PROPOSED

HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2261

(Reference to printed bill)

Strike everything after the enacting clause and insert:

"Section 1. Section 32-1101, Arizona Revised Statutes, is amended to read:

32-1101. Definitions

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

1. "Advertisement" means any written or oral publication, dissemination, solicitation or circulation that is intended to directly or indirectly induce any person to enter into an agreement for contracting services with a contractor, including business cards and telephone directory display advertisements.

~~2. "Commercial contractor" is synonymous with the terms "commercial builder", "industrial builder" and "public works builder" and means any person, firm, partnership, corporation, association or other organization, or any combination, that, for compensation, undertakes to or offers to undertake to, purports to have the capacity to undertake to, submits a bid to, does himself or by or through others, or directly or indirectly supervises others, except within residential property lines, to:~~

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

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

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

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

~~(a) Construct, alter, repair, add to, subtract from, improve, move, wreck or demolish any building, highway, road, railroad, excavation or other structure, project, development or improvement, or to do any part thereof,~~

~~including the erection of scaffolding or any other structure or work in connection with the construction.~~

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

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

2. "APPURTENANCE" MEANS ALL STRUCTURES AND IMPROVEMENTS THAT ARE SUBORDINATE TO ONE OR MORE OTHER STRUCTURES AND INCLUDES DRIVEWAYS, FENCES, PATIOS, SWIMMING POOLS, LANDSCAPING, SPORT COURTS AND GAZEBOS.

~~4.~~ 3. "~~Dual licensed~~ Contractor" is synonymous with the term "~~commercial and residential~~ builder" and means any person, firm, partnership, corporation, association or other organization, or any combination, that undertakes to or offers to undertake to, purports to have the capacity to undertake to, submits a bid to, does himself or by or through others, or directly or indirectly supervises others ~~under a single license on commercial or residential property~~ to:

(a) Construct, alter, repair, add to, subtract from, improve, move, wreck or demolish any building, HOUSE, TOWNHOUSE, CONDOMINIUM, COOPERATIVE UNIT, APARTMENT COMPLEX, HIGHWAY, ROADWAY, RAILROAD, excavation or other structure or improvement, including any appurtenances, or to do any part thereof, INCLUDING THE ERECTION OF SCAFFOLDING OR ANY OTHER STRUCTURE OR WORK IN CONNECTION WITH THE CONSTRUCTION.

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

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

~~5.~~ 4. "License" means an authorization for the person who is listed on the electronic, paper or other records maintained by the registrar to act in the capacity of a contractor.

~~6.~~ 5. "Person" means an applicant, an individual, A PARTNERSHIP, A LIMITED LIABILITY COMPANY, A CORPORATION, a member of a limited liability company, a qualifying party, any partner of a partnership or limited liability partnership or any officer, director, qualifying party, trustee of a trust, beneficiary of a trust or owner of at least twenty-five per cent of the stock or beneficial interest of a corporation.

~~7.~~ 6. "Registrar" means the registrar of contractors.

~~8. "Residential contractor" is synonymous with the term "residential builder" and means any person, firm, partnership, corporation, association or other organization, or a combination of any of them, that undertakes to or offers to undertake to, purports to have the capacity to undertake to, submits a bid to, or does himself or by or through others, within residential property lines:~~

~~(a) Construct, alter, repair, add to, subtract from, improve, move, wreck or demolish any residential structure, such as houses, townhouses, condominiums or cooperative units. Residential structures also include apartment complexes of four units or less and any appurtenances on or within residential property lines.~~

~~(b) Connect such residential structure to utility service lines, metering devices or sewer lines.~~

~~(c) Provide mechanical or structural service for any such residential structure.~~

B. "Contractor" includes subcontractors, specialty contractors, floor covering contractors, landscape contractors, other than gardeners, and consultants representing themselves as having the ability to supervise or manage a construction project for the benefit of the property owner, including the hiring and firing of specialty contractors, the scheduling of work on the project and the selection and purchasing of construction material.

C. For the purposes of this chapter, ~~residential~~ contractor does not include an owner making improvements pursuant to section 32-1121, subsection A, paragraph 5.

D. "RESIDENTIAL STRUCTURE" INCLUDES ANY HOUSE, TOWNHOUSE, CONDOMINIUM, COOPERATIVE UNIT, APARTMENT COMPLEX CONSISTING OF FOUR UNITS OR LESS AND APPURTENANCE ON OR WITHIN RESIDENTIAL PROPERTY LINES.

~~D.~~ E. Only contractors as defined in this section are licensed and regulated by this chapter.

Sec. 2. Section 32-1102, Arizona Revised Statutes, is amended to read:

32-1102. Classification of licenses; contracting business

For the purpose of license classification, the contracting business shall include:

~~1. General commercial building contracting, which is engaging in the contracting business in connection with any structure built, being built or to be built on commercial property for the support, shelter and enclosure of persons, animals, chattels or movable property of any kind, or superintending the whole or any part thereof, and which includes the management or direct or indirect supervision of any work performed by a contractor but does not include a person who merely furnishes materials or supplies as provided in section 32-1121 without fabricating them into or consuming them in performing the work of the general contractor.~~

~~2.~~ 1. General ~~dual licensed~~ contracting, which is engaging in the contracting business REQUIRING THE USE OF AT LEAST TWO UNRELATED BUILDING TRADES in connection with any structure built, being built or to be built ~~on residential or commercial property~~ for the support, shelter and enclosure of persons, animals, chattels or movable property of any kind, or superintending

the whole or any part thereof, and which includes the management or direct or indirect supervision of any work performed by a contractor but does not include a person who merely furnishes materials or supplies as provided in section 32-1121 without fabricating them into or consuming them in performing the work of the general contractor.

~~3.~~ 2. General engineering contracting, which is engaging in the contracting business ~~other than residential contracting~~ in connection with fixed works requiring specialized engineering knowledge and skills and includes irrigation, drainage, water power, water supply, flood control, inland waterways, harbors, railroads, highways, tunnels, airport runways, sewerage, bridges, earth moving projects, paving and transmission lines.

~~4. General residential contracting, which is engaging in the contracting business by any general contractor or subcontractor who undertakes to construct, alter, repair, add to, subtract from, improve, move, wreck or demolish any residential structure or appurtenances including swimming pools on or within residential property lines.~~

~~5. Specialty commercial contracting, which is engaging in the contracting business in the performance of construction work requiring special skill and involving the use of specialized construction trades or crafts other than residential contracting.~~

~~6.~~ 3. Specialty ~~dual licensed~~ contracting, which is engaging in the contracting business in the performance of construction work requiring special skill and involving the use of specialized construction trades or crafts ~~in residential and commercial contracting~~.

~~7. Specialty residential contracting, which is engaging in the residential contracting business by the performance of construction work requiring special skill and involving the use of specialized construction trades or crafts within residential property lines.~~

Sec. 3. Section 32-1105, Arizona Revised Statutes, is amended to read:

32-1105. Rulemaking powers for purposes of classifying and reclassifying contractors

A. The registrar may adopt rules necessary to effect the classification of contractors in a manner consistent with established usage and procedure as found in the construction business, and may limit the field and scope of operations of a licensed contractor within any of the branches of the contracting business, as described in this chapter, to those divisions thereof in which the contractor is classified and qualified to engage.

~~B. The registrar shall establish by rule license classifications for dual licensed contractors. A contractor classified as a dual licensed contractor may perform equivalent construction work on both commercial and residential projects under a single license. The registrar shall adopt rules~~

~~necessary to establish the scope of work that may be done under the dual license classifications.~~

~~C.~~ B. A licensee may apply for classification and be classified in more than one classification or division thereof after the licensee meets the qualifications prescribed by the registrar for such additional classification or classifications. A single form of application shall be adopted for all licenses issued by the registrar.

~~D.~~ C. Nothing in this chapter shall prohibit a specialty contractor from taking and executing a contract involving the use of two or more crafts or trades if the performance of the work in the crafts or trades other than those in which the specialty contractor is licensed is incidental and supplemental to the performance of work in the craft for which the specialty contractor is licensed.

Sec. 4. Section 32-1107, Arizona Revised Statutes, is amended to read:

32-1107. Registrar of contractors fund

A. The registrar of contractors fund is established. The registrar of contractors shall administer the fund. ~~The registrar shall deposit, pursuant to sections 35-146 and 35-147, all monies collected under this chapter,~~ Except monies collected for the ~~residential contractors'~~ recovery fund ESTABLISHED BY SECTION 32-1132 and the contractors' cash bond fund and monies received from civil penalties, ~~as follows:~~

~~1. For fiscal year 1994-1995, seventy per cent in the registrar of contractors fund and thirty per cent in the state general fund.~~

~~2. For fiscal year 1995-1996, eighty per cent in the registrar of contractors fund and twenty per cent in the state general fund.~~

~~3. For all fiscal years that begin after June 30, 1996,~~ PURSUANT TO SECTIONS 35-146 AND 35-147, THE REGISTRAR SHALL DEPOSIT ninety per cent OF ALL MONIES COLLECTED UNDER THIS CHAPTER in the registrar of contractors fund and ten per cent in the state general fund.

B. The registrar shall use monies in the registrar of contractors fund for carrying out the powers and duties of the registrar and for the purposes of this chapter. Monies deposited in the registrar of contractors fund are subject to section 35-143.01.

Sec. 5. Section 32-1122, Arizona Revised Statutes, is amended to read:

32-1122. Qualifications for license

A. A contractor's license shall be issued only by act of the registrar of contractors. The registrar shall:

1. Classify and qualify applicants for a license.

2. If necessary, change the license classification of a licensee in the case of a title reclassification, with or without a bond rider for the purpose of continuing liability on the bond.

3. Conduct investigations the registrar deems necessary.

4. Establish written examinations if deemed necessary to protect the health and safety of the public.

B. To obtain or renew a license under this chapter, the applicant shall:

1. Submit to the registrar of contractors a verified application on forms that are prescribed by the registrar of contractors and that contain the following information and shall advise the registrar of any change in the information within thirty days:

(a) A designation of the classification of license that is sought by the applicant.

(b) If the applicant is an individual, the applicant's name and address.

(c) If the applicant is a partnership, the names and addresses of all partners with a designation of any limited partners.

(d) If the applicant is a corporation, an association or any other organization, the names and addresses of the president, vice-president, if any, secretary and treasurer or the names and addresses of the functional equivalent of these officers, the directors and the owners of twenty-five per cent or more of the stock or beneficial interest.

(e) The name and address of the qualifying party.

(f) If the applicant is a corporation, evidence that the corporation is in good standing with the corporation commission.

(g) The address or location of the applicant's place of business and the mailing address if it is different from the applicant's place of business.

(h) The applicant's current privilege license number issued pursuant to section 42-5005.

(i) Proof that the applicant has complied with the statutes or rules governing workers' compensation insurance.

2. Submit the appropriate bond and fee required under this chapter.

C. To obtain a contractor's license under this chapter ~~other than a residential contractor's license~~, the applicant shall submit a detailed statement of current financial condition containing information required by the registrar of contractors on a form furnished by or acceptable to the registrar of contractors. ~~Notwithstanding any other law, a swimming pool contractor shall also submit a detailed statement of current financial condition as required by this subsection.~~

D. To obtain or renew a license under this chapter, each person shall be of good character and reputation. Lack of good character and reputation may be established by showing that a person has engaged in contracting without a license or committed any act that, if committed or done by any licensed contractor, would be grounds for suspension or revocation of a

contractor's license or by showing that the person was named on a contractor's license that was suspended or revoked in another state.

E. To obtain a license under this chapter, a person shall not have had a license refused or revoked, within one year before the person's application, or shall not have engaged in the contracting business, nor shall the person have submitted a bid without first having been licensed within one year before the person's application, nor shall a person act as a contractor between the filing of the application and actual issuance of the license. The registrar may find any of those actions or circumstances to be excusable if there was reasonable doubt as to the need for licensure or the actions of the applicant did not result in an unremedied hardship or danger or loss to the public. A person who has been convicted of contracting without a license is not eligible to obtain a license under this chapter for one year after the date of the last conviction.

F. Before a license is issued, the qualifying party shall:

1. Have had a minimum of four years' practical or management trade experience, at least two of which must have been within the last ten years, dealing specifically with the type of construction, or its equivalent, for which the applicant is applying for a license. Technical training in an accredited college or university or in a manufacturer's accredited training program may be substituted for a portion of such experience, but in no case may credited technical training exceed two years of the required four years' experience. The registrar of contractors may reduce the four years' practical or management experience requirement if in the registrar's opinion it has been conclusively shown by custom and usage in the particular industry or craft involved that the four year requirement is excessive. The registrar may waive the work experience documentation and verification or the examination requirement if the records reflect that the qualifying party is currently or has previously been a qualifying party for a licensee in this state OR ANY OTHER STATE in the same classification within the preceding five years.

2. Successfully show, by written examination taken not more than two years before application, if required, qualification in the kind of work for which the applicant proposes to contract, the applicant's general knowledge of the building, safety, health and lien laws of the state, administrative principles of the contracting business and the rules adopted by the registrar of contractors pursuant to this chapter, demonstrate knowledge and understanding of construction plans and specifications applicable to the particular industry or craft and of the standards of construction work and techniques and practices in the particular industry or craft and demonstrate a general understanding of other related construction trades, in addition to any other matters as may be deemed appropriate by the registrar to determine

that the qualifying party meets the requirements of this chapter. The registrar shall maintain multiple versions of examinations for each type of license that requires an examination.

G. No license shall be issued to a minor, to any partnership in which one of the partners is a minor or to any corporation in which a corporate officer is a minor.

H. Before receiving, renewing and holding a license pursuant to this chapter, the registrar may require a license applicant or licensee to submit to the registrar a full set of fingerprints and the fees required in section 41-1750. The registrar shall submit the fingerprints and fees to the department of public safety for the purpose of obtaining a state and federal criminal records check pursuant to section 41-1750 and Public Law 92-544. The department of public safety may exchange this fingerprint data with the federal bureau of investigation.

Sec. 6. Section 32-1126, Arizona Revised Statutes, is amended to read:

32-1126. Fees

A. The license fees prescribed by this chapter shall be as follows:

1. Application and license fees for an original biennial license:

~~(a) For general residential contracting and subclassifications of general residential contracting, not more than five hundred dollars.~~

~~(b) For general commercial contracting and subclassifications of general commercial contracting, not more than one thousand five hundred dollars.~~

~~(c)~~ (a) For general ~~dual licensed~~ contracting AND GENERAL ENGINEERING CONTRACTING, not more than two thousand dollars.

~~(d) For specialty residential contracting, not more than three hundred fifty dollars.~~

~~(e) For specialty commercial contracting, not more than one thousand dollars.~~

~~(f)~~ (b) For specialty ~~dual licensed~~ contracting, not more than one thousand three hundred fifty dollars.

2. Biennial license renewal fee:

~~(a) For general residential contracting and subclassifications of general residential contracting, not more than three hundred twenty dollars.~~

~~(b) For general commercial contracting and subclassifications of general commercial contracting, not more than one thousand dollars.~~

~~(c)~~ (a) For general ~~dual licensed~~ contracting AND GENERAL ENGINEERING CONTRACTING, not more than one thousand three hundred twenty dollars.

~~(d) For specialty residential contracting, not more than two hundred seventy dollars.~~

~~(e) For specialty commercial contracting, not more than nine hundred dollars.~~

~~(f)~~ (b) For specialty ~~dual licensed~~ contracting, not more than one thousand one hundred seventy dollars.

B. The fee for an annual license renewal granted pursuant to section 32-1123.01 shall be one-half of the biennial license renewal fee.

C. The registrar may establish reasonable fees for services performed by the registrar relating to reexaminations, processing of applications, changes of qualifying party and approval of name changes on licenses.

D. The penalty for failure to apply for renewal of a license within the time prescribed by this chapter shall be fifty dollars.

E. The registrar may establish a separate fee for examination.

F. The registrar may contract with private testing services to establish and administer such examinations and may authorize the payment of the examination fee to the private testing service.

Sec. 7. Heading change

The article heading of title 32, chapter 10, article 2.1, Arizona Revised Statutes, is changed from "RESIDENTIAL CONTRACTORS' RECOVERY FUND" to "RECOVERY FUND".

Sec. 8. Section 32-1131, Arizona Revised Statutes, is amended to read:

32-1131. Definitions

In this article, unless the context otherwise requires:

1. "Assessment" means the contribution by a contractor to the ~~residential contractors'~~ recovery fund.

2. "Fund" means the ~~residential contractors'~~ recovery fund.

3. "Person injured" means any owner of residential real property which is classified as class three property under section 42-12003 and which is actually occupied or intended to be occupied by the owner as a residence including community property, tenants in common or joint tenants who are damaged by the failure of a ~~residential contractor or a dual licensed contractor~~ RECOVERY FUND PARTICIPANT to adequately build or improve a residential structure ~~or appurtenance~~ on that real property. Included in this definition are lessees of residential real property who contract directly with a ~~residential contractor~~ RECOVERY FUND PARTICIPANT or indirectly with a subcontractor of that contractor and homeowners' or unit owners' associations after transfer of control from the builder or developer for damages to the common elements within the complex.

~~4. "Residential contractor" means a contractor as defined in section 32-1101 who is licensed to perform work on residential property pursuant to this chapter and who engages in residential contracting.~~

4. "RECOVERY FUND PARTICIPANT" MEANS A CONTRACTOR WHO HAS ELECTED TO PARTICIPATE IN THE RECOVERY FUND PURSUANT TO SECTION 32-1152, SUBSECTION C.

Sec. 9. Section 32-1132, Arizona Revised Statutes, is amended to read:

32-1132. Recovery fund

A. The ~~residential contractors'~~ recovery fund is established, to be administered by the registrar, from which any person injured by an act, representation, transaction or conduct of a ~~residential contractor~~ RECOVERY FUND PARTICIPANT licensed pursuant to this chapter that is in violation of this chapter or the rules adopted pursuant to this chapter may be awarded in the county where the violation occurred an amount of not more than thirty thousand dollars for damages sustained by the act, representation, transaction or conduct. An award from the fund is limited to the actual damages suffered by the claimant as a direct result of the ~~contractor's~~ RECOVERY FUND PARTICIPANT'S violation but shall not exceed an amount necessary to complete or repair a residential structure or appurtenance within residential property lines. Actual damages shall not be established by bids supplied by or the value of work performed by a person or entity that is not licensed pursuant to this chapter and that is required to be licensed pursuant to this chapter. If the claimant has paid a deposit or down payment and no actual work is performed or materials are delivered, the award of actual damages shall not exceed the exact dollar amount of the deposit or down payment plus interest at the rate of ten per cent a year from the date the deposit or down payment is made or not more than thirty thousand dollars, whichever is less. Interest shall not be paid from the fund on any other awards under this chapter unless ordered by a court of competent jurisdiction. An award from the fund shall not be available to persons injured by an act, representation, transaction or conduct of a ~~residential~~ contractor who was not licensed pursuant to this chapter or whose license was in an inactive status, expired, cancelled, revoked, suspended or not issued at the time of the contract. No more than the maximum individual award from the fund shall be made on any individual residence or to any injured person. Notwithstanding any other provision of law, monies in the ~~residential contractors'~~ recovery fund shall not be directly awarded for attorney fees or costs except in contested cases appealed to the superior court.

B. Except as provided in section 32-1152, subsection C, every person ~~making application~~ WHO APPLIES for a contractor's license or for renewal of a contractor's license ~~to engage in residential contracting~~ AND WHO PERFORMS WORK ON RESIDENTIAL STRUCTURES shall pay an assessment of not more than six hundred dollars during the biennial license period for deposit in the fund. In the event that the registrar does not issue the license, this assessment shall be returned to the applicant.

Sec. 10. Section 32-1134.02, Arizona Revised Statutes, is amended to read:

32-1134.02. Insufficiency of fund

If at any time the monies deposited in the ~~residential contractors'~~ recovery fund are insufficient to satisfy any duly authorized claim or portion thereof, the registrar ~~shall~~, when sufficient monies have been deposited in the ~~residential contractors'~~ recovery fund, SHALL satisfy any unpaid claims or portion of unpaid claims with priority for payment based on the time of filing a certified copy of the court order with the registrar.

Sec. 11. Section 32-1136, Arizona Revised Statutes, is amended to read:

32-1136. Statute of limitations; recovery from fund

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

B. When any injured person recovers a valid judgment against any ~~residential contractor~~ RECOVERY FUND PARTICIPANT for such act, representation, transaction or conduct that is in violation of this chapter or the rules adopted pursuant to this chapter, the injured person, on twenty days' written notice to the registrar, may apply to the court for an order directing payment out of the fund, of the amount unpaid on the judgment, subject to the limitations stated in this article. If the injured person failed to give notice to the registrar at the time of commencement of the action as required by subsection A of this section, the court may direct payment out of the fund on receipt of a consent to payment signed on behalf of the registrar. If the injured person has given notice to the registrar as required by subsection A of this section, the court may direct payment out of the fund either on receipt of a consent to payment signed on behalf of the registrar or, in the absence of any written consent, after the notice period required by this subsection. If the court receives written objections by the registrar, the court shall not direct payment from the fund without affording the registrar a reasonable opportunity to present and support his objections.

C. The injured person shall not be the spouse of the ~~residential contractor~~ RECOVERY FUND PARTICIPANT or the personal representative of the spouse of the ~~residential contractor~~ RECOVERY FUND PARTICIPANT.

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

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

2. Has obtained a judgment that has become final, as provided in subsection B of this section, stating the amount and the amount owing at the date of the application.

3. Has proceeded against any existing bond covering the ~~residential contractor~~ RECOVERY FUND PARTICIPANT and has not collected on such bond an amount of thirty thousand dollars or more.

4. Is not aware of any personal or real property or other assets of the debtor that can be applied in satisfaction of the judgment.

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

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

Sec. 12. Section 32-1137, Arizona Revised Statutes, is amended to read:

32-1137. Notice of authorized payment to injured person

On authorization of payment from the ~~residential contractors'~~ recovery fund, the registrar shall notify the injured person that:

1. The amount authorized for payment is subject to repayment by the recipient if the judgment of the court is finally reversed.

2. It is the responsibility of the recipient to respond to an appeal from the judgment.

3. On appeal from the judgment, postponement of acceptance by the injured person of the amount authorized for payment does not operate as a waiver of any rights of the injured person.

Sec. 13. Section 32-1138, Arizona Revised Statutes, is amended to read:

32-1138. Subrogation

The state has the right of subrogation to the extent of payments made from the ~~residential contractors'~~ recovery fund, including the right to collect from a bond, cash payment or alternative to cash payment made pursuant to section 32-1152 or 32-1152.01. The registrar and the attorney general shall promptly enforce all subrogation claims.

Sec. 14. Section 32-1139, Arizona Revised Statutes, is amended to read:

32-1139. Liability of fund for each recovery fund participant's license; suspension of license; repayment

A. The liability of the fund shall not exceed two hundred thousand dollars for any one ~~residential contractor's~~ RECOVERY FUND PARTICIPANT'S license. If claims against the fund on behalf of any one ~~residential contractor's~~ RECOVERY FUND PARTICIPANT'S license exceed two hundred thousand dollars, the claims shall be paid based on a pro rata share of the common liability, and the registrar or a court entering an order for payment after the sum of two hundred thousand dollars has been paid from the fund shall modify the order indicating that no further recovery from the fund shall be allowed.

B. If any amount is paid from the fund in settlement of a claim arising from the act, representation, transaction or conduct of a ~~residential contractor~~ RECOVERY FUND PARTICIPANT, the license of the ~~contractor~~ RECOVERY FUND PARTICIPANT shall be automatically suspended by operation of law until the amount paid from the fund is repaid in full, plus interest at the rate of ten per cent a year. Any person who is or was, at the time of the act or omission, named on a license that has been suspended because of a payment from the recovery fund is not eligible to receive a new license or retain another existing license that also shall be suspended by operation of law, nor shall any suspended license be reactivated, until the amount paid from the fund is repaid as provided in this subsection.

C. After receiving an award from the fund pursuant to this article a person is deemed to have assigned to the registrar the person's rights for recovery against the responsible ~~residential contractor~~ RECOVERY FUND PARTICIPANT licensed pursuant to this chapter to the extent of the person's award from the fund.

Sec. 15. Section 32-1152, Arizona Revised Statutes, is amended to read:

32-1152. Bonds

A. Before granting an original contractor's license, the registrar shall require of the applicant a surety bond in a form acceptable to the

registrar or a cash deposit as provided in this section. No contractor's license may be renewed unless the applicant's surety bond or cash deposit is in full force and effect.

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

1. General ~~commercial building~~ contractors and subclassifications of general ~~commercial~~ contractors shall furnish a surety bond or cash deposit in an amount that is determined as follows:

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

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

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

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

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

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

2. Specialty ~~commercial~~ contractors shall furnish a surety bond or cash deposit in an amount that is determined as follows:

~~(a) If the estimated annual volume of construction work of the applicant is ten million dollars or more, the applicant shall furnish a surety bond or cash deposit of not less than thirty-seven thousand five hundred dollars or more than fifty thousand dollars.~~

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

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

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

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

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

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

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

~~5. General residential contractors and subclassifications of general residential contractors shall furnish a surety bond or cash deposit in an~~

~~amount of not more than fifteen thousand dollars and not less than five thousand dollars.~~

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

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

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

C. ~~Dual licensed contractors and residential~~ Contractors WHO PERFORM WORK ON RESIDENTIAL STRUCTURES shall also either:

1. Furnish an additional surety bond or cash deposit in the amount of two hundred thousand dollars solely for actual damages suffered by persons injured as described in section 32-1131. This bond shall be subject to the limitations on the amounts that may be awarded to individual claimants as established in section 32-1132. THE BOND OR DEPOSIT REQUIRED BY THIS PARAGRAPH IS FOR THE BENEFIT OF AND IS SUBJECT TO CLAIMS ONLY BY PERSONS INJURED AS DEFINED IN SECTION 32-1131.

2. Participate in the ~~residential contractors'~~ recovery fund ESTABLISED BY SECTION 32-1132 and pay the assessment prescribed by section 32-1132.

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

The cash deposit may be withdrawn two years after the filing of a commercial surety bond as a replacement to the cash deposit.

E. The bonds or deposit required by subsection B of this section shall be for the benefit of and shall be subject to claims by ANY OF the ~~registrar of contractors for failure to pay any sum required pursuant to this chapter. The bond or deposit required by subsection B, paragraphs 1, 2 and 3 of this section is for the benefit of and subject to claims by a licensee under this chapter or a lessee, owner or co-owner of nonresidential real property including, but not limited to, a tenant in common or joint tenant, or their successors in interest, who has a direct contract with the licensee against whose bond or deposit the claim is made and who is damaged by the failure of the licensee to build or improve a structure or appurtenance on that real property at the time the work was performed in a manner not in compliance with the requirements of any building or construction code applicable to the construction work under the laws of this state or any political subdivision, or if no such code was applicable, in accordance with the standards of construction work approved by the registrar. The residential bond or deposit required by subsection B, paragraphs 4 through 8 of this section is for the benefit of and subject to claims by any person furnishing labor, materials or construction equipment on a rental basis used in the direct performance of a construction contract involving a residential structure or by persons injured as defined in section 32-1131. The bond or deposit required by subsection C, paragraph 1 of this section is for the benefit of and is subject to claims only by persons injured as described in section 32-1131.~~ FOLLOWING:

1. THE REGISTRAR FOR FAILURE TO PAY ANY SUM REQUIRED PURSUANT TO THIS CHAPTER.

2. A LICENSEE UNDER THIS CHAPTER WHO HAS A DIRECT CONTRACT WITH THE LICENSEE AGAINST WHOSE BOND OR DEPOSIT THE CLAIM IS MADE AND WHO IS DAMAGED BY THE FAILURE OF THE LICENSEE TO BUILD OR IMPROVE A STRUCTURE OR APPURTENANCE ON THAT REAL PROPERTY AT THE TIME THE WORK WAS PERFORMED IN A MANNER IN COMPLIANCE WITH THE REQUIREMENTS OF ANY BUILDING OR CONSTRUCTION CODE APPLICABLE TO THE CONSTRUCTION WORK UNDER THE LAWS OF THIS STATE OR ANY POLITICAL SUBDIVISION, OR IF NO SUCH CODE WAS APPLICABLE, IN ACCORDANCE WITH THE STANDARDS OF CONSTRUCTION WORK APPROVED BY THE REGISTRAR.

3. A LESSEE OWNER OR CO-OWNER OF REAL PROPERTY, INCLUDING A TENANT IN COMMON OR A JOINT TENANT OR THE SUCCESSORS IN INTEREST OF A TENANT IN COMMON OR A JOINT TENANT, WHO HAS A DIRECT CONTRACT WITH THE LICENSEE AGAINST WHOSE BOND OR DEPOSIT THE CLAIM IS MADE AND WHO IS DAMAGED BY THE FAILURE OF THE LICENSEE TO BUILD OR IMPROVE A STRUCTURE OR APPURTENANCE ON THAT REAL PROPERTY AT THE TIME THE WORK WAS PERFORMED IN A MANNER IN COMPLIANCE WITH THE REQUIREMENTS OF ANY BUILDING OR CONSTRUCTION CODE APPLICABLE TO THE CONSTRUCTION WORK UNDER THE LAWS OF THIS STATE OR ANY POLITICAL SUBDIVISION,

OR IF NO SUCH CODE WAS APPLICABLE, IN ACCORDANCE WITH THE STANDARDS OF CONSTRUCTION WORK APPROVED BY THE REGISTRAR.

4. A PERSON FURNISHING LABOR, MATERIALS OR CONSTRUCTION EQUIPMENT ON A RENTAL BASIS USED IN THE DIRECT PERFORMANCE OF A CONSTRUCTION CONTRACT.

5. PERSONS INJURED AS DEFINED IN SECTION 32-1131.

F. The person seeking recovery from the bond or cash deposit shall maintain an action at law against the contractor if claiming against the cash deposit or against the contractor and surety if claiming against the surety bond. If the person seeking recovery is required to give the notice pursuant to section 33-992.01, he is entitled to seek recovery only if he has given such notice and has made proof of service. The surety bond or cash deposit shall be subject to claims until the full amount thereof is exhausted. The court may award reasonable attorney fees in a judgment against a contractor's surety bond or cash deposit. No suit may be commenced on the bond or for satisfaction from the cash deposit after the expiration of two years following the commission of the act or delivery of goods or rendering of services on which the suit is based, except that time for purposes of claims for fraud shall be measured as provided in section 12-543. The surety bond or cash deposit shall be continuous in form and shall be conditioned so that the total aggregate liability of the surety or cash deposit for all claims, including reasonable attorney fees, shall be limited to the face amount of the surety bond or cash deposit irrespective of the number of years the bond or cash deposit is in force. If the corporate surety desires to make payment without awaiting court or registrar action, the amount of any bond filed in compliance with this chapter shall be reduced to the extent of any payment or payments made by the corporate surety in good faith thereunder. Any such payments shall be based on priority of written claims received by the corporate surety before court or registrar action. If more than one cash deposit exists, the judgment against the contractor shall state which cash deposit shall be used to satisfy the judgment. A certified copy of the judgment shall then be filed with the registrar, and such judgment shall specify that it may be satisfied from the contractor's cash deposit. Priority for payment shall be based on the time of filing with the registrar. On receipt of a certified copy of the judgment or on a final disciplinary order of the registrar, the registrar may authorize payment from the cash deposit of the amount claimed or of whatever lesser amount remains on file. In any action against a cash deposit, the claimant, at the time of filing suit, may notify the registrar in writing of the action against the cash deposit, but shall not name as a defendant in the action the registrar, the treasurer or the state. Failure to so notify the registrar at the time of filing suit may result in the cash deposit being withdrawn by the licensee before judgment pursuant to subsection D of this section.

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

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

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

1. When a license of either the applicant or the qualifying party has been suspended or revoked or a surety bond or cash deposit requirement has been increased under section 32-1154 previously as the result of disciplinary action for a violation of this chapter.

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

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

Sec. 16. Section 32-1154, Arizona Revised Statutes, is amended to read:

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

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

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

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

3. Violation of any rule adopted by the registrar.

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

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

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

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

8. Conviction of a felony.

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

10. Aiding or abetting a licensed or unlicensed person to evade this chapter, knowingly or recklessly combining or conspiring with a licensed or unlicensed person, allowing one's license to be used by a licensed or unlicensed person or acting as agent, partner, associate or otherwise of a licensed or unlicensed person with intent to evade this chapter.

11. Failure by a licensee or agent or official of a licensee to pay monies in excess of seven hundred fifty dollars when due for materials or services rendered in connection with the licensee's operations as a contractor when the licensee has the capacity to pay or, if the licensee lacks the capacity to pay, when the licensee has received sufficient monies as payment for the particular construction work project or operation for which the services or materials were rendered or purchased.

12. Failure of a contractor to comply with any safety or labor laws or codes of the federal government, state or political subdivisions of the state.

13. Failure in any material respect to comply with this chapter.

14. Knowingly entering into a contract with a contractor for work to be performed for which a license is required with a person not duly licensed in the required classification.

15. Acting in the capacity of a contractor under any license issued under this chapter in a name other than as set forth on the license.

16. False, misleading or deceptive advertising whereby any member of the public may be misled and injured.

17. Knowingly contracting beyond the scope of the license or licenses of the licensee.

18. Contracting or offering to contract or submitting a bid while the license is under suspension or while the license is on inactive status.

19. Failure to notify the registrar in writing within a period of fifteen days of any disassociation of the person who qualified for the license. Such licensee shall have sixty days from the date of such disassociation to qualify through another person.

20. Subsequent discovery of facts that if known at the time of issuance of a license or the renewal of a license would have been grounds to deny the issuance or renewal of a license.

21. Having a person named on the license who is or was named on any other license in this state or in another state that is under suspension or revocation for any act or omission that occurs while the person is or was named on the license unless the prior revocation was based solely on a violation of this paragraph.

22. Continuing a new single family residential construction project with actual knowledge that a pretreatment wood-destroying pests or organisms application was either:

(a) Not performed at the required location.

(b) Performed in a manner inconsistent with label requirements, state law or rules.

23. Failure to take appropriate corrective action to comply with this chapter or with rules adopted pursuant to this chapter without valid justification within a reasonable period of time after receiving a written directive from the registrar. The written directive shall set forth the time within which the contractor is to complete the remedial action. The time permitted for compliance shall not be less than fifteen days from the date of issuance of the directive. A license shall not be revoked or suspended nor shall any other penalty be imposed for a violation of this paragraph until after a hearing has been held.

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

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

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

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

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

D. The registrar may impose a civil penalty of not to exceed five hundred dollars on a contractor for each violation of subsection A, paragraph 23 of this section. Civil penalties collected pursuant to this subsection shall be deposited in the ~~residential contractors'~~ recovery fund ESTABLISHED BY SECTION 32-1132. The failure by the licensee to pay any civil penalty imposed under this subsection results in the automatic revocation of the license thirty days after the effective date of the order providing for the

civil penalty. No future license may be issued to an entity consisting of a person, as defined in section 32-1101, ~~subsection A, paragraph 6,~~ who is associated with the contractor, unless payment of any outstanding civil penalty is tendered.

E. The registrar shall impose a civil penalty of not to exceed one thousand dollars on a contractor for each violation of subsection A, paragraph 18 of this section. Civil penalties collected pursuant to this subsection shall be deposited in the ~~residential contractors'~~ recovery fund ESTABLISHED BY SECTION 32-1132. The failure by the licensee to pay any civil penalty imposed under this subsection results in the automatic permanent revocation of the license thirty days after the effective date of the order providing for the civil penalty. No future license may be issued to an entity consisting of a person, as defined in section 32-1101, ~~subsection A, paragraph 6,~~ who is associated with the contractor, unless payment of any outstanding civil penalty is tendered.

F. Notwithstanding any other provisions in this chapter, if a contractor's license has been revoked or has been suspended as a result of an order to remedy a violation of this chapter, the registrar may order payment from the ~~residential contractors'~~ recovery fund ESTABLISHED BY SECTION 32-1132 to remedy the violation. The registrar shall serve the contractor with a notice setting forth the amount claimed or to be awarded. If the contractor contests the amount or propriety of the payment, the contractor shall respond within ten days of the date of service by requesting a hearing to determine the amount or propriety of the payment. Failure by the contractor to respond in writing within ten days of the date of service shall be deemed a waiver by the contractor of the right to contest the amount claimed or to be awarded. Service may be made by personal service to the contractor or by mailing a copy of the notice by registered mail with postage prepaid to the contractor's latest address of record on file in the registrar's office. If service is made by registered mail, it is effective five days after the notice is mailed. Except as provided in section 41-1092.08, subsection H, the contractor or injured person may seek judicial review of the registrar's final award pursuant to title 12, chapter 7, article 6. An applicant to the ~~residential contractors'~~ recovery fund pursuant to this subsection must show that the applicant has proceeded against any existing bond covering the ~~residential contractor~~ RECOVERY FUND PARTICIPANT and has not collected on the bond in an amount of thirty thousand dollars or more.

Sec. 17. Section 32-1155.01, Arizona Revised Statutes, is amended to read:

32-1155.01. Arbitration process; applicability

A. Notwithstanding title 41, chapter 6, article 10 and any other provision of this article, if a person files a written complaint with the registrar pursuant to section 32-1155 and any party to the complaint disputes the registrar's corrective work order, within thirty calendar days after the corrective work order is made, the complaint, at the sole discretion of the registrar, may be referred to arbitration if the cost of repairs is five thousand dollars or less. If the cost of repairs is more than five thousand dollars, the contesting parties, within thirty calendar days after the corrective work order, may opt into arbitration if all of the parties agree. For the purposes of this subsection, the estimated cost of repairs shall be determined at the time of investigation by the registrar. If either party disputes the cost of the repairs, the party objecting shall submit to the registrar within ten calendar days two separate bids from qualified contractors on the cost of the repairs. Failure to provide two bids within this time will result in the ~~party's~~ PARTY waiving ~~their~~ ITS right to object to mandatory arbitration.

B. The registrar shall serve the parties notice whether the matter has been referred to arbitration within ten calendar days after a request for arbitration has been received. If the matter has been referred to arbitration, the notice also shall identify the arbitrator selected by the registrar, who shall be a member in good standing of the construction law section of the state bar of Arizona. Service shall be made by personal service or by mailing a copy of the notice by certified mail to the licensee's latest address of record on file in the registrar's office. If service is made by certified mail, it is effective five calendar days after the notice is mailed.

C. Section 12-3012 applies and the parties have the right to remove an arbitrator at any time on discovery of grounds set forth in section 12-3011, subsection B. If an arbitrator is removed pursuant to this subsection, the registrar shall notify the parties of the new arbitrator selected within seven calendar days. The arbitrator has immunity as prescribed in section 12-3014.

D. The licensee may post a bond in the amount of the estimated cost of repairs within fourteen calendar days after service of the registrar's notice referring the matter to arbitration. The registrar may not suspend or revoke any of the licenses held by a licensee that posts a bond in the amount of the claim subject to arbitration.

E. The arbitration process is governed by section 12-3015.

F. Except as otherwise provided in this section, sections 12-3010, 12-3016 and 12-3017 apply to arbitrations under this section.

G. The arbitration hearing shall be held within sixty calendar days after the registrar's notice referring the matter to arbitration. The arbitrator may extend the deadline to hold the hearing for an additional thirty calendar days on agreement of the parties or for good cause shown.

H. The arbitrator is prohibited from ordering the suspension or revocation of any license, awarding monetary damages, assessing civil penalties or awarding any legal fees or costs in any amount.

I. The arbitrator shall issue a recommended order with findings of fact and conclusions of law including necessary repairs no later than fifteen calendar days after the close of the arbitration hearing. The arbitrator shall serve a copy of the recommended order to each party to the arbitration proceeding as well as the registrar by personal service or by mailing a copy of the recommended order by certified mail to the licensee's latest address of record on file in the registrar's office. If service is made by certified mail, it is effective five calendar days after the notice is mailed. The arbitrator's recommended order shall become an order of the registrar, subject to acceptance, modification or rejection by the registrar, within twenty calendar days from the date of the arbitrator's recommended order. The registrar's order becomes final thirty calendar days after the date of an order by the registrar. The arbitrator or registrar shall not grant requests to rehear the matter. A party waives any objection that ~~a~~ AN order was not timely made unless the party gives notice of the objection to the registrar before receiving notice of the order.

J. Notwithstanding any other provision in this chapter, before an order of the registrar becomes final pursuant to subsection I of this section, if a contractor fails to comply with the order:

1. The registrar may order that the cash bond posted pursuant to subsection D of this section be discharged within twenty-five calendar days. The complainant is not eligible for any additional award from the ~~residential contractors'~~ recovery fund pursuant to section 32-1132 and may not seek the same award, claim or remedy through civil court.

2. If a bond is not posted by the licensee pursuant to subsection D of this section, the registrar may suspend or revoke the licensee's license by operation of law and order payment from the recovery fund for claimants who are eligible.

K. Compliance with the order shall be determined by the following:

1. If a complainant fails to notify the registrar within ten calendar days of the order becoming final, the respondent shall be deemed to have complied with the order.

2. If a complainant notifies the registrar ~~of contractors~~ that the respondent has failed to comply with the order, the registrar shall make a final determination of compliance.

L. This section applies to all complaints filed with the registrar on or after ~~the effective date of this section~~ JULY 20, 2011.

Sec. 18. Section 32-1158, Arizona Revised Statutes, is amended to read:

32-1158. Minimum elements of a contract

~~A. From and after December 31, 1992 until December 31, 2007, any contract in an amount of more than one thousand dollars and less than one hundred fifty thousand dollars entered into between a contractor and the owner of a property to be improved shall contain in writing at least the following information:~~

~~1. The name of the contractor and the contractor's business address and license number.~~

~~2. The name and mailing address of the owner and the jobsite address or legal description.~~

~~3. The date the parties entered into the contract.~~

~~4. The estimated date of completion of all work to be performed under the contract.~~

~~5. A description of the work to be performed under the contract.~~

~~6. The total dollar amount to be paid to the contractor by the owner for all work to be performed under the contract, including all applicable taxes.~~

~~7. The dollar amount of any advance deposit paid or scheduled to be paid to the contractor by the owner.~~

~~8. The dollar amount of any progress payment and the stage of construction at which the contractor will be entitled to collect progress payments during the course of construction under the contract.~~

~~B.~~ A. ~~From and after December 31, 2007,~~ Any contract in an amount of more than one thousand dollars entered into between a contractor and the owner of a property to be improved shall contain in writing at least the following information:

1. The name of the contractor and the contractor's business address and license number.

2. The name and mailing address of the owner and the jobsite address or legal description.

3. The date the parties entered into the contract.

4. The estimated date of completion of all work to be performed under the contract.

5. A description of the work to be performed under the contract.

6. The total dollar amount to be paid to the contractor by the owner for all work to be performed under the contract, including all applicable taxes.

7. The dollar amount of any advance deposit paid or scheduled to be paid to the contractor by the owner.

8. The dollar amount of any progress payment and the stage of construction at which the contractor will be entitled to collect progress payments during the course of construction under the contract.

9. That the property owner has the right to file a written complaint with the registrar for an alleged violation of section 32-1154, subsection A. The contract shall contain the registrar's telephone number and website address and shall state that complaints must be made within the applicable time period as set forth in section 32-1155, subsection A. The information in this paragraph must be prominently displayed in the contract in at least ten-point bold type, and the contract shall be signed by the property owner and the contractor or the contractor's designated representative. This paragraph does not apply to a person who is subject to and complies with section 12-1365.

~~C.~~ B. At the time of signing a contract the owner shall be provided a legible copy of all documents signed and a written and signed receipt for and in the true amount of any cash paid to the contractor by the owner.

~~D.~~ C. The requirements of this section shall not constitute prerequisites to the formation or enforcement of a contract. Failure to comply with the requirements of this section shall not constitute a defense by either party to an action for compensation, damages, breach, enforcement or other cause of action based on the contract.

Sec. 19. Requirements for enactment; two-thirds vote

Pursuant to article IX, section 22, Constitution of Arizona, this act is effective only on the affirmative vote of at least two-thirds of the members of each house of the legislature and is effective immediately on the signature of the governor or, if the governor vetoes this act, on the subsequent affirmative vote of at least three-fourths of the members of each house of the legislature."

Amend title to conform

THOMAS FORESE

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