

Certificate of Compliance Requirements

*Under Utah law, an **OWNER** or **SUBSEQUENT-OWNER** may be protected from a lien against an **OWNER-OCCUPIED RESIDENCE** and from other civil action to recover monies owed for **QUALIFIED SERVICES** performed or provided by an individual or business entity who provides qualified services under an agreement **other than directly with the owner**.*

Definitions:

[Utah Code § 38-11-102](#) & [Utah Admin. Code R156-38a-102](#)

RESIDENCE

means an improvement to real property used or occupied, to be used or occupied as, or in conjunction with either a primary or secondary **detached single-family** dwelling or a **multifamily** dwelling **up to and including duplexes** and includes factory-built housing. For more information see [LKL Associates, Inc. v. Farley, 2004 UT 51](#).

DUPLEX

means a single building having two separate living units.

OWNER-OCCUPIED RESIDENCE

means a residence that is, or after completion of the construction on the residence will be, occupied by the owner or the owner's tenant or lessee as a primary or secondary residence within **180 days** after the day on which the construction on the residence is complete.

OWNER

means a person who contracts with a person who is licensed as a contractor or is exempt from licensure [. . .] for the construction on an owner-occupied residence upon real property that the person owns or purchases after the person enters into a contract [. . .] and before completion of the owner-occupied residence. "Owner" can also mean a person who contracts with a real estate developer to buy a residence upon completion of the construction on the owner-occupied residence, or a person who purchases a residence from a real estate developer after completion of the construction on the owner-occupied residence. "Owner" [. . .] does not include any person or developer who builds residences that are offered for sale to the public.

REAL ESTATE DEVELOPER

means a person having an ownership interest in real property who contracts with a person who is licensed as a contractor or is exempt from licensure [. . .] for the construction of a residence that is offered for sale to the public, or is a licensed contractor [. . .] who engages in the construction of a residence that is offered for sale to the public.

SUBSEQUENT OWNER

means a person who purchases a residence from an owner within 180 days after the day on which the construction on the residence is completed.

WRITTEN CONTRACT

means one or more documents for the same construction project which collectively contain all of the following: an offer or agreement conveyed for qualified services that will be performed in the future, an acceptance of the offer or agreement conveyed prior to the commencement of any qualified services, and identification of the residence, the parties to the agreement, the qualified services that are to be performed, and an amount to be paid for the qualified services that will be performed.

Requirements to seek protection under the law by applying for a CERTIFICATE OF COMPLIANCE with the Division of Professional Licensing

ENTIRE CONTRACT TOTALS NO MORE THAN \$5,000.00:

If an owner enters into a written or oral general contract with an original contractor (licensed or unlicensed) for services, labor, or materials and the **entire contract** totals no more than \$5,000.00, the application must include at a minimum:

- the original affidavit of compliance (see application)
- a list of known subcontractors who provided service, labor, or materials under the general contractor

A Certificate of Compliance may be issued if the owner's affidavit of compliance is undisputed. When an affidavit of compliance is disputed, the owner must submit evidence that a court resolved any dispute over the owner's affidavit in favor of the owner.

ENTIRE CONTRACT TOTALS MORE THAN \$5,000.00:

If an owner or owner's agent entered a written contract with one of the following and the **entire contract** totals more than \$5,000.00:

- real estate developer
- factory-built housing retailer
- original contractor who was licensed or exempt from licensure under Title 58, Chapter 55, Utah Construction Trades Licensing Act, at the time the contract was executed, to contract for the performance of qualified services, obtain the performance of qualified services by others, or for the supervision of the performance by others of qualified services in construction on that residence

The owner* must establish:

- the owner paid in full the real estate developer, factory-built housing retailer, or original contractor with whom the owner has a written contract in accordance with the written contract and any amendments to the contract, and
- the owner, or their tenant or lessee, occupies the residence as a primary or secondary residence within 180 days from the construction on the residence is complete

** A subsequent owner who purchases a residence from an owner who meets the requirements above and occupies (or their tenant or lessee occupies) the residence as a primary or secondary residence within 180 days from the date of transfer, may seek protection under the law by applying for a Certificate of Compliance with the Division of Professional Licensing.*

Please be aware that other requirements pertaining to the application process may be required for approval. For more information, please refer to the Homeowner Application for a Certificate of Compliance at <https://dopl.utah.gov/residence-lien-recovery-fund/forms/>.

Protection provided by a Certificate of Compliance:

“A lien claimant who files a preconstruction or construction lien [. . .] or a foreclosure action upon an owner-occupied residence is not liable for costs and attorney fees [. . .] or for any damages arising from a civil action related to the lien filing or foreclosure action if the lien claimant removes the lien within 15 days from the date the owner obtains a certificate of compliance and mails a copy of the certificate of compliance by certified mail to the lien claimant at the address provided [. . .] The 15-day period begins accruing from the date postmarked on the certificate of compliance sent to the lien claimant.” ([Utah Code § 38-11-107\(3\)](#))

If a lien claimant does not remove their lien after receipt of the Certificate of Compliance, the homeowner will need to resolve the matter in District Court.

IMPORTANT: If you are summoned in a foreclosure action, your application must be received by the Division within 30 days of when you are served with the summons. See [Utah Code § 38-1a-701\(6\)\(d\)](#) Applications are considered received by the Division on the date the Division stamps it as received. See [Utah Admin. Code R151-4-107](#) for computation of time.

Applications **ARE NOT** accepted by email or fax.

Once an application is submitted to the Division, please allow 6-8 weeks for processing. Processing times can vary depending on current conditions.

For questions, please call (801) 530-6719 or email constructionprograms@utah.gov. If you need legal advice, you should seek competent legal counsel. This document is not legal advice.