

State of Arizona  
House of Representatives  
Fifty-first Legislature  
First Regular Session  
2013

# HOUSE BILL 2176

AN ACT

AMENDING SECTIONS 32-101, 32-122.06, 32-1101, 32-1121, 32-1136, 32-1152, 32-1154 AND 32-1155, ARIZONA REVISED STATUTES; RELATING TO THE REGISTRAR OF CONTRACTORS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 32-101, Arizona Revised Statutes, is amended to  
3 read:

4 32-101. Purpose; definitions

5 A. The purpose of this chapter is to provide for the safety, health  
6 and welfare of the public through the promulgation and enforcement of  
7 standards of qualification for those individuals registered or certified and  
8 seeking registration or certification pursuant to this chapter.

9 B. In this chapter, unless the context otherwise requires:

10 1. "Advertising" includes business cards, signs or letterhead provided  
11 by a person to the public.

12 2. "Alarm" or "alarm system":

13 (a) Means any mechanical or electrical device that is designed to emit  
14 an audible alarm or transmit a signal or message if activated and that is  
15 used to detect an unauthorized entry into a building or other facility or  
16 alert other persons of the occurrence of a medical emergency or the  
17 commission of an unlawful act against a person or in a building or other  
18 facility.

19 (b) Includes a silent, panic, holdup, robbery, duress, burglary,  
20 medical alert or proprietor alarm that requires emergency personnel to  
21 respond.

22 (c) Does not include a telephone call diverter or a system that is  
23 designed to report environmental and other occurrences and that is not  
24 designed or used to alert or cause other persons to alert public safety  
25 personnel.

26 3. "Alarm agent":

27 (a) Means a person, whether an employee, an independent contractor or  
28 otherwise, who acts on behalf of an alarm business and who tests, maintains,  
29 services, repairs, sells, rents, leases or installs alarm systems ~~other than  
30 an alarm system located on the person's own property or the property of the  
31 person's employer.~~

32 (b) DOES NOT INCLUDE ANY ACTION BY A PERSON THAT:

33 (i) IS PERFORMED IN CONNECTION WITH AN ALARM SYSTEM LOCATED ON THE  
34 PERSON'S OWN PROPERTY OR THE PROPERTY OF THE PERSON'S EMPLOYER.

35 (ii) IS ACTING ON BEHALF OF AN ALARM BUSINESS WHOSE WORK DUTIES DO NOT  
36 INCLUDE VISITING THE LOCATION WHERE AN ALARM SYSTEM INSTALLATION OCCURS.

37 4. "Alarm business":

38 (a) Means any person who, either alone or through a third party,  
39 engages in the business of either of the following:

40 (i) Providing alarm monitoring services.

41 (ii) Selling, leasing, renting, maintaining, repairing or installing a  
42 nonproprietor alarm system or service.

- 1 (b) Does not include any of the following:
- 2 (i) A person or company that purchases, rents or uses an alarm that is
- 3 affixed to a motor vehicle.
- 4 (ii) A person who owns or conducts a business of selling, leasing,
- 5 renting, installing, maintaining or monitoring an alarm that is affixed to a
- 6 motor vehicle.
- 7 (iii) A person who installs a nonmonitored proprietor alarm for a
- 8 business that the person owns, is employed by or manages.
- 9 (iv) The installation or monitoring of fire alarm systems.
- 10 (v) An alarm system that is operated by a city or town.
- 11 5. "Alarm subscriber" means any person who:
- 12 (a) Leases, rents or purchases any monitored alarm system or service
- 13 from an alarm business.
- 14 (b) Leases or rents an alarm system.
- 15 (c) Contracts with an alarm business for alarm monitoring,
- 16 installation, repair or maintenance services.
- 17 6. "Architect" means a person who, by reason of knowledge of the
- 18 mathematical and physical sciences and the principles of architecture and
- 19 architectural engineering acquired by professional education and practical
- 20 experience, is qualified to engage in the practice of architecture as
- 21 attested by registration as an architect.
- 22 7. "Architect-in-training" means a candidate for registration as a
- 23 professional architect who is a graduate of a school approved by the board or
- 24 who has five years or more of education or experience, or both, in
- 25 architectural work which meets standards specified by the board in its rules.
- 26 In addition, the candidate shall have passed the architect-in-training
- 27 examination.
- 28 8. "Architectural practice" means any professional service or creative
- 29 work requiring architectural education, training and experience, and the
- 30 application of the mathematical and physical sciences and the principles of
- 31 architecture and architectural engineering to such professional services or
- 32 creative work as consultation, evaluation, design and review of construction
- 33 for conformance with contract documents and design, in connection with any
- 34 building, planning or site development. A person shall be deemed to practice
- 35 or offer to practice architecture who in any manner represents that the
- 36 person is an architect, or is able to perform any architectural service or
- 37 other services recognized by educational authorities as architecture.
- 38 9. "Assayer" means a person who analyzes metals, ores, minerals, or
- 39 alloys in order to ascertain the quantity of gold or silver or any other
- 40 substance present in them. A person employed on a full-time basis as an
- 41 assayer by an employer engaged in the business of developing, mining or
- 42 treating ores or other minerals shall not be deemed to be engaged in assaying
- 43 practice for the purposes of this chapter if the person engages in assaying
- 44 practice exclusively for and as an employee of such employer and does not

1 represent that the person is available and is not represented as being  
2 available to perform any assaying services for anyone other than the person's  
3 employer.

4 10. "Assayer-in-training" means a candidate for registration as a  
5 professional assayer who is a graduate of a school and curriculum approved by  
6 the board or who has four years or more of education or experience, or both,  
7 in assaying work which meets standards specified by the board in its rules.  
8 In addition, the candidate shall have passed the assayer-in-training  
9 examination.

10 11. "Assaying practice" means any professional service or work  
11 requiring assaying education, training and experience and the application of  
12 special knowledge of the mineral sciences to such service or work as  
13 consultation and the evaluation of minerals. A person is deemed to practice  
14 or offer to practice assaying who in any manner represents that the person is  
15 an assayer or is able to perform any assaying service or other services  
16 recognized by educational authorities as assaying.

17 12. "Board" means the state board of technical registration.

18 13. "Certified remediation specialist" means a person who has been  
19 certified by the board to perform, supervise and review environmental  
20 remediations if the use of a certified remediation specialist is specifically  
21 authorized by title 49 and rules adopted pursuant to title 49.

22 14. "Controlling person":

23 (a) Means a person who is designated by an alarm business.

24 (b) Does not include an alarm agent.

25 15. "Drug laboratory site remediation firm" means a firm that is  
26 licensed by the registrar of contractors pursuant to chapter 10 of this title  
27 and that performs remediation of residual contamination from the manufacture  
28 of methamphetamine, ecstasy or LSD or the storage of chemicals or equipment  
29 used in manufacturing methamphetamine, ecstasy or LSD. For the purposes of  
30 this paragraph:

31 (a) "Ecstasy" has the same meaning prescribed in section 13-3401,  
32 paragraph 6 and includes any of the precursor chemicals, regulated chemicals,  
33 other substances or equipment used in the unlawful manufacture of the  
34 dangerous drug.

35 (b) "LSD" has the same meaning prescribed in section 13-3401,  
36 paragraph 6 and includes any of the precursor chemicals, regulated chemicals,  
37 other substances or equipment used in the unlawful manufacture of the  
38 dangerous drug.

39 (c) "Methamphetamine" has the same meaning prescribed in section  
40 13-3401, paragraph 6 and includes any of the precursor chemicals, regulated  
41 chemicals, other substances or equipment used in the unlawful manufacture of  
42 the dangerous drug.

43 16. "Engineer" means a person who, by reason of special knowledge of  
44 the mathematical and physical sciences and the principles and methods of

1 engineering analysis and design acquired by professional education and  
2 practical experience, is qualified to practice engineering as attested by  
3 registration as a professional engineer.

4 17. "Engineering practice" means any professional service or creative  
5 work requiring engineering education, training and experience and the  
6 application of special knowledge of the mathematical, physical and  
7 engineering sciences to such professional services or creative work as  
8 consultation, research investigation, evaluation, planning, surveying as  
9 defined in paragraph 27, subdivisions (d) and (e) of this subsection, design,  
10 location, development, and review of construction for conformance with  
11 contract documents and design, in connection with any public or private  
12 utility, structure, building, machine, equipment, process, work or project.  
13 Such services and work include plans and designs relating to the location,  
14 development, mining and treatment of ore and other minerals. A person shall  
15 be deemed to be practicing or offering to practice engineering if the person  
16 practices any branch of the profession of engineering, or by verbal claim,  
17 sign, advertisement, letterhead, card or any other manner represents that the  
18 person is a professional engineer, or is able to perform or does perform any  
19 engineering service or other service recognized by educational authorities as  
20 engineering. A person employed on a full-time basis as an engineer by an  
21 employer engaged in the business of developing, mining and treating ores and  
22 other minerals shall not be deemed to be practicing engineering for the  
23 purposes of this chapter if the person engages in the practice of engineering  
24 exclusively for and as an employee of such employer and does not represent  
25 that the person is available and is not represented as being available to  
26 perform any engineering services for persons other than the person's  
27 employer.

28 18. "Engineer-in-training" means a candidate for registration as a  
29 professional engineer who is a graduate in an approved engineering curriculum  
30 of four years or more of a school approved by the board or who has had four  
31 years or more of education or experience, or both, in engineering work which  
32 meets standards specified by the board in its rules. In addition, the  
33 candidate shall have passed the engineer-in-training examination.

34 19. "Firm" means any individual or partnership, corporation or other  
35 type of association, including the association of a nonregistrant and a  
36 registrant who offers to the public professional services regulated by the  
37 board.

38 20. "Geological practice" means any professional service or work  
39 requiring geological education, training and experience, and the application  
40 of special knowledge of the earth sciences to such professional services as  
41 consultation, evaluation of mining properties, petroleum properties and  
42 groundwater resources, professional supervision of exploration for mineral  
43 natural resources including metallic and nonmetallic ores, petroleum and  
44 groundwater, and the geological phases of engineering investigations.

1           21. "Geologist" means a person, not of necessity an engineer, who by  
2 reason of special knowledge of the earth sciences and the principles and  
3 methods of search for and appraisal of mineral or other natural resources  
4 acquired by professional education and practical experience is qualified to  
5 practice geology as attested by registration as a professional geologist. A  
6 person employed on a full-time basis as a geologist by an employer engaged in  
7 the business of developing, mining or treating ores and other minerals shall  
8 not be deemed to be engaged in geological practice for the purposes of this  
9 chapter if the person engages in geological practice exclusively for and as  
10 an employee of such employer and does not represent that the person is  
11 available and is not represented as being available to perform any geological  
12 services for persons other than the person's employer.

13           22. "Geologist-in-training" means a candidate for registration as a  
14 professional geologist who is a graduate of a school approved by the board or  
15 who has had four years or more of education or experience, or both, in  
16 geological work which meets standards specified by the board in its rules.  
17 In addition, the candidate shall have passed the geologist-in-training  
18 examination.

19           23. "Home inspection" means a visual analysis for the purposes of  
20 providing a professional opinion of the building, any reasonably accessible  
21 installed components and the operation of the building's systems, including  
22 the controls normally operated by the owner, for the following components of  
23 a residential building of four units or less:

- 24           (a) Heating system.
- 25           (b) Cooling system.
- 26           (c) Plumbing system.
- 27           (d) Electrical system.
- 28           (e) Structural components.
- 29           (f) Foundation.
- 30           (g) Roof covering.
- 31           (h) Exterior and interior components.
- 32           (i) Site aspects as they affect the building.
- 33           (j) Pursuant to rules adopted by the board, swimming pool and spa.

34           24. "Home inspection report" means a written report that is prepared  
35 for compensation, that is issued after a home inspection and that clearly  
36 describes and identifies the inspected systems, structures and components of  
37 a completed dwelling and any visible major defects found to be in need of  
38 immediate major repair and any recommendations for additional evaluation by  
39 appropriate persons.

40           25. "Home inspector" means an individual who is certified pursuant to  
41 this chapter as a home inspector and who engages in the business of  
42 performing home inspections and writing home inspection reports.

43           26. "Home inspector-in-training" means a candidate for certification as  
44 a home inspector who has completed a course of study approved by the board

1 and who is participating in a training program that complies with standards  
2 recommended by the home inspector rules and standards committee and approved  
3 by the board.

4 27. "Land surveying practice" means the performance of one or more of  
5 the following professional services:

6 (a) Measurement of land to determine the position of any monument or  
7 reference point which marks a property line, boundary or corner for the  
8 purpose of determining the area or description of the land.

9 (b) Location, relocation, establishment, reestablishment, setting,  
10 resetting or replacing of corner monuments or reference points which identify  
11 land boundaries, rights-of-way or easements.

12 (c) Platting or plotting of lands for the purpose of subdividing.

13 (d) Measurement by angles, distances and elevations of natural or  
14 artificial features in the air, on the surface and immediate subsurface of  
15 the earth, within underground workings and on the surface or within bodies of  
16 water for the purpose of determining or establishing their location, size,  
17 shape, topography, grades, contours or water surface and depths, and the  
18 preparation and perpetuation of field note records and maps depicting these  
19 features.

20 (e) Setting, resetting or replacing of points to guide the location of  
21 new construction.

22 28. "Land surveyor" means a person who by reason of knowledge of the  
23 mathematical and physical sciences, principles of land surveying and evidence  
24 gathering acquired by professional education or practical experience, or  
25 both, is qualified to practice land surveying as attested by registration as  
26 a land surveyor. A person employed on a full-time basis as a land surveyor  
27 by an employer engaged in the business of developing, mining or treating ores  
28 or other minerals shall not be deemed to be engaged in land surveying  
29 practice for purposes of this chapter if the person engages in land surveying  
30 practice exclusively for and as an employee of such employer and does not  
31 represent that the person is available and is not represented as being  
32 available to perform any land surveying services for persons other than the  
33 person's employer.

34 29. "Land surveyor-in-training" means a candidate for registration as a  
35 professional land surveyor who is a graduate of a school and curriculum  
36 approved by the board, or who has four years or more of education or  
37 experience, or both, in land surveying work which meets standards specified  
38 by the board in its rules. In addition, the candidate shall have passed the  
39 land surveyor-in-training examination.

40 30. "Landscape architect" means a person who, by reason of professional  
41 education or practical experience, or both, is qualified to engage in the  
42 practice of landscape architecture as attested by registration as a landscape  
43 architect.

1           31. "Landscape architect-in-training" means a candidate for  
2 registration as a professional landscape architect who is a graduate of a  
3 school approved by the board or who has had four years or more of education  
4 or experience, or both, in landscape architectural work which meets standards  
5 specified by the board in its rules. In addition, the candidate shall have  
6 passed the landscape architect-in-training examination.

7           32. "Landscape architectural practice" means the performance of  
8 professional services such as consultations, investigation, reconnaissance,  
9 research, planning, design or responsible supervision in connection with the  
10 development of land and incidental water areas where, and to the extent that,  
11 the dominant purpose of such services is the preservation, enhancement or  
12 determination of proper land uses, natural land features, ground cover and  
13 planting, naturalistic and aesthetic values, the settings of and approaches  
14 to buildings, structures, facilities or other improvements, natural drainage  
15 and the consideration and the determination of inherent problems of the land  
16 relating to erosion, wear and tear, light or other hazards. This practice  
17 shall include the location and arrangement of such tangible objects and  
18 features as are incidental and necessary to the purposes outlined in this  
19 paragraph but shall not include the making of cadastral surveys or final land  
20 plats for official recording or approval, nor mandatorily include planning  
21 for governmental subdivisions.

22           33. "Monitored alarm" means a device that is designed for the detection  
23 of an entry on any premises and that if activated generates a notification  
24 signal.

25           34. "On-site supervisor" means the employee of a drug laboratory site  
26 remediation firm who is authorized to oversee on-site workers in the  
27 performance of their duties.

28           35. "On-site worker" means an employee of a drug laboratory site  
29 remediation firm who has on-site duties or who handles contaminated  
30 materials, chemicals or contaminated equipment.

31           36. "Person" means any individual, firm, partnership, corporation,  
32 association or other organization.

33           37. "Principal" means an individual who is an officer of the  
34 corporation or is designated by a firm as having full authority and  
35 responsible charge of the services offered by the firm.

36           38. "Proprietor alarm" means any alarm or alarm system that is owned by  
37 an alarm subscriber who has not contracted with an alarm business.

38           39. "Registrant" means a person registered or certified by the board.

39           40. "Registration" means a registration or certification issued by the  
40 board.

1           Sec. 2. Section 32-122.06, Arizona Revised Statutes, is amended to  
2 read:

3           32-122.06. Certification of alarm agents; fingerprinting; fee

4           A. Each alarm agent shall apply for an alarm agent certification and a  
5 renewal certification card from the board. The board shall issue or deny an  
6 alarm agent certification card or a renewal certification card within ten  
7 business days after receiving the application. All alarm agent certificates  
8 issued pursuant to this article are valid for two years from the date of  
9 issuance.

10          B. In order to obtain an alarm agent certificate, a person shall  
11 submit an application and pay a fee as determined by the board. The person  
12 shall submit a completed fingerprint card and a fingerprint background check  
13 fee to the board. On receipt of the application and each year thereafter on  
14 the anniversary of the initial certification for as long as the person is an  
15 alarm agent, the board shall submit the alarm agent's fingerprints to the  
16 department of public safety for the purpose of obtaining a state and federal  
17 criminal records check pursuant to section 41-1750 and Public Law 92-544.  
18 The department of public safety may exchange this fingerprint data with the  
19 federal bureau of investigation. **THIS SUBSECTION DOES NOT APPLY IF THE ALARM  
20 AGENT IS ALSO THE CONTROLLING PERSON AND HAS COMPLIED WITH SECTION 32-122.05.**  
21 For as long as the person is an alarm agent:

22           1. The person shall submit a fingerprint background check fee to the  
23 board annually on the anniversary of the person's initial certification.

24           2. The board shall keep and maintain the fingerprint card.

25          C. A person shall apply for an alarm agent certificate within five  
26 working days after being employed by an alarm business. A person may not  
27 work as an alarm agent until the application is processed and approved unless  
28 under the direct supervision of a certified alarm agent.

29          D. An alarm agent shall physically possess the agent's alarm agent  
30 certification card when performing or authorizing the performance of any task  
31 pursuant to this chapter.

32          E. An alarm agent certificate card becomes the personal property of  
33 the person to whom it is issued. The person shall retain possession of the  
34 card.

35           Sec. 3. Section 32-1101, Arizona Revised Statutes, is amended to read:

36           32-1101. Definitions

37           A. In this chapter, unless the context otherwise requires:

38           1. "Advertisement" means any written or oral publication,  
39 dissemination, solicitation or circulation ~~which~~ **THAT** is intended to directly  
40 or indirectly induce any person to enter into an agreement for contracting  
41 services with a contractor, including business cards and telephone directory  
42 display advertisements.

43           2. "Commercial contractor" is synonymous with the terms "commercial  
44 builder", "industrial builder" and "public works builder" and means any

1 person, firm, partnership, corporation, association or other organization, or  
2 any combination, that, for compensation, undertakes to or offers to undertake  
3 to, purports to have the capacity to undertake to, submits a bid to, does  
4 himself or by or through others, or directly or indirectly supervises others,  
5 except within residential property lines, to:

6 (a) Construct, alter, repair, add to, subtract from, improve, move,  
7 wreck or demolish any building, highway, road, railroad, excavation or other  
8 structure, project, development or improvement, or to do any part thereof,  
9 including the erection of scaffolding or any other structure or work in  
10 connection with the construction.

11 (b) Connect such structure or improvements to utility service lines  
12 and metering devices and the sewer line.

13 (c) Provide mechanical or structural service for any such structure or  
14 improvements.

15 3. "Contractor" is synonymous with the term "builder" and means any  
16 person, firm, partnership, corporation, association or other organization, or  
17 a combination of any of them, that, for compensation, undertakes to or offers  
18 to undertake to, purports to have the capacity to undertake to, submits a bid  
19 or responds to a request for qualification or a request for proposals for  
20 construction services to, does himself or by or through others, or directly  
21 or indirectly supervises others to:

22 (a) Construct, alter, repair, add to, subtract from, improve, move,  
23 wreck or demolish any building, highway, road, railroad, excavation or other  
24 structure, project, development or improvement, or to do any part thereof,  
25 including the erection of scaffolding or any other structure or work in  
26 connection with the construction.

27 (b) Connect such structure or improvements to utility service lines  
28 and metering devices and the sewer line.

29 (c) Provide mechanical or structural service for any such structure or  
30 improvements.

31 4. "Dual licensed contractor" is synonymous with the term "commercial  
32 and residential builder" and means any person, firm, partnership,  
33 corporation, association or other organization, or any combination, that  
34 undertakes to or offers to undertake to, purports to have the capacity to  
35 undertake to, submits a bid to, does himself or by or through others, or  
36 directly or indirectly supervises others under a single license on commercial  
37 or residential property to:

38 (a) Construct, alter, repair, add to, subtract from, improve, move,  
39 wreck or demolish any building, excavation or other structure or improvement,  
40 including any appurtenances, or to do any part thereof.

41 (b) Connect such structure or improvements to utility service lines  
42 and metering devices and the sewer line.

43 (c) Provide mechanical or structural service for any such structure or  
44 improvements.



1           2. Trustees of an express trust that is not formed for the purpose of  
2 conducting business as a contractor or officers of a court, if they are  
3 acting within the terms of their trust or office.

4           3. Public utilities operating under regulation of the corporation  
5 commission or construction, repair or operation incidental to discovering or  
6 producing petroleum or gas, or the drilling, testing, abandoning or other  
7 operation of a petroleum or gas well, if performed by an owner or lessee.

8           4. Any materialman, manufacturer or retailer who furnishes finished  
9 products, materials or articles of merchandise and who does not install or  
10 attach such items or installs or attaches such items if the total value of  
11 the sales contract or transaction involving such items and the cost of the  
12 installation or attachment of such items to a structure does not exceed one  
13 thousand dollars, including labor, materials and all other items, but  
14 excluding any electrical fixture or appliance that was designed by the  
15 manufacturer, that is unaltered, unchanged or unmodified by any person, that  
16 can be plugged into a common household electrical outlet utilizing a two  
17 pronged or three pronged electrical connector and that does not use any other  
18 form of energy, including natural gas, propane or other petroleum or gaseous  
19 fuel, to operate or is attached by a nail, screw or other fastening device to  
20 the frame or foundation of any residential structure. The materialman,  
21 manufacturer or retailer shall inform the purchaser that the installation may  
22 also be performed by a licensed contractor whose name and address the  
23 purchaser may request.

24           5. Owners of property who improve such property or who build or  
25 improve structures or appurtenances on such property and who do the work  
26 themselves, with their own employees or with duly licensed contractors, if  
27 the structure, group of structures or appurtenances, including the  
28 improvements thereto, are intended for occupancy solely by the owner and are  
29 not intended for occupancy by members of the public as the owner's employees  
30 or business visitors and the structures or appurtenances are not intended for  
31 sale or for rent. In all actions brought under this chapter, except an  
32 action against an owner-occupant as defined in section 33-1002, proof of the  
33 sale or rent or the offering for sale or rent of any such structure by the  
34 owner-builder within one year after completion or issuance of a certificate  
35 of occupancy is prima facie evidence that such project was undertaken for the  
36 purpose of sale or rent. For the purposes of this paragraph, "sale" or  
37 "rent" includes any arrangement by which the owner receives compensation in  
38 money, provisions, chattels or labor from the occupancy or the transfer of  
39 the property or the structures on the property.

40           6. Owners of property who are acting as developers and who build  
41 structures or appurtenances to structures on their property for the purpose  
42 of sale or rent and who contract for such a project with a general contractor  
43 licensed pursuant to this chapter and owners of property who are acting as  
44 developers, who improve structures or appurtenances to structures on their

1 property for the purpose of sale or rent and who contract for such a project  
2 with a general contractor or specialty contractors licensed pursuant to this  
3 chapter. To qualify for the exemption under this paragraph, the licensed  
4 contractors' names and license numbers shall be included in all sales  
5 documents.

6 7. Architects or engineers who are engaging in their professional  
7 practice as defined in chapter 1 of this title and who hire or offer to hire  
8 the services of a contractor for preconstruction activities relating to  
9 investigation and discovery, including:

10 (a) Subsurface utility location and designation services.

11 (b) Potholing.

12 (c) Drilling for any of the following:

13 (i) Soil samples.

14 (ii) Rock samples.

15 (iii) Pavement samples.

16 (d) Locating existing features of a building or structure, including  
17 existing electrical, mechanical, plumbing and structural members.

18 8. A person licensed, certified or registered pursuant to chapter 22  
19 of this title or a person working under the direct supervision of a person  
20 certified or qualified pursuant to chapter 22 of this title to the extent the  
21 person is engaged in pest management.

22 9. The sale or installation of finished products, materials or  
23 articles of merchandise that are not fabricated into and do not become a  
24 permanent fixed part of the structure. This exemption does not apply if a  
25 local building permit is required, if the total price of the finished  
26 product, material or article of merchandise, including labor but excluding  
27 any electrical fixture or appliance that was designed by the manufacturer,  
28 that is unaltered, unchanged or unmodified by any person, that can be plugged  
29 into a common household electrical outlet utilizing a two pronged or three  
30 pronged electrical connector and that does not use any other form of energy,  
31 including natural gas, propane or other petroleum or gaseous fuel, to operate  
32 or is attached by a nail, screw or other fastening device to the frame or  
33 foundation of any residential structure, is more than one thousand dollars or  
34 if the removal of the finished product, material or article of merchandise  
35 causes damage to the structure or renders the structure unfit for its  
36 intended use.

37 10. Employees of the owners of condominiums, townhouses, cooperative  
38 units or apartment complexes of four units or less or the owners' management  
39 agent or employees of the management agent repairing or maintaining  
40 structures owned by them.

41 11. Any person who engages in the activities regulated by this chapter,  
42 as an employee of an exempt property owner or as an employee with wages as  
43 the person's sole compensation.

1           12. A surety company or companies that are authorized to transact  
2 business in this state and that undertake to complete a contract on which  
3 they issued a performance or completion bond, provided all construction work  
4 is performed by duly licensed contractors.

5           13. Insurance companies that are authorized to transact business in  
6 this state and that undertake to perform repairs resulting from casualty  
7 losses pursuant to the provisions of a policy, provided all construction work  
8 is performed by duly licensed contractors.

9           14. Any person other than a licensed contractor engaging in any work or  
10 operation on one undertaking or project by one or more contracts, for which  
11 the aggregate contract price, including labor, materials and all other items,  
12 but excluding any electrical fixture or appliance that was designed by the  
13 manufacturer, that is unaltered, unchanged or unmodified by any person, that  
14 can be plugged into a common household electrical outlet utilizing a two  
15 pronged or three pronged electrical connector and that does not use any other  
16 form of energy, including natural gas, propane or other petroleum or gaseous  
17 fuel, to operate or is attached by a nail, screw or other fastening device to  
18 the frame or foundation of any residential structure, is less than one  
19 thousand dollars. The work or operations that are exempt under this  
20 paragraph shall be of a casual or minor nature. This exemption does not  
21 apply:

22           (a) In any case in which the performance of the work requires a local  
23 building permit.

24           (b) In any case in which the work or construction is only a part of a  
25 larger or major operation, whether undertaken by the same or a different  
26 contractor, or in which a division of the operation is made in contracts of  
27 amounts less than one thousand dollars, excluding any electrical fixture or  
28 appliance that was designed by the manufacturer, that is unaltered, unchanged  
29 or unmodified by any person, that can be plugged into a common household  
30 electrical outlet utilizing a two pronged or three pronged electrical  
31 connector and that does not use any other form of energy, including natural  
32 gas, propane or other petroleum or gaseous fuel, to operate or is attached by  
33 a nail, screw or other fastening device to the frame or foundation of any  
34 residential structure, for the purpose of evasion of this chapter or  
35 otherwise.

36           (c) To a person who utilizes any form of advertising to the public in  
37 which the person's unlicensed status is not disclosed by including the words  
38 "not a licensed contractor" in the advertisement.

39           15. A person who is licensed, certified or registered pursuant to  
40 title 41, chapter 16 and who is not otherwise required to be licensed under  
41 this chapter or an employee of such person.

42           16. A person who functions as a gardener by performing lawn, garden,  
43 shrub and tree maintenance.

44           17. ALARM AGENTS AS DEFINED IN SECTION 32-101.

1 B. A person who is licensed to perform work in a particular trade  
2 pursuant to this chapter shall not be required to obtain and maintain a  
3 separate license for mechanical or structural service work performed within  
4 the scope of such trade by such person.

5 C. Any person who does not have an exemption from licensure pursuant  
6 to subsection A, paragraph 14, subdivision (c) of this section is subject to  
7 prosecution for a violation of section 44-1522. The attorney general may  
8 investigate the act or practice and take appropriate action pursuant to title  
9 44, chapter 10, article 7.

10 D. The exemptions from licensure pursuant to subsection A, paragraphs  
11 4, 9 and 14 of this section do not apply to either of the following:

12 1. All fire safety and mechanical, electrical and plumbing work that  
13 is done in connection with fire safety installation and fire safety  
14 maintenance and repair. For the purposes of this paragraph, "fire safety  
15 installation" means hardwired or interconnected smoke alarms and fire  
16 sprinklers and does not include an individual device that is attached by a  
17 nail, screw or other fastening device to the frame or foundation of any  
18 residential unit. For the purposes of this paragraph, fire safety  
19 maintenance and repair does not include routine work that is conducted by an  
20 employee of an apartment or condominium complex that is incidental to the  
21 fire safety equipment.

22 2. All work that is done, including the installation, maintenance and  
23 repair of devices, appliances or equipment, that involves the connecting to  
24 any supply of natural gas, propane or other petroleum or gaseous fuel.  
25 Nothing in this paragraph impacts the effect of section 36-1624.01.

26 Sec. 5. Section 32-1136, Arizona Revised Statutes, is amended to read:  
27 32-1136. Statute of limitations: recovery from fund

28 A. An action for a judgment ~~which~~ THAT may subsequently result in an  
29 order for collection from the fund shall not be commenced later than two  
30 years from the date of the commission of the act by the contractor that is  
31 the cause of the injury or from the date of occupancy. When any injured  
32 person commences action for a judgment ~~which~~ THAT may result in collection  
33 from the fund, the injured person shall notify the registrar in writing to  
34 this effect at the time of the commencement of the action. The registrar ~~may~~  
35 at any time MAY intervene in and defend any such action.

36 B. When any injured person recovers a valid judgment against any  
37 residential contractor for such act, representation, transaction or conduct  
38 ~~which~~ THAT is in violation of this chapter or the rules adopted pursuant to  
39 this chapter, the injured person, ~~may~~ on twenty days' written notice to the  
40 registrar, MAY apply to the court for an order directing payment out of the  
41 fund, of the amount unpaid on the judgment, subject to the limitations stated  
42 in this article. If the injured person failed to give notice to the  
43 registrar at the time of commencement of the action as required by subsection  
44 A of this section, the court may direct payment out of the fund ~~upon~~ ON

1 receipt of a consent to payment signed on behalf of the registrar. If the  
2 injured person has given notice to the registrar as required by subsection A  
3 of this section, the court may direct payment out of the fund either on  
4 receipt of a consent to payment signed on behalf of the registrar or, in the  
5 absence of any written consent, after the notice period required by  
6 ~~subsection B of this section~~ SUBSECTION. If the court receives written  
7 objections by the registrar, the court shall not direct payment from the fund  
8 without affording the registrar a reasonable opportunity to present and  
9 support his objections.

10 C. The injured person shall not be the spouse of the residential  
11 contractor or the personal representative of the spouse of the residential  
12 contractor.

13 D. The court shall proceed on an application in a summary manner and,  
14 on the hearing, the injured person is required to show that he:

15 1. Has given notice as required by subsections A and B of this  
16 section.

17 2. Has obtained a judgment ~~which~~ THAT has become final, as provided in  
18 subsection B of this section, stating the amount and the amount owing at the  
19 date of the application.

20 3. Has proceeded against any existing bond covering the residential  
21 contractor and has not collected ~~upon~~ ON such bond an amount of thirty  
22 thousand dollars or more, ~~except when the award is made pursuant to~~  
23 ~~subsection E of this section or section 32-1154.~~

24 4. Is not aware of any personal or real property or other assets of  
25 the debtor ~~which~~ THAT can be applied in satisfaction of the judgment.

26 E. The court shall make an order directed to the registrar requiring  
27 payment from the fund of whatever sum it finds to be payable on the claim, in  
28 accordance with this section, if the court is satisfied on the hearing of the  
29 truth of all matters required to be shown by the injured person by subsection  
30 D of this section. The recovery limits established under this article apply  
31 to all judgments awarded after September 1, 2002. If the injured person has  
32 recovered a portion of his loss from sources other than the fund, the  
33 registrar, if the award is made pursuant to section 32-1154, or the court  
34 shall deduct the amount recovered from other sources from the amount of  
35 actual damages suffered pursuant to section 32-1132, subsection A and direct  
36 the difference, not to exceed thirty thousand dollars, to be paid from the  
37 fund.

38 F. On receipt of a certified copy of the order specified in subsection  
39 E of this section, the registrar may authorize payment from the residential  
40 contractors' recovery fund even if an appeal has been instituted but not  
41 completed.

1           Sec. 6. Section 32-1152, Arizona Revised Statutes, is amended to read:  
2           32-1152. Bonds

3           A. Before granting an original contractor's license, the registrar  
4 shall require of the applicant a surety bond in a form acceptable to the  
5 registrar or a cash deposit as provided in this section. No contractor's  
6 license may be renewed unless the applicant's surety bond or cash deposit is  
7 in full force and effect.

8           B. The bonds, or the cash deposit as provided in this section, shall  
9 be in the name of the licensee in amounts fixed by the registrar with the  
10 following schedules after giving due consideration to the volume of work and  
11 the classification contemplated by the applicant:

12           1. General commercial building contractors and subclassifications of  
13 general commercial contractors shall furnish a surety bond or cash deposit in  
14 an amount ~~which shall be~~ THAT IS determined as follows:

15           (a) If the estimated annual volume of construction work of the  
16 applicant is ten million dollars or more, the applicant shall furnish a  
17 surety bond or cash deposit of not less than fifty thousand dollars or more  
18 than one hundred thousand dollars.

19           (b) If the estimated annual volume of construction work of the  
20 applicant is more than five million dollars and less than ten million  
21 dollars, the applicant shall furnish a surety bond or cash deposit of not  
22 less than thirty-five thousand dollars or more than seventy-five thousand  
23 dollars.

24           (c) If the estimated annual volume of construction work of the  
25 applicant is more than one million dollars and less than five million  
26 dollars, the applicant shall furnish a surety bond or cash deposit of not  
27 less than fifteen thousand dollars or more than fifty thousand dollars.

28           (d) If the estimated annual volume of construction work of the  
29 applicant is more than five hundred thousand dollars and less than one  
30 million dollars, the applicant shall furnish a surety bond or cash deposit of  
31 not less than ten thousand dollars or more than twenty-five thousand dollars.

32           (e) If the estimated annual volume of construction work of the  
33 applicant is more than one hundred fifty thousand dollars and less than five  
34 hundred thousand dollars, the applicant shall furnish a surety bond or cash  
35 deposit of not less than five thousand dollars or more than fifteen thousand  
36 dollars.

37           (f) If the estimated annual volume of construction work of the  
38 applicant is less than one hundred fifty thousand dollars, the applicant  
39 shall furnish a surety bond or cash deposit of five thousand dollars.

40           2. Specialty commercial contractors shall furnish a surety bond or  
41 cash deposit in an amount ~~which shall be~~ THAT IS determined as follows:

42           (a) If the estimated annual volume of construction work of the  
43 applicant is ten million dollars or more, the applicant shall furnish a

1 surety bond or cash deposit of not less than thirty-seven thousand five  
2 hundred dollars or more than fifty thousand dollars.

3 (b) If the estimated annual volume of construction work of the  
4 applicant is more than five million dollars and less than ten million  
5 dollars, the applicant shall furnish a surety bond or cash deposit of not  
6 less than seventeen thousand five hundred dollars or more than thirty-seven  
7 thousand five hundred dollars.

8 (c) If the estimated annual volume of construction work of the  
9 applicant is more than one million dollars and less than five million  
10 dollars, the applicant shall furnish a surety bond or cash deposit of not  
11 less than seven thousand five hundred dollars or more than twenty-five  
12 thousand dollars.

13 (d) If the estimated annual volume of construction work of the  
14 applicant is more than five hundred thousand dollars and less than one  
15 million dollars, the applicant shall furnish a surety bond or cash deposit of  
16 not less than five thousand dollars or more than seventeen thousand five  
17 hundred dollars.

18 (e) If the estimated annual volume of construction work of the  
19 applicant is more than one hundred fifty thousand dollars and less than five  
20 hundred thousand dollars, the applicant shall furnish a surety bond or cash  
21 deposit of not less than two thousand five hundred dollars or more than seven  
22 thousand five hundred dollars.

23 (f) If the estimated annual volume of construction work of the  
24 applicant is less than one hundred fifty thousand dollars, the applicant  
25 shall furnish a surety bond or cash deposit of two thousand five hundred  
26 dollars.

27 3. The total amount of the surety bond or cash deposit required of a  
28 licensee who holds more than one license under paragraphs 1 and 2 of this  
29 subsection shall be the sum of the surety bond or cash deposit required for  
30 each license based on the estimated annual volume of construction work of the  
31 applicant allocated to and performed under each license. The applicant at  
32 his option may post a single surety bond or cash deposit ~~which shall be~~ THAT  
33 IS the sum of the bonds or deposits determined under this subsection for all  
34 such licenses.

35 4. General dual licensed contractors and subclassifications of general  
36 dual licensed contractors shall furnish a single surety bond or cash deposit  
37 with amounts for each classification of license that are determined based on  
38 the volume of commercial work as determined under paragraph 1 of this  
39 subsection and the volume of residential work as determined under paragraph 5  
40 of this subsection. Liability under the bond or cash deposit shall be  
41 limited to the amount established for each commercial or residential license  
42 and is subject to the limitations and requirements set forth in subsection E  
43 of this section.

1           5. General residential contractors and subclassifications of general  
2 residential contractors shall furnish a surety bond or cash deposit in an  
3 amount of not more than fifteen thousand dollars and not less than five  
4 thousand dollars.

5           6. Specialty dual licensed contractors shall furnish a single surety  
6 bond or cash deposit with amounts for each classification of license that are  
7 determined based on the volume of commercial work as determined under  
8 paragraph 2 of this subsection and the volume of residential work as  
9 determined under paragraph 7 of this subsection. Liability under the bond or  
10 cash deposit shall be limited to the amount established for each commercial  
11 or residential license and is subject to the limitations and requirements set  
12 forth in subsection E of this section.

13           7. Specialty residential contractors shall furnish a surety bond or  
14 cash deposit in an amount of not more than seven thousand five hundred  
15 dollars and not less than one thousand dollars.

16           8. Dual licensed swimming pool contractors and residential swimming  
17 pool general contractors shall furnish a surety bond or cash deposit in the  
18 same amounts based on the volume of work as determined under paragraph 1 of  
19 this subsection for a general commercial contractor.

20           C. Dual licensed contractors and residential contractors shall also  
21 either:

22           1. Furnish an additional surety bond or cash deposit in the amount of  
23 two hundred thousand dollars solely for actual damages suffered by persons  
24 injured as described in section 32-1131. This bond shall be subject to the  
25 limitations on the amounts that may be awarded to individual claimants as  
26 established in section 32-1132.

27           2. Participate in the residential contractors' recovery fund and pay  
28 the assessment prescribed by section 32-1132.

29           D. The surety bonds shall be executed by the contractor as principal  
30 with a corporation duly authorized to transact surety business in this state.  
31 Evidence of a surety bond shall be submitted to the registrar in a form  
32 acceptable to the registrar. The contractor ~~may~~ in the alternative **MAY**  
33 establish a cash deposit in the amount of the bond with the state treasurer  
34 in accordance with rules adopted by the registrar. Such cash bond monies  
35 shall be deposited, pursuant to sections 35-146 and 35-147, in the  
36 contractors' cash bond fund. The state treasurer shall invest and divest  
37 monies in the fund as provided by section 35-313, and monies earned from  
38 investment shall be credited to the state general fund. Such cash deposits  
39 may be withdrawn, if there are no outstanding claims against them, two years  
40 after the termination of the license in connection with which the cash is  
41 deposited. The cash deposit may be withdrawn two years after the filing of a  
42 commercial surety bond as a replacement to the cash deposit.

43           E. The bonds or deposit required by subsection B of this section shall  
44 be for the benefit of and shall be subject to claims by the registrar of

1 contractors for failure to pay any sum required pursuant to this chapter.  
2 The bond or deposit required by subsection B, paragraphs 1, 2 and 3 of this  
3 section is for the benefit of and subject to claims by a licensee under this  
4 chapter or a lessee, owner or co-owner of nonresidential real property  
5 including, but not limited to, a tenant in common or joint tenant, or their  
6 successors in interest, who has a direct contract with the licensee against  
7 whose bond or deposit the claim is made and who is damaged by the failure of  
8 the licensee to build or improve a structure or appurtenance on that real  
9 property at the time the work was performed in a manner not in compliance  
10 with the requirements of any building or construction code applicable to the  
11 construction work under the laws of this state or any political subdivision,  
12 or if no such code was applicable, in accordance with the standards of  
13 construction work approved by the registrar. The residential bond or deposit  
14 required by subsection B, paragraphs 4 through 8 of this section is for the  
15 benefit of and subject to claims by any person furnishing labor, materials or  
16 construction equipment on a rental basis used in the direct performance of a  
17 construction contract involving a residential structure or by persons injured  
18 as defined in section 32-1131. The bond or deposit required by subsection C,  
19 paragraph 1 of this section is for the benefit of and is subject to claims  
20 only by persons injured as described in section 32-1131. The person seeking  
21 recovery from the bond or cash deposit shall maintain an action at law  
22 against the contractor if claiming against the cash deposit or against the  
23 contractor and surety if claiming against the surety bond. If the person  
24 seeking recovery is required to give the notice pursuant to section  
25 33-992.01, he is entitled to seek recovery only if he has given such notice  
26 and has made proof of service. The surety bond or cash deposit shall be  
27 subject to claims until the full amount thereof is exhausted. The court may  
28 award reasonable ~~attorney's~~ ATTORNEY fees in a judgment against a  
29 contractor's surety bond or cash deposit. No suit may be commenced on the  
30 bond or for satisfaction from the cash deposit after the expiration of two  
31 years following the commission of the act or delivery of goods or rendering  
32 of services on which the suit is based, except that time for purposes of  
33 claims for fraud shall be measured as provided in section 12-543. The surety  
34 bond or cash deposit shall be continuous in form and shall be conditioned so  
35 that the total aggregate liability of the surety or cash deposit for all  
36 claims, including reasonable ~~attorney's~~ ATTORNEY fees, shall be limited to  
37 the face amount of the surety bond or cash deposit irrespective of the number  
38 of years the bond or cash deposit is in force. If the corporate surety  
39 desires to make payment without awaiting court OR REGISTRAR action, the  
40 amount of any bond filed in compliance with this chapter shall be reduced to  
41 the extent of any payment or payments made by the corporate surety in good  
42 faith thereunder. Any such payments shall be based on priority of written  
43 claims received by the corporate surety ~~prior to~~ BEFORE court OR REGISTRAR  
44 action. If more than one cash deposit exists, the judgment against the

1 contractor shall state which cash deposit shall be used to satisfy the  
2 judgment. A certified copy of the judgment shall then be filed with the  
3 registrar, and such judgment shall specify that it may be satisfied from the  
4 contractor's cash deposit. Priority for payment shall be based ~~upon~~ ON the  
5 time of filing with the registrar. ~~Upon~~ ON receipt of a certified copy of  
6 the judgment OR ON A FINAL DISCIPLINARY ORDER OF THE REGISTRAR, the registrar  
7 may authorize payment from the cash deposit of the amount claimed or of  
8 whatever lesser amount remains on file. In any action against a cash  
9 deposit, the claimant, at the time of filing suit, may notify the registrar  
10 in writing of the action against the cash deposit, but shall not name as a  
11 defendant in the action the registrar, the treasurer, or the state. Failure  
12 to so notify the registrar at the time of filing suit may result in the cash  
13 deposit being withdrawn by the licensee ~~prior to~~ BEFORE judgment pursuant to  
14 subsection D of this section.

15 F. When a corporate surety cancels a bond, the surety, ~~shall~~ not less  
16 than thirty days ~~prior to~~ BEFORE the effective date of the cancellation,  
17 SHALL give the principal and the registrar a written notice of the  
18 cancellation. Notice to the principal shall be by certified mail in a sealed  
19 envelope with postage fully prepaid. Proof of notice to the principal shall  
20 be made available to the registrar on request. On reduction or depletion of  
21 the cash deposit, the registrar shall immediately notify the licensee of said  
22 reduction or depletion and that the licensee must replenish the cash deposit  
23 or furnish a surety bond on or before thirty days from the date of said  
24 reduction or depletion or the contractor's license shall be suspended on the  
25 thirtieth day without further notice or hearing. Notice to the contractor  
26 shall be by certified mail in a sealed envelope with postage fully prepaid  
27 thereon, addressed to the contractor's latest address of record in the  
28 registrar's office. The contractor's license shall be suspended by operation  
29 of law on the date the bond is canceled or thirty days from the date of  
30 reduction or depletion of the cash deposit unless a replacement bond or cash  
31 deposit is on file with the registrar.

32 G. The registrar and the state treasurer shall have no personal  
33 liability for the performance of duties relating to the bonds, cash deposits,  
34 certificates of deposit, investment certificates or share accounts required  
35 or permitted by this chapter as long as such duties are performed in good  
36 faith.

37 H. In the following instances the registrar, after a hearing, may  
38 require, as a condition precedent to issuance, renewal, continuation or  
39 removal of suspension of a license, a surety bond or cash deposit in an  
40 amount and duration to be fixed by the registrar based ~~upon~~ ON the  
41 seriousness of the violations, which shall be not more than ten times the  
42 amount required by subsection B of this section:

43 1. When a license of either the applicant or the qualifying party has  
44 been suspended or revoked or a surety bond or cash deposit requirement has

1 been increased under section 32-1154 previously as the result of disciplinary  
2 action for a violation of this chapter.

3 2. When either the applicant or qualifying party was an officer,  
4 member, partner or qualifying party for a licensee at any time during which  
5 cause for disciplinary action occurred resulting in suspension or revocation  
6 of such licensee's license and such applicant or qualifying party had  
7 knowledge of or participated in the act or omission ~~which~~ THAT was the cause  
8 of such disciplinary action for a violation of this chapter.

9 3. The bonds required by this subsection shall be in addition to any  
10 other bond or cash deposit required by this chapter or any other bond  
11 required of a contractor by an owner or any other contracting party on any  
12 contract undertaken by him pursuant to the authority of such license.

13 Sec. 7. Section 32-1154, Arizona Revised Statutes, is amended to read:

14 32-1154. Grounds for suspension or revocation of license;  
15 continuing jurisdiction; civil penalty; recovery  
16 fund award; summary suspension

17 A. The holder of a license or any person listed on a license pursuant  
18 to this chapter shall not commit any of the following acts or omissions:

19 1. Abandonment of a contract or refusal to perform after submitting a  
20 bid on work without legal excuse for the abandonment or refusal.

21 2. Departure from or disregard of plans or specifications or any  
22 building codes of the state or any political subdivision of the state in any  
23 material respect ~~which~~ THAT is prejudicial to another without consent of the  
24 owner or the owner's duly authorized representative and without the consent  
25 of the person entitled to have the particular construction project or  
26 operation completed in accordance with such plans and specifications and  
27 code.

28 3. Violation of any rule adopted by the registrar.

29 4. Failure to comply with the statutes or rules governing social  
30 security, workers' compensation or unemployment insurance.

31 5. Failure to pay income taxes, withholding taxes or any tax imposed  
32 by title 42, chapter 5, articles 1 and 4 and incurred in the operation of the  
33 licensed business.

34 6. Misrepresentation of a material fact by the applicant in obtaining  
35 a license.

36 7. The doing of a fraudulent act by the licensee as a contractor  
37 resulting in another person being substantially injured.

38 8. Conviction of a felony.

39 9. Failure in a material respect by the licensee to complete a  
40 construction project or operation for the price stated in the contract, or in  
41 any modification of the contract.

42 10. Aiding or abetting a licensed or unlicensed person to evade this  
43 chapter, knowingly or recklessly combining or conspiring with a licensed or  
44 unlicensed person, allowing one's license to be used by a licensed or

- 1 unlicensed person or acting as agent, partner, associate or otherwise of a  
2 licensed or unlicensed person with intent to evade this chapter.
- 3 11. Failure by a licensee or agent or official of a licensee to pay  
4 monies in excess of seven hundred fifty dollars when due for materials or  
5 services rendered in connection with the licensee's operations as a  
6 contractor when the licensee has the capacity to pay or, if the licensee  
7 lacks the capacity to pay, when the licensee has received sufficient monies  
8 as payment for the particular construction work project or operation for  
9 which the services or materials were rendered or purchased.
- 10 12. Failure of a contractor to comply with any safety or labor laws or  
11 codes of the federal government, state or political subdivisions of the  
12 state.
- 13 13. Failure in any material respect to comply with this chapter.
- 14 14. Knowingly entering into a contract with a contractor for work to be  
15 performed for which a license is required with a person not duly licensed in  
16 the required classification.
- 17 15. Acting in the capacity of a contractor under any license issued  
18 under this chapter in a name other than as set forth ~~upon~~ ON the license.
- 19 16. False, misleading or deceptive advertising whereby any member of  
20 the public may be misled and injured.
- 21 17. Knowingly contracting beyond the scope of the license or licenses  
22 of the licensee.
- 23 18. Contracting or offering to contract or submitting a bid while the  
24 license is under suspension or while the license is on inactive status.
- 25 19. Failure to notify the registrar in writing within a period of  
26 fifteen days of any disassociation of the person who qualified for the  
27 license. Such licensee shall have sixty days from the date of such  
28 disassociation to qualify through another person.
- 29 20. Subsequent discovery of facts ~~which~~ THAT if known at the time of  
30 issuance of a license or the renewal of a license would have been grounds to  
31 deny the issuance or renewal of a license.
- 32 21. Having a person named on the license who is OR WAS named on any  
33 other license in this state or in another state ~~which~~ THAT is under  
34 suspension or revocation FOR ANY ACT OR OMISSION THAT OCCURS WHILE THE PERSON  
35 IS OR WAS NAMED ON THE LICENSE unless the prior revocation was based solely  
36 on a violation of this paragraph.
- 37 22. Continuing a new single family residential construction project  
38 with actual knowledge that a pretreatment wood-destroying pests or organisms  
39 application was either:
- 40 (a) Not performed at the required location.
- 41 (b) Performed in a manner inconsistent with label requirements, state  
42 law or rules.
- 43 23. Failure to take appropriate corrective action to comply with this  
44 chapter or with rules adopted pursuant to this chapter without valid

1 justification within a reasonable period of time after receiving a written  
2 directive from the registrar. The written directive shall set forth the time  
3 within which the contractor is to complete the remedial action. The time  
4 permitted for compliance shall not be less than fifteen days from the date of  
5 issuance of the directive. A license shall not be revoked or suspended nor  
6 shall any other penalty be imposed for a violation of this paragraph until  
7 after a hearing has been held.

8 24. Prohibit, threaten to prohibit, retaliate, threaten to retaliate or  
9 otherwise intimidate any contractor or materialman from serving a preliminary  
10 notice pursuant to section 33-992.01.

11 B. The registrar may on the registrar's own motion, and shall on the  
12 written complaint of any owner or contractor that is a party to a  
13 construction contract or a person who suffers a material loss or injury as a  
14 result of a contractor's failure to perform work in a professional and  
15 workmanlike manner or in accordance with any applicable building codes and  
16 professional industry standards, investigate the acts of any contractor  
17 within this state and may temporarily suspend, with or without imposition of  
18 specific conditions in addition to increased surety bond or cash deposit  
19 requirements, or permanently revoke any or all licenses issued under this  
20 chapter if the holder of the license issued pursuant to this chapter is  
21 guilty of or commits any of the acts or omissions set forth in subsection A  
22 of this section. For the purposes of this subsection:

23 1. "Construction contract" means a written or oral agreement relating  
24 to the construction, alteration, repair, maintenance, moving or demolition of  
25 any building, structure or improvement or relating to the contractor's  
26 excavation of or other development or improvement to land if the registrar  
27 investigates the contractor's actions under this subsection.

28 2. "Owner" means any person, firm, partnership, corporation,  
29 association or other organization, or a combination of any of them, that  
30 causes a building, structure or improvement to be constructed, altered,  
31 repaired, maintained, moved or demolished or that causes land to be excavated  
32 or otherwise developed or improved, whether the interest or estate of the  
33 person is in fee, as vendee under a contract to purchase, as lessee or  
34 another interest or estate less than fee, pursuant to a construction  
35 contract.

36 C. The expiration, cancellation, suspension or revocation of a license  
37 by operation of law or by decision and order of the registrar or a court of  
38 law or the voluntary surrender of a license by a licensee shall not deprive  
39 the registrar of jurisdiction to proceed with any investigation of or action  
40 or disciplinary proceeding against such licensee, or to render a decision  
41 suspending or revoking such a license, or denying the renewal or right of  
42 renewal of such license.

43 D. The registrar may impose a civil penalty of not to exceed five  
44 hundred dollars on a contractor for each violation of subsection A, paragraph

1 23 of this section. Civil penalties collected pursuant to this subsection  
2 shall be deposited in the residential contractors' recovery fund. The  
3 failure by the licensee to pay any civil penalty imposed under this  
4 subsection results in the automatic revocation of the license thirty days  
5 after the effective date of the order providing for the civil penalty. No  
6 future license may be issued to an entity consisting of a person, **AS DEFINED**  
7 **IN SECTION 32-1101, SUBSECTION A, PARAGRAPH 6, WHO IS** associated with the  
8 contractor, ~~as defined in section 32-1101, subsection A, paragraph 5,~~ unless  
9 payment of any outstanding civil penalty is tendered.

10 E. The registrar shall impose a civil penalty of not to exceed one  
11 thousand dollars on a contractor for each violation of subsection A,  
12 paragraph 18 of this section. Civil penalties collected pursuant to this  
13 subsection shall be deposited in the residential contractors' recovery fund.  
14 The failure by the licensee to pay any civil penalty imposed under this  
15 subsection results in the automatic permanent revocation of the license  
16 thirty days after the effective date of the order providing for the civil  
17 penalty. No future license may be issued to an entity consisting of a  
18 person, **AS DEFINED IN SECTION 32-1101, SUBSECTION A, PARAGRAPH 6, WHO IS**  
19 associated with the contractor, ~~as defined in section 32-1101, subsection A,~~  
20 ~~paragraph 5,~~ unless payment of any outstanding civil penalty is tendered.

21 F. Notwithstanding any other provisions in this chapter, if a  
22 contractor's license has been revoked or has been suspended as a result of an  
23 order to remedy a violation of this chapter, the registrar may order payment  
24 from the residential contractors' recovery fund to remedy the violation. The  
25 registrar shall serve the contractor with a notice setting forth the amount  
26 claimed or to be awarded. If the contractor contests the amount or propriety  
27 of the payment, the contractor shall respond within ten days of the date of  
28 service by requesting a hearing to determine the amount or propriety of the  
29 payment. Failure by the contractor to respond in writing within ten days of  
30 the date of service shall be deemed a waiver by the contractor of the right  
31 to contest the amount claimed or to be awarded. Service may be made by  
32 personal service to the contractor or by mailing a copy of the notice by  
33 registered mail with postage prepaid to the contractor's latest address of  
34 record on file in the registrar's office. If service is made by registered  
35 mail, it is effective five days after the notice is mailed. Except as  
36 provided in section 41-1092.08, subsection H, the contractor or injured  
37 person may seek judicial review of the registrar's final award pursuant to  
38 title 12, chapter 7, article 6. **AN APPLICANT TO THE RESIDENTIAL CONTRACTORS'**  
39 **RECOVERY FUND PURSUANT TO THIS SUBSECTION MUST SHOW THAT THE APPLICANT HAS**  
40 **PROCEEDED AGAINST ANY EXISTING BOND COVERING THE RESIDENTIAL CONTRACTOR AND**  
41 **HAS NOT COLLECTED ON THE BOND IN AN AMOUNT OF THIRTY THOUSAND DOLLARS OR**  
42 **MORE.**

1           Sec. 8. Section 32-1155, Arizona Revised Statutes, is amended to read:  
2           32-1155. Filing of complaint; resolution of complaint; service  
3                   of notice; failure to answer; prohibited citations  
4           A. ~~Upon~~ ON the filing of a written complaint with the registrar  
5 charging a licensee with the commission, within two years ~~prior to~~ BEFORE the  
6 date of filing the complaint, of an act that is cause for suspension or  
7 revocation of a license, the registrar after investigation, **IN ITS SOLE**  
8 **DISCRETION**, may issue a citation directing the licensee, within ten days  
9 after service of the citation ~~upon~~ ON the licensee, to appear by filing with  
10 the registrar the licensee's written answer to the citation and complaint  
11 showing cause, if any, why the licensee's license should not be suspended or  
12 revoked. Service of citation ~~upon~~ ON the licensee shall be fully effected by  
13 personal service or by mailing a true copy thereof, together with a true copy  
14 of the complaint, by registered mail in a sealed envelope with postage  
15 prepaid and addressed to the licensee at the licensee's latest address of  
16 record in the registrar's office. Service of the citation and complaint  
17 shall be complete at the time of personal service or five days after deposit  
18 in the mail. The two-year period prescribed by this subsection shall  
19 commence on the earlier of the close of escrow or actual occupancy for new  
20 home or other new building construction and otherwise shall commence on  
21 completion of the specific project.  
22           B. Failure of the licensee to answer within ten days after service  
23 shall be deemed an admission by the licensee of the licensee's commission of  
24 the act or acts charged in the complaint, and the registrar may then suspend  
25 or revoke the licensee's license.  
26           C. The registrar shall not issue a citation for failure to perform  
27 work in a professional and workmanlike manner or in accordance with any  
28 applicable building codes and professional industry standards if either:  
29           1. The contractor is not provided an opportunity to inspect the work  
30 within fifteen days after receiving a written notice from the registrar.  
31           2. The contractor's work has been subject to neglect, modification or  
32 abnormal use.  
33           D. **NOTWITHSTANDING SUBSECTION C OF THIS SECTION, THE REGISTRAR MAY**  
34 **INVESTIGATE THE COMPLAINT WITHOUT WAITING FIFTEEN DAYS.**