

**STATE CONSTRUCTION REGISTRY**

**REVISIONS**

2010 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Kraig Powell**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill modifies provisions relating to the state construction registry.

**Highlighted Provisions:**

This bill:

► modifies provisions relating to the filing of a notice of construction with respect to the state construction registry.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

**AMENDS:**

**38-1-31**, as last amended by Laws of Utah 2009, Chapter 50

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

Section 1. Section **38-1-31** is amended to read:

**38-1-31. Building permit -- Construction -- Notice registry -- Notice of commencement of work.**

(1) (a) (i) [~~A~~] For a construction project where a building permit is issued to an



28 original contractor or owner-builder, no later than 15 days after the issuance of the building  
29 permit:

30 ~~[(F)]~~ (A) the local government entity issuing that building permit shall input the  
31 building permit application and transmit the building permit information to the database  
32 electronically by way of the Internet or computer modem or by any other means; ~~[or]~~ and

33 ~~[(H)]~~ (B) the original contractor, owner, or owner-builder ~~[may]~~ shall file a notice of  
34 commencement with the database ~~[whether or not a building permit is issued or a notice of~~  
35 ~~commencement is filed under Subsection (1)(a)(i)(A)(F)]~~ based on the building permit issued  
36 by the local government entity.

37 ~~[(B) The information submitted under Subsection (1)(a)(i)(A) forms the basis of a~~  
38 ~~notice of commencement.]~~

39 (ii) The person to whom a building permit, filed under Subsection (1)(a)(i), is issued is  
40 responsible for the accuracy of the information in the building permit.

41 (iii) For the purposes of classifying a record under Title 63G, Chapter 2, Government  
42 Records Access and Management Act, building permit information transmitted from a local  
43 governmental entity to the database shall be classified in the database by the division  
44 notwithstanding the local governmental entity's classification of the building permit  
45 information.

46 (b) No later than 15 days after commencement of physical construction work at the  
47 project site, the original contractor, owner, or owner-builder ~~[may]~~ shall file a notice of  
48 commencement with the database ~~[whether or not a building permit is issued or]~~ if a notice of  
49 commencement ~~[is filed]~~ has not already been filed under Subsection (1)(a).

50 (c) An original contractor, owner, or owner-builder may file a notice of  
51 commencement with the designated agent prior to the time frames established in Subsections  
52 (1)(a) and (b).

53 (d) An owner of construction or an original contractor may file a notice of  
54 commencement with the designated agent within the time prescribed by Subsections (1)(a) and  
55 (b).

56 (e) (i) If duplicate notices of commencement are filed, they shall be combined into one  
57 notice for each project and any notices filed relate back to the date of the earliest-filed notice of  
58 commencement for the project.

59 (ii) A duplicate notice of commencement that is untimely filed relates back under  
60 Subsection (1)(e)(i) if the earlier filed notice of commencement is timely filed.

61 (iii) Duplicate notices of commencement shall be automatically linked by the  
62 designated agent.

63 (f) The designated agent shall assign each construction project a unique project number  
64 that:

65 (i) identifies each construction project; and

66 (ii) can be associated with all notices of commencement, preliminary notices, and  
67 notices of completion.

68 (g) A notice of commencement is effective only as to any labor, service, equipment,  
69 and material furnished to the construction project that is furnished subsequent to the filing of  
70 the notice of commencement.

71 (2) (a) A notice of commencement shall include the following:

72 (i) the name and address of the owner of the project;

73 (ii) the name and address of the:

74 (A) original contractor; and

75 (B) surety providing any payment bond for the project, or if none exists, a statement  
76 that a payment bond was not required for the work being performed; and

77 (iii) (A) the project address if the project can be reasonably identified by an address; or

78 (B) the name and general description of the location of the project if the project cannot  
79 be reasonably identified by an address.

80 (b) A notice of commencement may include:

81 (i) a general description of the project; or

82 (ii) the lot or parcel number, and any subdivision, development, or other project name,  
83 of the real property upon which the project is to be constructed if the project is subject to  
84 mechanics' liens.

85 (c) A notice of commencement need not include all of the items listed in Subsection  
86 (2)(a) if:

87 (i) a building permit is issued for the project; and

88 (ii) all items listed in Subsection (2)(a) that are available on the building permit are  
89 included in the notice of commencement.

90 (3) If a notice of commencement for a construction project is not filed within the time  
91 [~~set forth in Subsections~~] provided in Subsection (1)(a) [and] or (b), the following do not  
92 apply:

93 (a) Section 38-1-32; and

94 (b) Section 38-1-33.

95 (4) (a) Unless a person indicates to the division or designated agent that the person  
96 does not wish to receive a notice under this section, electronic notice of the filing of a notice of  
97 commencement or alternate notice as prescribed in Subsection (1), shall be provided to:

98 (i) all persons who have filed notices of commencement for the project; and

99 (ii) all interested persons who have requested notices concerning the project.

100 (b) (i) A person to whom notice is required under Subsection (4)(a) is responsible for:

101 (A) providing an e-mail address, mailing address, or telefax number to which a notice  
102 required by Subsection (4)(a) is to be sent; and

103 (B) the accuracy of any e-mail address, mailing address, or telefax number to which  
104 notice is to be sent.

105 (ii) The designated agent fulfills the notice requirement of Subsection (4)(a) when it  
106 sends the notice to the e-mail address, mailing address, or telefax number provided to the  
107 designated agent whether or not the notice is actually received.

108 (5) (a) The burden is upon any person seeking to enforce a notice of commencement to  
109 verify the accuracy of information in the notice of commencement and prove that the notice of  
110 commencement is filed timely and meets all of the requirements in this section.

111 (b) A substantial inaccuracy in a notice of commencement renders the notice of  
112 commencement unenforceable.

113 (c) A person filing a notice of commencement by alternate filing is responsible for  
114 verifying and changing any incorrect information in the notice of commencement before the  
115 expiration of the time period during which the notice is required to be filed.

116 (6) At the time a building permit is obtained, each original contractor shall  
117 conspicuously post at the project site a copy of the building permit obtained for the project.

**Legislative Review Note**  
as of 2-8-10 5:14 PM

**Office of Legislative Research and General Counsel**

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**H.B. 319 - State Construction Registry Revisions**

**Fiscal Note**

2010 General Session

State of Utah

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**State Impact**

Enactment of this bill will not require additional appropriations.

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**Individual, Business and/or Local Impact**

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for local governments. Businesses and individuals will be impacted a required \$7.50 registration fee.

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