

1 **MECHANICAL CONTRACTOR LICENSING PROVISIONS**

2 2010 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Larry B. Wiley**

5 Senate Sponsor: _____

6

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies provisions of the Utah Construction Trades Licensing Act relating to
10 the licensing of heating, venting, and air conditioning mechanical technicians.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ modifies construction trade licensing provisions to include technicians for
- 14 mechanical systems that use electricity, fuel, or circulated air to provide temperature
- 15 control in residential air systems;
- 16 ▶ sets the air system technician-to-apprentice ratio;
- 17 ▶ creates the Air System Technicians Licensing Board;
- 18 ▶ modifies the membership of the Construction Services Commission;
- 19 ▶ authorizes the Division of Occupational and Professional Licensing to issue licenses
- 20 to various air system technicians;
- 21 ▶ repeals provisions excepting air system technicians from licensure;
- 22 ▶ removes a repeal date;
- 23 ▶ requires that a licensed air system technician complete fuel and electricity efficiency
- 24 education; and
- 25 ▶ makes technical corrections.

26 **Monies Appropriated in this Bill:**

27 None



28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **58-55-102**, as last amended by Laws of Utah 2008, Chapter 215

33 **58-55-103**, as last amended by Laws of Utah 2009, Chapter 183

34 **58-55-201**, as last amended by Laws of Utah 2008, Chapter 215

35 **58-55-301**, as last amended by Laws of Utah 2008, Chapter 215

36 **58-55-302**, as last amended by Laws of Utah 2009, Chapter 183

37 **58-55-303**, as last amended by Laws of Utah 2001, Chapter 198

38 **58-55-305**, as last amended by Laws of Utah 2009, Chapter 228

39 **58-55-501**, as last amended by Laws of Utah 2008, Chapter 377



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

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

43 **58-55-102. Definitions.**

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

45 (1) "Air system":

46 (a) means a mechanical system that uses electricity or fuel, or both, and circulated air
47 to provide temperature control; and

48 (b) does not include:

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

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

52 (2) "Air system trade" means work involving the installation, construction, alteration,
53 change, repair, removal, or maintenance of an air system in a facility or building or an
54 appendage or appurtenance to a facility or building.

55 ~~[(+)]~~ (3) (a) "Alarm business or company" means a person engaged in the sale,
56 installation, maintenance, alteration, repair, replacement, servicing, or monitoring of an alarm
57 system, except as provided in Subsection ~~[(+)]~~ (3)(b).

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

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

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

67 [~~(2)~~] (4) "Alarm company agent" means any individual employed within this state by a
68 person engaged in the alarm business.

69 [~~(3)~~] (5) "Alarm system" means equipment and devices assembled for the purpose of:

70 (a) detecting and signaling unauthorized intrusion or entry into or onto certain
71 premises; or

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

73 (6) "Apprentice air system technician" means a person licensed under this chapter as an
74 apprentice air system technician who is learning the air system trade under approved
75 supervision of a licensed air system supervisor.

76 [~~(4)~~] (7) "Apprentice electrician" means a person licensed under this chapter as an
77 apprentice electrician who is learning the electrical trade under approved supervision of a
78 master electrician, a residential master electrician, a journeyman electrician, or a residential
79 journeyman electrician.

80 [~~(5)~~] (8) "Apprentice plumber" means a person licensed under this chapter as an
81 apprentice plumber who is learning the plumbing trade under approved supervision of a master
82 plumber, a residential master plumber, a journeyman plumber, or a residential journeyman
83 plumber.

84 [~~(6)~~] (9) "Approved supervision" means the immediate supervision of apprentices by
85 qualified licensed electricians, air system technicians, or plumbers as a part of a planned
86 program of training.

87 [~~(7)~~] (10) "Board" means the [~~Electrician~~] Electricians Licensing Board, Air System
88 Technicians Licensing Board, Alarm System Security and Licensing Board, or Plumbers
89 Licensing Board created in Section 58-55-201.

90 ~~[(8)]~~ (11) "Combustion system" means an assembly consisting of:

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

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

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

97 ~~[(9)]~~ (12) "Commission" means the Construction Services Commission created under
98 Section 58-55-103.

99 ~~[(10)]~~ (13) "Construction trade" means any trade or occupation involving:

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

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

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

107 ~~[(11)]~~ (14) "Construction trades instructor" means a person licensed under this chapter
108 to teach one or more construction trades in both a classroom and project environment, where a
109 project is intended for sale to or use by the public and is completed under the direction of the
110 instructor, who has no economic interest in the project.

111 ~~[(12)]~~ (15) (a) "Contractor" means any person who for compensation other than wages
112 as an employee undertakes any work in the construction, plumbing, or electrical trade for
113 which licensure is required under this chapter and includes:

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

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

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

120 (iv) any person engaged in any construction trade for which licensure is required under

121 this chapter; or

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

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

125 ~~[(13)]~~ (16) (a) "Electrical trade" means the performance of any electrical work involved
126 in the installation, construction, alteration, change, repair, removal, or maintenance of facilities,
127 buildings, or appendages or appurtenances.

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

129 (i) transporting or handling electrical materials;

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

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

133 (c) For purposes of Subsection ~~[(13)]~~ (16)(b):

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

136 (ii) a shop may not employ unlicensed persons in excess of the five-to-one ratio
137 permitted by this Subsection ~~[(13)]~~ (16)(c).

138 ~~[(14)]~~ (17) "Employee" means an individual as defined by the division by rule giving
139 consideration to the definition adopted by the Internal Revenue Service and the Department of
140 Workforce Services.

141 ~~[(15)]~~ (18) "Engage in a construction trade" means to:

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

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

146 ~~[(16)]~~ (19) (a) "Financial responsibility" means a demonstration of a current and
147 expected future condition of financial solvency evidencing a reasonable expectation to the
148 division and the board that an applicant or licensee can successfully engage in business as a
149 contractor without jeopardy to the public health, safety, and welfare.

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

152 of financial solvency and business conduct.

153 ~~[(17)]~~ (20) "Gas appliance" means any device that uses natural gas to produce light,
154 heat, power, steam, hot water, refrigeration, or air conditioning.

155 ~~[(18)]~~ (21) (a) "General building contractor" means a person licensed under this
156 chapter as a general building contractor qualified by education, training, experience, and
157 knowledge to perform or superintend construction of structures for the support, shelter, and
158 enclosure of persons, animals, chattels, or movable property of any kind or any of the
159 components of that construction except plumbing, electrical work, ~~[mechanical]~~ air system
160 work, and manufactured housing installation, for which the general building contractor shall
161 employ the services of a contractor licensed in the particular specialty, except that a general
162 building contractor engaged in the construction of single-family and multifamily residences up
163 to four units may ~~[perform the mechanical work and]~~ hire a licensed plumber ~~[or]~~, electrician,
164 or air system technician as an employee.

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

169 ~~[(19)]~~ (22) (a) "General engineering contractor" means a person licensed under this
170 chapter as a general engineering contractor qualified by education, training, experience, and
171 knowledge to perform construction of fixed works in any of the following: irrigation, drainage,
172 water, power, water supply, flood control, inland waterways, harbors, railroads, highways,
173 tunnels, airports and runways, sewers and bridges, refineries, pipelines, chemical and industrial
174 plants requiring specialized engineering knowledge and skill, piers, and foundations, or any of
175 the components of those works.

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

178 ~~[(20)]~~ (23) "Immediate supervision" means reasonable direction, oversight, inspection,
179 and evaluation of the work of a person, in or out of the immediate presence of the supervising
180 person, so as to ensure that the end result complies with applicable standards.

181 ~~[(21)]~~ (24) "Individual" means a natural person.

182 ~~[(22)]~~ (25) "Journeyman electrician" means a person licensed under this chapter as a

183 journeyman electrician having the qualifications, training, experience, and knowledge to wire,
184 install, and repair electrical apparatus and equipment for light, heat, power, and other purposes.

185 ~~[(23)]~~ (26) "Journeyman plumber" means a person licensed under this chapter as a
186 journeyman plumber having the qualifications, training, experience, and technical knowledge
187 to engage in the plumbing trade.

188 (27) "Licensed air system supervisor" means a person who:

189 (a) supervises a licensed apprentice air system technician; and

190 (b) is:

191 (i) a residential master air system technician; or

192 (ii) a residential journeyman air system technician.

193 ~~[(24)]~~ (28) "Master electrician" means a person licensed under this chapter as a master
194 electrician having the qualifications, training, experience, and knowledge to properly plan,
195 layout, and supervise the wiring, installation, and repair of electrical apparatus and equipment
196 for light, heat, power, and other purposes.

197 ~~[(25)]~~ (29) "Master plumber" means a person licensed under this chapter as a master
198 plumber having the qualifications, training, experience, and knowledge to properly plan and
199 layout projects and supervise persons in the plumbing trade.

200 ~~[(26)]~~ (30) "Person" means a natural person, sole proprietorship, joint venture,
201 corporation, limited liability company, association, or organization of any type.

202 ~~[(27)]~~ (31) (a) "Plumbing trade" means the performance of any mechanical work
203 pertaining to the installation, alteration, change, repair, removal, maintenance, or use in
204 buildings, or within three feet beyond the outside walls of buildings of pipes, fixtures, and
205 fittings for:

206 (i) delivery of the water supply;

207 (ii) discharge of liquid and water carried waste; or

208 (iii) the building drainage system within the walls of the building.

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

213 ~~[(28) (a) "Ratio of apprentices" means, for the purpose of determining compliance with~~

214 ~~the requirements for planned programs of training and electrician apprentice licensing~~
215 ~~applications, the shop ratio of apprentice electricians to journeyman or master electricians shall~~
216 ~~be one journeyman or master electrician to one apprentice on industrial and commercial work,~~
217 ~~and one journeyman or master electrician to three apprentices on residential work.]~~

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

221 ~~[(29)]~~ (32) "Residential and small commercial contractor" means a person licensed
222 under this chapter as a residential and small commercial contractor qualified by education,
223 training, experience, and knowledge to perform or superintend the construction of
224 single-family residences, multifamily residences up to four units, and commercial construction
225 of not more than three stories above ground and not more than 20,000 square feet, or any of the
226 components of that construction except plumbing, electrical work, mechanical work, and
227 manufactured housing installation, for which the residential and small commercial contractor
228 shall employ the services of a contractor licensed in the particular specialty, except that a
229 residential and small commercial contractor engaged in the construction of single-family and
230 multifamily residences up to four units may perform the mechanical work and hire a licensed
231 plumber or electrician as an employee.

232 ~~[(30)]~~ (33) "Residential building~~[-]~~";

233 (a) as it relates to the license classification of residential journeyman plumber and
234 residential master plumber, means a single or multiple family dwelling of up to four units; and

235 (b) as it relates to the license classification of residential journeyman air system
236 technician and residential master air system technician, means a residential building as defined
237 in applicable rules.

238 ~~[(31)]~~ (34) "Residential journeyman electrician" means a person licensed under this
239 chapter as a residential journeyman electrician having the qualifications, training, experience,
240 and knowledge to wire, install, and repair electrical apparatus and equipment for light, heat,
241 power, and other purposes on buildings using primarily nonmetallic sheath cable.

242 (35) "Residential journeyman air system technician" means a person licensed under
243 this chapter as a residential journeyman air system technician having the qualifications,
244 training, experience, and knowledge to install, service, maintain, and repair an air system on a

245 residential building.

246 [~~(32)~~] (36) "Residential journeyman plumber" means a person licensed under this
247 chapter as a residential journeyman plumber having the qualifications, training, experience, and
248 knowledge to engage in the plumbing trade as limited to the plumbing of a residential
249 [~~buildings~~] building.

250 (37) "Residential master air system technician" means a person licensed under this
251 chapter as a residential master air system technician having the qualifications, training,
252 experience, and knowledge to properly plan, layout, and supervise the installation, service,
253 maintenance, and repair of an air system on a residential building.

254 [~~(33)~~] (38) "Residential master electrician" means a person licensed under this chapter
255 as a residential master electrician having the qualifications, training, experience, and
256 knowledge to properly plan, layout, and supervise the wiring, installation, and repair of
257 electrical apparatus and equipment for light, heat, power, and other purposes on residential
258 projects.

259 [~~(34)~~] (39) "Residential master plumber" means a person licensed under this chapter as
260 a residential master plumber having the qualifications, training, experience, and knowledge to
261 properly plan and layout projects and supervise persons in the plumbing trade as limited to the
262 plumbing of a residential [~~buildings~~] building.

263 [~~(35)~~] (40) "Residential project," as it relates to an electrician or electrical contractor,
264 means buildings primarily wired with nonmetallic sheathed cable, in accordance with standard
265 rules and regulations governing this work, including the National Electrical Code, and in which
266 the voltage does not exceed 250 volts line to line and 125 volts to ground.

267 [~~(36)~~] (41) (a) "Specialty contractor" means a person licensed under this chapter under
268 a specialty contractor classification established by rule, who is qualified by education, training,
269 experience, and knowledge to perform those construction trades and crafts requiring
270 specialized skill, the regulation of which are determined by the division to be in the best
271 interest of the public health, safety, and welfare.

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

274 [~~(37)~~] (42) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-55-501.

275 [~~(38)~~] (43) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-55-502

276 and as may be further defined by rule.

277 ~~[(39)]~~ (44) "Wages" means amounts due to an employee for labor or services whether
278 the amount is fixed or ascertained on a time, task, piece, commission, or other basis for
279 calculating the amount.

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

281 **58-55-103. Construction Services Commission created -- Functions --**
282 **Appointment -- Qualifications and terms of members -- Vacancies -- Expenses --**
283 **Meetings.**

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

285 (b) The commission shall:

286 (i) with the concurrence of the director, make reasonable rules under Title 63G,
287 Chapter 3, Utah Administrative Rulemaking Act, to administer and enforce this chapter which
288 are consistent with this chapter including:

289 (A) licensing of various licensees;

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

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

294 (D) standards of conduct for various licensees;

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

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

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

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

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

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

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

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

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

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

313 (2) (a) The commission shall be comprised of nine members appointed by the
 314 executive director with the approval of the governor from the following groups:

- 315 (i) one member shall be a licensed general engineering contractor;
- 316 (ii) one member shall be a licensed general building contractor;
- 317 (iii) two members shall be licensed residential and small commercial contractors;

318 ~~[(iv) three members shall be the three chair persons from]~~

319 (iv) one member shall be the chair of the Plumbers Licensing Board[-];

320 (v) one member shall be the chair of the Alarm System Security and Licensing Board[-;
 321 and];

322 (vi) one member shall be the chair of the Electricians Licensing Board; and

323 ~~[(v) (vii) two members shall be from the general public[, provided, however that the~~
 324 ~~certified public accountant on the Contractors Licensing Board will continue to serve until the~~
 325 ~~current term expires, after which both members under this Subsection (2)(c)(v) shall be~~
 326 ~~appointed from the general public].~~

327 (b) Beginning July 1, 2012, the number of members of the commission increases to 11
 328 members to include, in addition to the members specified in Subsection (2)(a):

- 329 (i) one member who is the chair of the Air System Technicians Licensing Board; and
- 330 (ii) one additional member from the general public.

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

334 (b) Notwithstanding the requirements of Subsection (3)(a), the executive director with
 335 the approval of the governor shall, at the time of appointment or reappointment, adjust the
 336 length of terms to stagger the terms of commission members so that approximately 1/2 of the
 337 commission members are appointed every two years.

- 338 (c) A commission member may not serve more than two consecutive terms.
- 339 (4) The commission shall elect annually one of its members as chair, for a term of one
340 year.
- 341 (5) When a vacancy occurs in the membership for any reason, the replacement shall be
342 appointed for the unexpired term.
- 343 (6) (a) Members may not receive compensation or benefits for their services, but may
344 receive per diem and expenses incurred in the performance of the members' official duties at
345 the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.
- 346 (b) Members may decline to receive per diem and expenses for their service.
- 347 (7) (a) The commission shall meet at least monthly unless the director determines
348 otherwise.
- 349 (b) The director may call additional meetings at the director's discretion, upon the
350 request of the chair, or upon the written request of four or more commission members.
- 351 (8) (a) ~~Five~~ Six members constitute a quorum for the transaction of business.
- 352 (b) If a quorum is present ~~[when a vote is taken, the affirmative vote of commission]~~,
353 the action of a majority of the members present [is the act] constitutes the action of the
354 commission.
- 355 (9) The commission shall comply with the procedures and requirements of Title 13,
356 Chapter 1, Department of Commerce, and Title 63G, Chapter 4, Administrative Procedures
357 Act, in all of its adjudicative proceedings.
- 358 Section 3. Section **58-55-201** is amended to read:
- 359 **58-55-201. Boards created -- Duties.**
- 360 (1) There is created a Plumbers Licensing Board, an Alarm System Security and
361 Licensing Board, ~~and~~ an Electricians Licensing Board, and, beginning July 1, 2012, an Air
362 System Technicians Licensing Board. Members of the boards shall be selected to provide
363 representation as follows:
- 364 (a) (i) The Plumbers Licensing Board consists of five members as follows:
365 [(i)] (A) two members shall be licensed from among the license classifications of
366 master or journeyman plumber;
367 [(ii)] (B) two members shall be licensed plumbing contractors; and
368 [(iii)] (C) one member shall be from the public at large with no history of involvement

369 in the construction trades.

370 (ii) Beginning May 11, 2010 and until June 30, 2012, the number of members of the
371 Plumbers Licensing Board increases to seven to include, in addition to the members specified
372 in Subsection (1)(a)(i), two air system contractors, including:

373 (A) one who is a member of a union organization; and

374 (B) one who has no union affiliation.

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

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

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

379 (C) one individual representing the general public.

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

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

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

385 (iii) A board member who has, under this Subsection (1)(b)(iii), reviewed a complaint
386 or advised in its investigation is disqualified from participating with the board when the board
387 serves as a presiding officer in an adjudicative proceeding concerning the complaint.

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

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

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

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

396 (d) Beginning July 1, 2012, the Air System Technicians Licensing Board consists of
397 five members as follows:

398 (i) two members who are licensed from among the license classifications of residential
399 master or residential journeyman air system technician, including:

- 400 (A) one who is a member of a union organization; and
- 401 (B) one who has no union affiliation;
- 402 (ii) two members who are licensed air system contractors, including:
- 403 (A) one who is a member of a union organization; and
- 404 (B) one who has no union affiliation; and
- 405 (iii) one member who is from the public at large who has:
- 406 (A) no history of involvement in a construction trade; and
- 407 (B) no union affiliation.
- 408 (2) The duties, functions, and responsibilities of each board include the following:
- 409 (a) recommending to the commission appropriate rules;
- 410 (b) recommending to the commission policy and budgetary matters;
- 411 (c) approving and establishing a passing score for applicant examinations;
- 412 (d) overseeing the screening of applicants for licensing, renewal, reinstatement, and
- 413 relicensure;
- 414 (e) assisting the commission in establishing standards of supervision for students or
- 415 persons in training to become qualified to obtain a license in the occupation or profession it
- 416 represents; and
- 417 (f) acting as presiding officer in conducting hearings associated with the adjudicative
- 418 proceedings and in issuing recommended orders when so authorized by the commission.
- 419 Section 4. Section **58-55-301** is amended to read:
- 420 **58-55-301. License required -- License classifications.**
- 421 (1) (a) A person engaged in the construction trades licensed under this chapter, as a
- 422 contractor regulated under this chapter, as an alarm business or company, or as an alarm
- 423 company agent, shall become licensed under this chapter before engaging in that trade or
- 424 contracting activity in this state unless specifically exempted from licensure under Section
- 425 58-1-307 or 58-55-305.
- 426 (b) The license issued under this chapter and the business license issued by the local
- 427 jurisdiction in which the licensee has its principal place of business shall be the only licenses
- 428 required for the licensee to engage in a trade licensed by this chapter, within the state.
- 429 (c) Neither the state nor any of its political subdivisions may require of a licensee any
- 430 additional business licenses, registrations, certifications, contributions, donations, or anything

431 else established for the purpose of qualifying a licensee under this chapter to do business in that
432 local jurisdiction, except for contract prequalification procedures required by state agencies, or
433 the payment of any fee for the license, registration, or certification established as a condition to
434 do business in that local jurisdiction.

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

- 437 (a) general engineering contractor;
- 438 (b) general building contractor;
- 439 (c) residential and small commercial contractor;
- 440 (d) specialty contractor;
- 441 (e) master plumber;
- 442 (f) residential master plumber;
- 443 (g) journeyman plumber;
- 444 (h) apprentice plumber;
- 445 (i) residential journeyman plumber;
- 446 (j) master electrician;
- 447 (k) residential master electrician;
- 448 (l) journeyman electrician;
- 449 (m) residential journeyman electrician;
- 450 (n) apprentice electrician;
- 451 (o) construction trades instructor:
- 452 (i) general engineering classification;
- 453 (ii) general building classification;
- 454 (iii) electrical classification;
- 455 (iv) plumbing classification; and
- 456 (v) mechanical classification;
- 457 (p) alarm company; [~~and~~]
- 458 (q) alarm company agent[-]; and
- 459 (r) beginning July 1, 2012:
- 460 (i) residential master air system technician;
- 461 (ii) residential journeyman air system technician; and

462 (iii) apprentice air system technician.

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

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

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

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

470 **58-55-302. Qualifications for licensure.**

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

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

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

474 (c) (i) meet the examination requirements established by rule by the commission with
475 the concurrence of the director, except for the classifications of apprentice plumber and
476 apprentice electrician for whom no examination is required; or

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

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

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

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

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

486 (iii) (A) be a licensed master electrician if an applicant for an electrical contractor's
487 license or a licensed master residential electrician if an applicant for a residential electrical
488 contractor's license; ~~[or]~~

489 (B) beginning July 1, 2012, be a licensed residential master air system technician if an
490 applicant for an air system contractor's license; or

491 ~~[(iv)]~~ (C) be a licensed master plumber if an applicant for a plumbing contractor's
492 license or a licensed ~~[master]~~ residential master plumber if an applicant for a residential

493 plumbing contractor's license; and

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

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

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

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

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

505 (i) Utah Department of Commerce;

506 (ii) Division of Corporations and Commercial Code;

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

509 (iv) State Tax Commission; and

510 (v) Internal Revenue Service.

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

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

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

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

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

522 (ii) An individual holding a valid Utah license as a journeyman plumber, based on at
523 least four years of practical experience as a licensed apprentice under the supervision of a

524 licensed journeyman plumber and four years as a licensed journeyman plumber, in effect
525 immediately prior to May 5, 2008, is on and after May 5, 2008, considered to hold a current
526 master plumber license under this chapter, and satisfies the requirements of this Subsection
527 (3)(a) for the purpose of renewal or reinstatement of that license under Section 58-55-303.

528 (iii) An individual holding a valid plumbing contractor's license or residential
529 plumbing contractor's license, in effect immediately prior to May 5, 2008, is on or after May 5,
530 2008:

531 (A) considered to hold a current master plumber license under this chapter if licensed
532 as a plumbing contractor and a journeyman plumber, and satisfies the requirements of this
533 Subsection (3)(a) for purposes of renewal or reinstatement of that license under Section
534 58-55-303; and

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

539 (b) A [~~master~~] residential master plumber applicant shall produce satisfactory evidence
540 that the applicant:

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

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

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

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

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

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

- 555 (d) A residential journeyman plumber shall produce satisfactory evidence of:
- 556 (i) completion of the equivalent of at least three years of full-time training and
- 557 instruction as a licensed apprentice plumber under the supervision of a licensed residential
- 558 master plumber, licensed residential journeyman plumber, or licensed journeyman plumber in
- 559 accordance with a planned program of training approved by the division;
- 560 (ii) completion of at least six years of full-time experience in a maintenance or repair
- 561 trade involving substantial plumbing work; or
- 562 (iii) meeting the qualifications determined by the board to be equivalent to Subsection
- 563 (3)(d)(i) or (d)(ii).
- 564 (e) The conduct of licensed apprentice plumbers and their licensed supervisors shall be
- 565 in accordance with the following:
- 566 (i) while engaging in the trade of plumbing, a licensed apprentice plumber shall be
- 567 under the immediate supervision of a licensed master plumber, licensed residential master
- 568 plumber, licensed journeyman plumber, or a licensed residential journeyman plumber; and
- 569 (ii) a licensed apprentice plumber in the fourth through tenth year of training may work
- 570 without supervision for a period not to exceed eight hours in any 24-hour period, but if the
- 571 apprentice does not become a licensed journeyman plumber or licensed residential journeyman
- 572 plumber by the end of the tenth year of apprenticeship, this nonsupervision provision no longer
- 573 applies.
- 574 (f) A master electrician applicant shall produce satisfactory evidence that the applicant:
- 575 (i) is a graduate electrical engineer of an accredited college or university approved by
- 576 the division and has one year of practical electrical experience as a licensed apprentice
- 577 electrician;
- 578 (ii) is a graduate of an electrical trade school, having received an associate of applied
- 579 sciences degree following successful completion of a course of study approved by the division,
- 580 and has two years of practical experience as a licensed journeyman electrician;
- 581 (iii) has four years of practical experience as a journeyman electrician; or
- 582 (iv) meets the qualifications determined by the board to be equivalent to Subsection
- 583 (3)(f)(i), (ii), or (iii).
- 584 (g) A [~~master~~] residential master electrician applicant shall produce satisfactory
- 585 evidence that the applicant:

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

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

590 (h) A journeyman electrician applicant shall produce satisfactory evidence that the
591 applicant:

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

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

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

599 (i) A residential journeyman electrician applicant shall produce satisfactory evidence
600 that the applicant:

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

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

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

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

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

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

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

619 (k) Beginning July 1, 2012, an individual is considered to hold a residential master air
620 system technician license if, before July 1, 2012, the individual:

621 (i) worked in an air system trade; and

622 (ii) had at least four years practical experience.

623 (l) A residential journeyman air system technician applicant shall produce satisfactory
624 evidence that the applicant:

625 (i) has successfully completed two years of training in:

626 (A) an air system training program; or

627 (B) the equivalent of an air system training program, as approved by the division;

628 (ii) has two years of practical experience in the installation, service, maintenance, and
629 repair of air system equipment in a residential building under the supervision of a licensed
630 residential master or residential journeyman air system technician; or

631 (iii) meets the qualifications determined by the division and Air System Technicians
632 Board to be equivalent to Subsection (3)(l)(i) or (ii).

633 (m) Beginning on July 1, 2012, an individual is considered to hold a residential
634 journeyman air system technician license if, before July 1, 2012, the individual:

635 (i) worked in an air system trade; and

636 (ii) had at least two years practical experience.

637 (n) (i) A licensed apprentice air system technician shall be under the immediate
638 supervision of a licensed air system supervisor.

639 (ii) A licensed air system supervisor may immediately supervise no more than three
640 licensed apprentice air system technicians on a residential building.

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

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

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

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

647 (C) passes an examination component established by rule by the commission with the

648 concurrence of the director;

649 (ii) if a corporation, provide:

650 (A) the names, addresses, dates of birth, Social Security numbers, and fingerprint cards

651 of all corporate officers, directors, and those responsible management personnel employed

652 within the state or having direct responsibility for managing operations of the applicant within

653 the state; and

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

655 of all shareholders owning 5% or more of the outstanding shares of the corporation, except this

656 shall not be required if the stock is publicly listed and traded;

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

658 (A) the names, addresses, dates of birth, Social Security numbers, and fingerprint cards

659 of all company officers, and those responsible management personnel employed within the

660 state or having direct responsibility for managing operations of the applicant within the state;

661 and

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

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

664 (iv) if a partnership, the names, addresses, dates of birth, Social Security numbers, and

665 fingerprint cards of all general partners, and those responsible management personnel

666 employed within the state or having direct responsibility for managing operations of the

667 applicant within the state;

668 (v) if a proprietorship, the names, addresses, dates of birth, Social Security numbers,

669 and fingerprint cards of the proprietor, and those responsible management personnel employed

670 within the state or having direct responsibility for managing operations of the applicant within

671 the state;

672 (vi) be of good moral character in that officers, directors, shareholders described in

673 Subsection (3)~~(A)~~(O)(ii)(B), partners, proprietors, and responsible management personnel

674 have not been convicted of a felony, a misdemeanor involving moral turpitude, or any other

675 crime that when considered with the duties and responsibilities of an alarm company is

676 considered by the board to indicate that the best interests of the public are served by granting

677 the applicant a license;

678 (vii) document that none of the applicant's officers, directors, shareholders described in

679 Subsection (3)~~(k)~~(o)(ii)(B), partners, proprietors, and responsible management personnel
680 have been declared by any court of competent jurisdiction incompetent by reason of mental
681 defect or disease and not been restored;

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

685 (ix) file and maintain with the division evidence of:

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

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

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

691 (I) Division of Corporations and Commercial Code;

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

694 (III) State Tax Commission; and

695 (IV) Internal Revenue Service; and

696 (x) meet with the division and board.

697 ~~(f)~~ (p) Each applicant for licensure as an alarm company agent shall:

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

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

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

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

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

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

710 (4) (a) The apprentice ratio for determining compliance with the requirements for
711 planned training programs and electrician or air system technician apprentice licensing
712 applications is:

713 (i) one journeyman or master electrician to one apprentice on industrial and
714 commercial work;

715 (ii) one journeyman or master electrician to three apprentices on a residential project;
716 and

717 (iii) one residential journeyman or residential master air system technician to three
718 apprentices on a residential building.

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

722 [~~(4)~~] (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
723 Act, the division may make rules establishing when Federal Bureau of Investigation records
724 shall be checked for applicants as an alarm company or alarm company agent.

725 [~~(5)~~] (6) To determine if an applicant meets the qualifications of Subsections
726 (3)[~~(k)~~](o)(vi) and (3)[~~(t)~~](p)(iii), the division shall provide an appropriate number of copies of
727 fingerprint cards to the Department of Public Safety with the division's request to:

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

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

734 [~~(6)~~] (7) The Department of Public Safety shall send to the division:

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

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

741 ~~[(7)]~~ (8) (a) The division shall charge each applicant for licensure as an alarm company
742 or alarm company agent a fee, in accordance with Section 63J-1-504, equal to the cost of
743 performing the records reviews under this section.

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

747 ~~[(8)]~~ (9) Information obtained by the division from the reviews of criminal history
748 records of the Department of Public Safety and the F.B.I. shall be used or disseminated by the
749 division only for the purpose of determining if an applicant for licensure as an alarm company
750 or alarm company agent is qualified for licensure.

751 ~~[(9)]~~ (10) (a) An application for licensure under this chapter shall be denied if:

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

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

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

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

762 (B) any owner or agent acting as a qualifier has served in any capacity listed in
763 Subsection ~~[(9)]~~ (10)(a)(ii)(B) in any entity which has had a previous license, which was issued
764 under this chapter, suspended or revoked within one year prior to the date of the applicant's
765 application.

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

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

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

771 (B) any corporate officer, director, shareholder holding 25% or more of the stock in the

772 applicant, partner, member, agent acting as a qualifier, or any person occupying a similar
773 status, performing similar functions, or directly or indirectly controlling the applicant has
774 served in any similar capacity with any person or entity which has had a previous license,
775 which was issued under this chapter, suspended or revoked more than one year prior to the date
776 of the applicant's application; or

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

778 (B) any owner or agent acting as a qualifier has served in any capacity listed in
779 Subsection [~~(9)~~] (10)(b)(ii)(B) in any entity which has had a previous license, which was issued
780 under this chapter, suspended or revoked more than one year prior to the date of the applicant's
781 application.

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

783 **58-55-303. Term of license -- Expiration -- Renewal.**

784 (1) Each license issued under this chapter shall be issued in accordance with a two-year
785 renewal cycle established by rule. The division may by rule extend or shorten a renewal period
786 by as much as one year to stagger the renewal cycle it administers.

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

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

789 (b) for an air system technician licensee, beginning with the two-year license renewal

790 cycle that ends November 30, 2014, having completed, during the two-year license renewal

791 cycle, two hours of air system fuel and electricity efficiency education approved by the division

792 and the Air System Technicians Licensing Board.

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

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

797 (5) In addition to any other requirements imposed by law, if a license has been
798 suspended or revoked for any reason, the applicant must pay in full all fines imposed by the
799 division, resolve any outstanding citations or disciplinary actions with the division, satisfy any
800 Section 58-55-503 judgment and sentence or nontrial resolution, complete a new financial
801 responsibility review as required under Section 58-55-306, using only titled assets, and pay in
802 full any reimbursement amount as provided in Title 38, Chapter 11, Residence Lien Restriction

803 and Lien Recovery Fund Act.

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

805 **58-55-305. Exemptions from licensure.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

851 (h) (i) a person engaged in the alteration, repair, remodeling, or addition to or
852 improvement of a building with a contracted or agreed value of less than \$3,000, including
853 both labor and materials, and including all changes or additions to the contracted or agreed
854 upon work; and

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

857 (A) work in the plumbing [~~and~~], electrical, and air system trades on a project described
858 in Subsection (1)(h)(i) [~~project~~] within any six month period of time:

859 (I) [~~must~~] shall be performed by a licensed electrical [~~or~~], plumbing, or, beginning July
860 1, 2012, air system contractor, respectively, if the project involves an electrical [~~or~~], plumbing,
861 or air system; and

862 (II) may be performed by a licensed journeyman electrician [~~or~~], plumber, air system
863 technician beginning July 1, 2012, or an individual referred to in Subsection (1)(h)(ii)(A)(I), if
864 the project involves a component of the system such as a faucet, toilet, fixture, device, outlet,

865 [~~or~~] electrical switch, thermostat, transformer, relay, compressor, motor, or blower;

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

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

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

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

879 [~~(F) installation, repair, or replacement of a heating, ventilation, or air conditioning~~
880 ~~system (HVAC) on a Subsection (1)(h)(i) project must be performed by an HVAC contractor~~
881 ~~licensed by the division;~~]

882 [~~(G)~~] (F) installation, repair, or replacement of a radon mitigation system or a soil
883 depressurization system [~~must~~] shall be performed by a licensed contractor; and

884 [~~(H)~~] (G) if the total value of the project is greater than \$1,000, the person shall file
885 with the division a one-time affirmation, subject to periodic reaffirmation as established by
886 division rule, that the person has:

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

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

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

894 (j) owners and lessees of property and persons regularly employed for wages by owners
895 or lessees of property or their agents for the purpose of maintaining the property, are exempt

896 from this chapter when doing work upon the property;

897 (k) (i) a person engaged in minor plumbing work incidental to the replacement or
898 repair of a fixture or an appliance in a residential or small commercial building, or structure
899 used for agricultural use, as defined in Section 58-56-4, provided that no modification is made
900 to:

901 (A) existing culinary water, soil, waste, or vent piping; or

902 (B) a gas appliance or combustion system; and

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

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

908 (i) meets the appropriate state construction codes or local plumbing standards; and

909 (ii) is installed or repaired under the direction of a person authorized to do the work
910 under an appropriate specialty contractor license;

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

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

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

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

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

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

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

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

- 927 (i) gas range;
- 928 (ii) gas dryer;
- 929 (iii) outdoor gas barbeque; or
- 930 (iv) outdoor gas patio heater.

931 (2) A compliance agency as defined in [~~Subsection~~] Section 58-56-3~~(4)~~ that issues a
932 building permit to a person requesting a permit as a sole owner of property referred to in
933 Subsection (1)(d) shall notify the division, in writing or through electronic transmission, of the
934 issuance of the permit.

935 Section 8. Section **58-55-501** is amended to read:

936 **58-55-501. Unlawful conduct.**

937 Unlawful conduct includes:

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

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

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

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

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

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

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

957 (8) submitting a bid for any work for which a license is required under this chapter by a

958 person not licensed or exempted from licensure as a contractor under this chapter;

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

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

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

964 (12) ~~[if licensed as a specialty contractor in the electrical trade or plumbing trade,~~

965 ~~journeyman plumber, residential journeyman plumber, journeyman electrician, master~~

966 ~~electrician, or residential electrician, failing]~~ failure by a licensed supervisor to directly

967 supervise an apprentice under ~~[one's]~~ the supervisor's supervision or exceeding the number of

968 apprentices ~~[one]~~ the supervisor is allowed to have under ~~[his]~~ the supervisor's supervision[;] if

969 the supervisor is licensed as a:

970 (a) specialty contractor in the electrical, mechanical, or plumbing trade;

971 (b) master electrician;

972 (c) residential master electrician;

973 (d) journeyman electrician;

974 (e) journeyman plumber;

975 (f) residential journeyman electrician;

976 (g) residential journeyman plumber; or

977 (h) beginning July 1, 2012:

978 (i) residential master air system technician; or

979 (ii) residential journeyman air system technician;

980 (13) if licensed as a contractor or representing oneself to be a contractor, receiving any

981 funds in payment for a specific project from an owner or any other person, which funds are to

982 pay for work performed or materials and services furnished for that specific project, and after

983 receiving the funds to exercise unauthorized control over the funds by failing to pay the full

984 amounts due and payable to persons who performed work or furnished materials or services

985 within a reasonable period of time;

986 (14) employing an unlicensed alarm business or company or an unlicensed individual

987 as an alarm company agent, except as permitted under the exemption from licensure provisions

988 under Section 58-1-307;

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

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

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

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

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

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

998 (e) the laws governing withholdings for employee state and federal income taxes,

999 unemployment taxes, FICA, or other required withholdings; or

1000 (f) reporting, notification, and filing laws of this state or the federal government;

1001 (17) aiding or abetting any person in evading the provisions of this chapter or rules
1002 established under the authority of the division to govern this chapter;

1003 (18) engaging in the construction trade or as a contractor for the construction of
1004 residences of up to two units when not currently registered or exempt from registration as a
1005 qualified beneficiary under Title 38, Chapter 11, Residence Lien Restriction and Lien Recovery
1006 Fund Act;

1007 (19) failing, as an original contractor, as defined in Section 38-11-102, to include in a
1008 written contract the notification required in Section 38-11-108;

1009 (20) wrongfully filing a mechanics' lien in violation of Section 38-1-25; ~~[or]~~

1010 (21) if licensed as a contractor, not completing a three-hour core education class and an
1011 additional three hours of professional education approved by the division and the Construction
1012 Services Commission within each two-year renewal cycle, beginning with the two-year renewal
1013 cycle that starts July 1, 2005, and ends June 30, 2007 unless an exemption has been granted to
1014 the licensee by the Construction Services Commission, with the concurrence of the division,
1015 except that ~~[this Subsection (21) is repealed effective July 1, 2010 and]~~ its implementation is
1016 subject to the division receiving adequate funding for its implementation through a legislative
1017 appropriation; or

1018 (22) if licensed as an air system technician on or after November 30, 2014, not
1019 completing two hours of air system fuel and electricity efficiency education as required in

1020 Subsection 58-55-303(2)(b).

Legislative Review Note
as of **2-18-10 12:57 PM**

Office of Legislative Research and General Counsel

H.B. 334 - Mechanical Contractor Licensing Provisions

Fiscal Note

2010 General Session
State of Utah

State Impact

To comply with the provisions of this bill, it is estimated that the Department of Commerce would need 1.5 FTEs with related expenses at an annual costs of \$166,400 (\$43,200 one-time) beginning in FY 2012. License fees will generate revenue of \$928,400 in FY 2012 and \$478,800 in even-numbered years thereafter. Commerce Service Fund revenue and expenditures affect the annual transfer to the General Fund.

	<u>FY 2010 Approp.</u>	<u>FY 2011 Approp.</u>	<u>FY 2012 Approp.</u>	<u>FY 2010 Revenue</u>	<u>FY 2011 Revenue</u>	<u>FY 2012 Revenue</u>
General Fund, One-Time	\$0	\$0	\$0	\$0	(\$3,600)	\$762,000
Commerce Service Fund	\$0	\$3,600	\$123,200	\$0	\$0	\$166,400
Commerce Service, One-time	\$0	\$0	\$43,200	\$0	\$0	\$0
Total	\$0	\$3,600	\$166,400	\$0	(\$3,600)	\$928,400

Individual, Business and/or Local Impact

Local governments may be impacted due to this legislation. Individuals and businesses will be impacted by licensing costs associated with the implementation of this bill.
