

BUILDING AND CONSTRUCTION PROJECTS

- TECHNICAL CORRECTIONS

2010 GENERAL SESSION

STATE OF UTAH

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LONG TITLE

General Description:

This bill makes technical corrections to building and construction projects provisions dealing with notices of completion and definitions.

Highlighted Provisions:

This bill:

- ▶ removes duplicative provisions dealing with the filing of a notice of completion of a construction project; and
- ▶ makes a conforming change to correctly reference the Fire Prevention Board in the definitions section of the Uniform Building Standards Act.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

38-1-33, as last amended by Laws of Utah 2009, Chapter 239

58-56-3, as last amended by Laws of Utah 2009, Chapter 339

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

30 Section 1. Section **38-1-33** is amended to read:

31 **38-1-33. Notice of completion.**

32 (1) (a) Upon final completion of a construction project, and in accordance with
33 Section 38-1-40, the following with a construction project registered with the database may
34 file a notice of completion with the database:

- 35 (i) an owner of the construction project;
- 36 (ii) an original contractor of the construction project;
- 37 (iii) a lender that has provided financing for the construction project;
- 38 (iv) a surety that has provided bonding for the construction project; or
- 39 (v) a title company issuing a title insurance policy on the construction project[;].
- 40 [~~(vi) a lender that has provided financing for the construction project;~~]
- 41 [~~(vii) a surety that has provided bonding for the construction project; or~~]
- 42 [~~(viii) a title company issuing a title insurance policy on the construction project.~~]

43 (b) Notwithstanding Section 38-1-2, if a subcontractor performs substantial work after
44 the applicable dates established by Subsection (1)(a), that subcontractor's subcontract is
45 considered an original contract for the sole purpose of determining:

- 46 (i) the subcontractor's time frame to file a notice to hold and claim a lien under
47 Subsection 38-1-7(1); and
- 48 (ii) the original contractor's time frame to file a notice to hold and claim a lien under
49 Subsection 38-1-7(1) for that subcontractor's work.

50 (c) A notice of completion shall include:

- 51 (i) the building permit number for the project, or the number assigned to the project by
52 the designated agent;
- 53 (ii) the name, address, and telephone number of the person filing the notice of
54 completion;
- 55 (iii) the name of the original contractor for the project;
- 56 (iv) the address of the project or a description of the location of the project;
- 57 (v) the date on which final completion is alleged to have occurred; and

58 (vi) the method used to determine final completion.

59 (d) For purposes of this section, final completion of the original contract does not
60 occur if work remains to be completed for which the owner is holding payment to ensure
61 completion of the work.

62 (e) (i) Unless a person indicates to the division or designated agent that the person
63 does not wish to receive a notice under this section, electronic notification of the filing of a
64 notice of completion or alternate notice as prescribed in Subsection (1)(a), shall be provided
65 to:

66 (A) each person that filed a notice of commencement for the project;

67 (B) each person that filed preliminary notice for the project; and

68 (C) all interested persons who have requested notices concerning the project.

69 (ii) A person to whom notice is required under this Subsection (1)(e) is responsible
70 for:

71 (A) providing an e-mail address, mailing address, or telefax number to which a notice
72 required by this Subsection (1)(e) is to be sent; and

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

75 (iii) The designated agent fulfills the notice requirement of Subsection (1)(e)(i) when
76 it sends the notice to the e-mail address, mailing address, or telefax number provided to the
77 designated agent, whether or not the notice is actually received.

78 (iv) Upon the filing of a notice of completion, the time periods for filing preliminary
79 notices stated in Section 38-1-27 are modified such that all preliminary notices shall be filed
80 subsequent to the notice of completion and within 10 days from the day on which the notice of
81 completion is filed.

82 (f) A subcontract that is considered an original contract for purposes of this section
83 does not create a requirement for an additional preliminary notice if a preliminary notice has
84 already been given for the labor, service, equipment, and material furnished to the
85 subcontractor who performs substantial work.

86 (2) (a) If a construction project owner, original contractor, subcontractor, or other
87 interested person believes that a notice of completion has been filed erroneously, that owner,
88 original contractor, subcontractor, or other interested person can request from the person who
89 filed the notice of completion evidence establishing the validity of the notice of completion.

90 (b) Within 10 days after the request described in Subsection (2)(a), the person who
91 filed the notice of completion shall provide the requesting person proof that the notice of
92 completion is valid.

93 (c) If the person that filed the notice of completion does not provide proof of the
94 validity of the notice of completion, that person shall immediately cancel the notice of
95 completion from the database in any manner prescribed by the division pursuant to rule.

96 (3) A person filing a notice of completion by alternate filing is responsible for
97 verifying and changing any incorrect information in the notice of completion before the
98 expiration of the time period during which the notice is required to be filed.

99 Section 2. Section **58-56-3** is amended to read:

100 **58-56-3. Definitions.**

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

102 (1) (a) "Adopted code" means:

103 (i) (A) a new edition of or amendment to an existing code, including the standards and
104 specifications contained in the code, adopted by the Legislature under Section 58-56-7; and

105 (B) administered by the division under Section 58-56-6; and

106 (ii) adopted by a nationally recognized code authority, including:

107 (A) a building code;

108 (B) the National Electrical Code promulgated by the National Fire Protection

109 Association;

110 (C) a residential one and two family dwelling code;

111 (D) a plumbing code;

112 (E) a mechanical code;

113 (F) a fuel gas code;

114 (G) an energy conservation code; and
115 (H) a manufactured housing installation standard code.
116 (b) "Adopted code" includes:
117 (i) a fire code administered by the Fire Prevention Board under Section 53-7-204; and
118 (ii) a code listed in Subsection (1)(a)(ii) that was adopted or amended by the division
119 and Uniform Building Code Commission or the Fire ~~Protection~~ Prevention Board before
120 May 12, 2009.

121 (2) (a) ~~(i)~~ "Approved code" means a code, including the standards and specifications
122 contained in the code, approved by the division under Section 58-56-4 for use by a compliance
123 agency~~;~~ and ~~(ii)~~ administered by the division under Section 58-56-6.

124 (b) "Approved code" does not include an adopted code listed under Subsection (1)(b).

125 (3) "Board" means the Fire Prevention Board created in Section 53-7-203.

126 (4) "Building" means a structure used or intended for supporting or sheltering any use
127 or occupancy and any improvements attached to it.

128 (5) "Commission" means the Uniform Building Code Commission created under this
129 chapter.

130 (6) "Compliance agency" means:

131 (a) an agency of the state or any of its political subdivisions which issues permits for
132 construction regulated under the codes;

133 (b) any other agency of the state or its political subdivisions specifically empowered to
134 enforce compliance with the codes; or

135 (c) any other state agency which chooses to enforce codes adopted under this chapter
136 by authority given the agency under a title other than Title 58, Occupations and Professions.

137 (7) "Factory built housing" means manufactured homes or mobile homes.

138 (8) (a) "Factory built housing set-up contractor" means an individual licensed by the
139 division to set up or install factory built housing on a temporary or permanent basis.

140 (b) The scope of the work included under the license includes the placement or
141 securing, or both placement and securing, of the factory built housing on a permanent or

142 temporary foundation, securing the units together if required, and connection of the utilities to
143 the factory built housing unit, but does not include site preparation, construction of a
144 permanent foundation, and construction of utility services to the near proximity of the factory
145 built housing unit.

146 (c) If a dealer is not licensed as a factory built housing set-up contractor, that
147 individual must subcontract the connection services to individuals who are licensed by the
148 division to perform those specific functions under Title 58, Chapter 55, Utah Construction
149 Trades Licensing Act.

150 (9) "HUD code" means the National Manufactured Housing Construction and Safety
151 Standards Act, 42 U.S.C. Sec. 5401 et seq.

152 (10) "Legislative action" means the Legislature's:

- 153 (a) adoption of a new adopted code;
- 154 (b) adoption of an amendment to an existing adopted code;
- 155 (c) repeal of an adopted code; or
- 156 (d) repeal of a provision of an adopted code.

157 (11) "Local regulator" means each political subdivision of the state which is
158 empowered to engage in the regulation of construction, alteration, remodeling, building,
159 repair, and other activities subject to the codes.

160 (12) (a) "Manufactured home" means a transportable factory built housing unit
161 constructed on or after June 15, 1976, according to the HUD Code, in one or more sections,
162 which:

163 (i) in the traveling mode, is eight body feet or more in width or 40 body feet or more in
164 length, or when erected on site, is 400 or more square feet; and

165 (ii) is built on a permanent chassis and designed to be used as a dwelling with or
166 without a permanent foundation when connected to the required utilities, and includes the
167 plumbing, heating, air-conditioning, and electrical systems.

168 (b) Manufactured homes constructed on or after June 15, 1976, shall be identifiable by
169 the manufacturer's data plate bearing the date the unit was manufactured and a HUD label

170 attached to the exterior of the home certifying the home was manufactured to HUD standards.

171 (13) "Mobile home" means a transportable factory built housing unit built prior to
172 June 15, 1976, in accordance with a state mobile home code which existed prior to the HUD
173 Code.

174 (14) "Modular unit" means a structure built from sections which are manufactured in
175 accordance with the construction standards adopted pursuant to Section 58-56-4 and
176 transported to a building site, the purpose of which is for human habitation, occupancy, or use.

177 (15) "Opinion" means a written, nonbinding, and advisory statement issued by the
178 commission concerning an interpretation of the meaning of the codes or the application of the
179 codes in a specific circumstance issued in response to a specific request by a party to the issue.

180 (16) "State regulator" means an agency of the state which is empowered to engage in
181 the regulation of construction, alteration, remodeling, building, repair, and other activities
182 subject to the codes adopted pursuant to this chapter.