benefit to an employee that was extended as a part of any written contractual obligation or representation by the licensee, unless the employee is given written notice of the licensee's intent to cancel or reduce the insurance benefit at least 45 days before the effective date of the cancellation or reduction;
  - (d) failure to reimburse the Residence Lien Recovery Fund as required by Section 38-11-207;
  - (e) failure to provide, when applicable, the information required by Section 38-11-108; and
  - (f) willfully or deliberately misrepresenting or omitting a material fact in connection with an application to claim recovery from the Residence Lien Recovery Fund under Section 38-11-204;
- (5) failing as an alarm company to notify the division of the cessation of performance of its qualifying agent, or failing to replace its qualifying agent as required under Section 58-55-304;
- (6) failing as an alarm company agent to carry or display a copy of the licensee's license as required under Section 58-55-311;
- (7) failing to comply with operating standards established by rule in accordance with Section 58-55-308;
- (8) an unincorporated entity licensed under this chapter having an individual who owns an interest in the unincorporated entity engage in a construction trade in Utah while not lawfully present in the United States;

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- (9) an unincorporated entity failing to provide the following for an individual who engages, or will engage, in a construction trade in Utah for the unincorporated entity:
    - (a) workers' compensation coverage to the extent required by Title 34A, Chapter 2, Workers' Compensation Act, and Title 34A, Chapter 3, Utah Occupational Disease Act; and
    - (b) unemployment compensation in accordance with Title 35A, Chapter 4, Employment Security Act, for an individual who owns, directly or indirectly, less than an 8% interest in the unincorporated entity, as defined by rule made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or
  - (10) the failure of an alarm company or alarm company agent to inform a potential customer, before the customer's purchase of an alarm system or alarm service from the alarm company, of the policy of the county, city, or town within which the customer resides relating to priority levels for responding to an alarm signal transmitted by the alarm system that the alarm company provides the customer.

Amended by Chapter 170, 2011 General Session. Amended by Chapter 413, 2011 General Session

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

- (1)
  - (a)
    - (i) A person who violates Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (4), (5), (6), (7), (9), (10), (12), (14), (15), (22), (23), (24), (25), (26), (27), (28), or (29), or Subsection 58-55-504(2), or who fails to comply with a citation issued under this section after it is final, is guilty of a class A misdemeanor.
    - (ii) As used in this section in reference to Subsection 58-55-504(2), "person" means an individual and does not include a sole proprietorship, joint venture, corporation, limited liability company, association, or organization of any type.
  - (b) A person who violates the provisions of Subsection 58-55-501(8) may not be awarded and may not accept a contract for the performance of the work.
- (2) A person who violates the provisions of Subsection 58-55-501(13) is guilty of an infraction unless the violator did so with the intent to deprive the person to whom money is to be paid of the money received, in which case the violator is guilty of theft, as classified in Section 76-6-412.
- (3) Grounds for immediate suspension of a licensee's license by the division and the commission include:
  - (a) the issuance of a citation for violation of Subsection 58-55-308(2), Section 58-55-501, or Subsection 58-55-504(2); and
  - (b) the failure by a licensee to make application to, report to, or notify the division with respect to any matter for which application, notification, or reporting is required under this chapter or rules adopted under this chapter, including:
    - (i) applying to the division for a new license to engage in a new specialty classification or to do business under a new form of organization or business structure;
    - (ii) filing a current financial statement with the division; and
    - (iii) notifying the division concerning loss of insurance coverage or change in qualifier.
- (4)
  - (a) If upon inspection or investigation, the division concludes that a person has violated the provisions of Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9), (10), (12), (14), (19), (21), (22), (23), (24), (25), (26), (27), (28), or (29), Subsection 58-55-504(2), or any rule or order issued with respect to these subsections, and that disciplinary action is appropriate, the director or the director's designee from within the division shall promptly issue a citation to the person according to this chapter and any pertinent rules, attempt

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to negotiate a stipulated settlement, or notify the person to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

- (i) A person who is in violation of the provisions of Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9), (10), (12), (14), (19), (21), (22), (23), (24), (25), (26), (27), (28), or (29), or Subsection 58-55-504(2), as evidenced by an uncontested citation, a stipulated settlement, or by a finding of violation in an adjudicative proceeding, may be assessed a fine pursuant to this Subsection (4) and may, in addition to or in lieu of, be ordered to cease and desist from violating Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9), (10), (12), (14), (19), (21), (24), (25), (26), (27), (28), or (29), or Subsection 58-55-504(2).
  - (ii) Except for a cease and desist order, the licensure sanctions cited in Section 58-55-401 may not be assessed through a citation.
- (b)
  - (i) A citation shall be in writing and describe with particularity the nature of the violation, including a reference to the provision of the chapter, rule, or order alleged to have been violated.
  - (ii) A citation shall clearly state that the recipient must notify the division in writing within 20 calendar days of service of the citation if the recipient wishes to contest the citation at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act.
  - (iii) A citation shall clearly explain the consequences of failure to timely contest the citation or to make payment of any fines assessed by the citation within the time specified in the citation.
- (c) A citation issued under this section, or a copy of a citation, may be served upon a person upon whom a summons may be served:
  - (i) in accordance with the Utah Rules of Civil Procedure;
  - (ii) personally or upon the person's agent by a division investigator or by a person specially designated by the director; or
  - (iii) by mail.
- (d)
  - (i) If within 20 calendar days after the day on which a citation is served, the person to whom the citation was issued fails to request a hearing to contest the citation, the citation becomes the final order of the division and is not subject to further agency review.
  - (ii) The period to contest a citation may be extended by the division for cause.
- (e) The division may refuse to issue or renew, suspend, revoke, or place on probation the license of a licensee who fails to comply with a citation after it becomes final.
- (f) The failure of an applicant for licensure to comply with a citation after it becomes final is a ground for denial of license.
- (g) A citation may not be issued under this section after the expiration of six months following the occurrence of a violation.
- (h) The director or the director's designee shall assess a fine in accordance with the following:
  - (i) for a first offense handled pursuant to Subsection (4)(a), a fine of up to \$1,000;
  - (ii) for a second offense handled pursuant to Subsection (4)(a), a fine of up to \$2,000; and
  - (iii) for any subsequent offense handled pursuant to Subsection (4)(a), a fine of up to \$2,000 for each day of continued offense.

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- (i) (i) For purposes of issuing a final order under this section and assessing a fine under Subsection (4)(h), an offense constitutes a second or subsequent offense if:
    - (A) the division previously issued a final order determining that a person committed a first or second offense in violation of Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9), (10), (12), (14), (19), (24), (25), (26), (27), (28), or (29), or Subsection 58-55-504(2); or
    - (B) (I) the division initiated an action for a first or second offense;
    - (II) a final order has not been issued by the division in the action initiated under Subsection (4)(i)(i)(B)(I);
    - (III) the division determines during an investigation that occurred after the initiation of the action under Subsection (4)(i)(i)(B)(I) that the person committed a second or subsequent violation of the provisions of Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9), (10), (12), (14), (19), (24), (25), (26), (27), (28), or (29), or Subsection 58-55-504(2); and
    - (IV) after determining that the person committed a second or subsequent offense under Subsection (4)(i)(i)(B)(III), the division issues a final order on the action initiated under Subsection (4)(i)(i)(B)(I).
  - (ii) In issuing a final order for a second or subsequent offense under Subsection (4)(i)(i), the division shall comply with the requirements of this section.
  - (j) In addition to any other licensure sanction or fine imposed under this section, the division shall revoke the license of a licensee that violates Subsection 58-55-501(24) or (25) two or more times within a 12-month period, unless, with respect to a violation of Subsection 58-55-501(24), the licensee can demonstrate that the licensee successfully verified the federal legal working status of the individual who was the subject of the violation using a status verification system, as defined in Section 13-47-102.
  - (k) For purposes of this Subsection (4), a violation of Subsection 58-55-501(24) or (25) for each individual is considered a separate violation.
  - (5) (a) A penalty imposed by the director under Subsection (4)(h) shall be deposited into the Commerce Service Account created by Section 13-1-2.
  - (b) A penalty that is not paid may be collected by the director by either referring the matter to a collection agency or bringing an action in the district court of the county in which the person against whom the penalty is imposed resides or in the county where the office of the director is located.
  - (c) A county attorney or the attorney general of the state is to provide legal assistance and advice to the director in any action to collect the penalty.
  - (d) In an action brought to enforce the provisions of this section, the court shall award reasonable attorney fees and costs to the prevailing party.

Amended by Chapter 188, 2014 General Session

**58-55-504 Crane operators -- Required certification -- Penalty for violation.**

- (1) As used in this section:



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- (a) "Commercial construction projects" means construction, alteration, repair, demolition, or excavation projects that do not involve:
    - (i) single family detached housing;
    - (ii) multifamily attached housing up to and including a fourplex; or
    - (iii) commercial construction of not more than two stories above ground.
  - (b) (i) "Crane operator" means an individual engaged in operating a crane, which for purposes of this section is a power-operated hoisting machine used in construction, demolition, or excavation work that has a power-operated winch, load-line, and boom moving laterally by the rotation of the machine on a carrier.
  - (ii) It does not include operating a fork lift, digger derrick truck, aircraft, bucket truck, knuckle boom, side boom, mechanic's truck, or a vehicle or machine not using a power-operated winch and load-line.
- (2) (a) In order to operate a crane on commercial construction projects, an individual shall be certified as a crane operator by the National Commission for the Certification of Crane Operators or any other organization determined by the division to offer an equivalent testing and certification program that meets the requirements of the American Society of Mechanical Engineers ASME B 30.5 and the accreditation requirements of the National Commission for Certifying Agencies.
  - (b) An individual who violates Subsection (2)(a) is guilty of a class A misdemeanor.
- (3) An individual engaged in construction or operation incidental to petroleum refining or electrical utility construction or maintenance is exempt from the crane operator certification requirement of Subsection (2)(a).

Amended by Chapter 98, 2007 General Session

## **Part 6 - Payment Provisions**

### **58-55-601 Payment - Account designated.**

When making any payment to a materialman, supplier, contractor, or subcontractor with whom he has a running account, or with whom he has more than one contract, or to whom he is otherwise indebted, the contractor shall designate the contract under which the payment is made or the items of account to which it is to be applied. When a payment for materials or labor is made to a subcontractor or materialman, the subcontractor or materialman shall demand of the person making the payment a designation of the account and the items of account to which the payment is to apply. In cases where a lien is claimed for materials furnished or labor performed by a subcontractor or materialman, it is a defense to the claim that a payment was made by the owner to the contractor for the materials and was so designated and paid over to the subcontractor or materialman, if when the payment was received by the subcontractor or materialman, he did not demand a designation of the account and of the items of account to which the payment was to be applied.

Renumbered and Amended by Chapter 181, 1994 General Session

### **58-55-602 Payment of construction funds - Interest.**

- (1) All unpaid construction funds are payable to the contractor as provided in Section 13-8-5.
- (2) On projects involving multiple buildings, each building shall be considered individually in determining the amount to be paid the contractor.



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- (3) Partial occupancy of a building requires payment in direct proportion to the value of the part of the building occupied.
  - (4) If any payment is retained or withheld, it shall be retained or withheld and released as provided in Section 13-8-5.

Amended by Chapter 365, 1999 General Session

**58-55-603 Payment to subcontractors and suppliers.**

- (1) When a contractor receives any construction funds from an owner or another contractor for work performed and billed, he shall pay each of his subcontractors and suppliers in proportion to the percentage of the work they performed under that billing, unless otherwise agreed by contract.
- (2) If, under this section and without reasonable cause, or unless otherwise agreed by contract, the contractor fails to pay for work performed by his subcontractors or suppliers within 30 consecutive days after receiving construction funds from the owner or another contractor for work performed and billed, or after the last day payment is due under the terms of the billing, whichever is later, he shall pay to the subcontractor or supplier, in addition to the payment, interest in the amount of 1% per month of the amount due, beginning on the day after payment is due, and reasonable costs of any collection and attorney's fees.
- (3) When a subcontractor receives any construction payment under this section, Subsections (1) and (2) apply to that subcontractor.

Renumbered and Amended by Chapter 181, 1994 General Session

**58-55-604 Proof of licensure to maintain or commence action.**

A contractor or alarm business or company may not act as agent or commence or maintain any action in any court of the state for collection of compensation for performing any act for which a license is required by this chapter without alleging and proving that the licensed contractor or alarm business or company was appropriately licensed when the contract sued upon was entered into, and when the alleged cause of action arose.

Amended by Chapter 377, 2008 General Session

**58-55-605 Pay statement required.**

- (1) On the day on which a person licensed under this chapter pays an individual for work that the individual performed, the person shall give the individual a written or electronic pay statement that states:
  - (a) the individual's name;
  - (b) the individual's base rate of pay;
  - (c) the dates of the pay period for which the individual is being paid;
  - (d) if paid hourly, the number of hours the individual worked during the pay period;
  - (e) the amount of and reason for any money withheld in accordance with state or federal law, including:
    - (i) state and federal income tax;
    - (ii) Social Security tax;
    - (iii) Medicare tax; and
    - (iv) court-ordered withholdings; and
  - (f) the total amount paid to the individual for that pay period.
- (2) A person licensed under this chapter shall:

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- (a) comply with the requirements described in Subsection (1) regardless of whether the licensee pays the individual by check, cash, or other means;
  - (b) retain a copy of each pay statement described in Subsection (1) for at least three years after the day on which the person gives a copy of the pay statement to the individual; and
  - (c) upon request, make the pay statement records described in this section available to the division for inspection.

Enacted by Chapter 188, 2014 General Session