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Building and Construction Projects - Technical Corrections				

S.B. 14

1

BUILDING AND CONSTRUCTION PROJECTS

2

- TECHNICAL CORRECTIONS

3

2010 GENERAL SESSION

4

STATE OF UTAH

5

Chief Sponsor: Mark B. Madsen

6

House Sponsor: Christopher N. Herrod

7 Cosponsors:

8 Patricia W. Jones Daniel R. Liljenquist

Ralph Okerlund Luz Robles 9

10 **LONG TITLE**11 **Committee Note:**

12 The Workforce Services and Community and Economic Development Interim

13 Committee recommended this bill.

14 **General Description:**15 This bill makes technical corrections to building and construction projects provisions
16 dealing with notices of completion and definitions.17 **Highlighted Provisions:**

18 This bill:

19 . removes duplicative provisions dealing with the filing of a notice of completion of a
20 construction project; and21 . makes a conforming change to correctly reference the Fire Prevention Board in the
22 definitions section of the Uniform Building Standards Act.23 **Monies Appropriated in this Bill:**

24 None

25 **Other Special Clauses:**

26 None

27 **Utah Code Sections Affected:**

28

AMENDS:

29 **38-1-33**, as last amended by Laws of Utah 2009, Chapter 239

30 **58-56-3**, as last amended by Laws of Utah 2009, Chapter 339

31

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

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

34 **38-1-33. Notice of completion.**

35 (1) (a) Upon final completion of a construction project, and in accordance with Section
36 38-1-40 , the following with a construction project registered with the database may file a

notice

37 of completion with the database:

38 (i) an owner of the construction project;

39 (ii) an original contractor of the construction project;

40 (iii) a lender that has provided financing for the construction project;

41 (iv) a surety that has provided bonding for the construction project; *or*

42 (v) a title company issuing a title insurance policy on the construction project[~~†~~].

43 [~~(vi) a lender that has provided financing for the construction project;~~]

44 [~~(vii) a surety that has provided bonding for the construction project; or~~]

45 [~~(viii) a title company issuing a title insurance policy on the construction project.~~]

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

49 (i) the subcontractor's time frame to file a notice to hold and claim a lien under
50 Subsection 38-1-7 (1); and

51 (ii) the original contractor's time frame to file a notice to hold and claim a lien under
52 Subsection 38-1-7 (1) for that subcontractor's work.

53 (c) A notice of completion shall include:

54 (i) the building permit number for the project, or the number assigned to the project by
55 the designated agent;

56 (ii) the name, address, and telephone number of the person filing the notice of
57 completion;

58 (iii) the name of the original contractor for the project;

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(iv) the address of the project or a description of the location of the project;

60 (v) the date on which final completion is alleged to have occurred; and

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

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

completion

64 of the work.

65 (e) (i) Unless a person indicates to the division or designated agent that the person does
66 not wish to receive a notice under this section, electronic notification of the filing of a

notice of

67 completion or alternate notice as prescribed in Subsection (1)(a), shall be provided to:

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

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

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

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

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

74 (B) the accuracy of any e-mail address, mailing address, or telefax number to which

75 notice is to be sent.
 76 (iii) The designated agent fulfills the notice requirement of Subsection (1)(e)(i) when it
 77 sends the notice to the e-mail address, mailing address, or telefax number provided to the
 78 designated agent, whether or not the notice is actually received.
 79 (iv) Upon the filing of a notice of completion, the time periods for filing preliminary
 80 notices stated in Section 38-1-27 are modified such that all preliminary notices shall be
 filed
 81 subsequent to the notice of completion and within 10 days from the day on which the
 notice of
 82 completion is filed.
 83 (f) A subcontract that is considered an original contract for purposes of this section
 84 does not create a requirement for an additional preliminary notice if a preliminary notice
 has
 85 already been given for the labor, service, equipment, and material furnished to the
 86 subcontractor who performs substantial work.
 87 (2) (a) If a construction project owner, original contractor, subcontractor, or other
 88 interested person believes that a notice of completion has been filed erroneously, that
 owner,
 89 original contractor, subcontractor, or other interested person can request from the person
 who

90
 filed the notice of completion evidence establishing the validity of the notice of completion.
 91 (b) Within 10 days after the request described in Subsection (2)(a), the person who
 92 filed the notice of completion shall provide the requesting person proof that the notice of
 93 completion is valid.
 94 (c) If the person that filed the notice of completion does not provide proof of the
 95 validity of the notice of completion, that person shall immediately cancel the notice of
 96 completion from the database in any manner prescribed by the division pursuant to rule.
 97 (3) A person filing a notice of completion by alternate filing is responsible for verifying
 98 and changing any incorrect information in the notice of completion before the expiration
 of the
 99 time period during which the notice is required to be filed.
 100 Section 2. Section **58-56-3** is amended to read:
 101 **58-56-3. Definitions.**
 102 In addition to the definitions in Section 58-1-102 , as used in this chapter:
 103 (1) (a) "Adopted code" means:
 104 (i) (A) a new edition of or amendment to an existing code, including the standards and
 105 specifications contained in the code, adopted by the Legislature under Section 58-56-7 ;
 and
 106 (B) administered by the division under Section 58-56-6 ; and
 107 (ii) adopted by a nationally recognized code authority, including:
 108 (A) a building code;
 109 (B) the National Electrical Code promulgated by the National Fire Protection
 110 Association;
 111 (C) a residential one and two family dwelling code;
 112 (D) a plumbing code;
 113 (E) a mechanical code;
 114 (F) a fuel gas code;
 115 (G) an energy conservation code; and

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

121
 12, 2009.
 122 (2) (a) ~~(+)~~ "Approved code" means a code, including the standards and specifications
 123 contained in the code, approved by the division under Section 58-56-4 for use by a
 compliance
 124 agency~~(+)~~ and ~~(+)~~ administered by the division under Section 58-56-6 .
 125 (b) "Approved code" does not include an adopted code listed under Subsection (1)(b).
 126 (3) "Board" means the Fire Prevention Board created in Section 53-7-203 .
 127 (4) "Building" means a structure used or intended for supporting or sheltering any use
 128 or occupancy and any improvements attached to it.
 129 (5) "Commission" means the Uniform Building Code Commission created under this
 130 chapter.
 131 (6) "Compliance agency" means:
 132 (a) an agency of the state or any of its political subdivisions which issues permits for
 133 construction regulated under the codes;
 134 (b) any other agency of the state or its political subdivisions specifically empowered
 to
 135 enforce compliance with the codes; or
 136 (c) any other state agency which chooses to enforce codes adopted under this chapter
 137 by authority given the agency under a title other than Title 58, Occupations and
 Professions.
 138 (7) "Factory built housing" means manufactured homes or mobile homes.
 139 (8) (a) "Factory built housing set-up contractor" means an individual licensed by the
 140 division to set up or install factory built housing on a temporary or permanent basis.
 141 (b) The scope of the work included under the license includes the placement or
 142 securing, or both placement and securing, of the factory built housing on a permanent or
 143 temporary foundation, securing the units together if required, and connection of the
 utilities to
 144 the factory built housing unit, but does not include site preparation, construction of a
 145 permanent foundation, and construction of utility services to the near proximity of the
 factory
 146 built housing unit.
 147 (c) If a dealer is not licensed as a factory built housing set-up contractor, that
 individual
 148 must subcontract the connection services to individuals who are licensed by the division
 to
 149 perform those specific functions under Title 58, Chapter 55, Utah Construction Trades
 150 Licensing Act.
 151 (9) "HUD code" means the National Manufactured Housing Construction and Safety

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 Standards Act, 42 U.S.C. Sec. 5401 et seq.

153 (10) "Legislative action" means the Legislature's:
 154 (a) adoption of a new adopted code;
 155 (b) adoption of an amendment to an existing adopted code;
 156 (c) repeal of an adopted code; or
 157 (d) repeal of a provision of an adopted code.
 158 (11) "Local regulator" means each political subdivision of the state which is
 159 empowered to engage in the regulation of construction, alteration, remodeling, building,
 repair,
 160 and other activities subject to the codes.
 161 (12) (a) "Manufactured home" means a transportable factory built housing unit
 162 constructed on or after June 15, 1976, according to the HUD Code, in one or more
 sections,
 163 which:
 164 (i) in the traveling mode, is eight body feet or more in width or 40 body feet or more
 in
 165 length, or when erected on site, is 400 or more square feet; and
 166 (ii) is built on a permanent chassis and designed to be used as a dwelling with or
 167 without a permanent foundation when connected to the required utilities, and includes
 the
 168 plumbing, heating, air-conditioning, and electrical systems.
 169 (b) Manufactured homes constructed on or after June 15, 1976, shall be identifiable by
 170 the manufacturer's data plate bearing the date the unit was manufactured and a HUD
 label
 171 attached to the exterior of the home certifying the home was manufactured to HUD
 standards.
 172 (13) "Mobile home" means a transportable factory built housing unit built prior to
 June
 173 15, 1976, in accordance with a state mobile home code which existed prior to the HUD
 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.

Legislative Review Note
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Office of Legislative Research and General Counsel