

State of Arizona
Senate
Fifty-first Legislature
Second Regular Session
2014

CHAPTER 185
SENATE BILL 1160

AN ACT

AMENDING SECTIONS 32-1124, 32-1154 AND 32-1164, ARIZONA REVISED STATUTES;
RELATING TO CONTRACTORS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 32-1124, Arizona Revised Statutes, is amended to
3 read:

4 32-1124. Issuance and display of license; suspension

5 A. ~~Upon~~ ON receipt by the registrar of the fee required by this
6 chapter and an application furnishing complete information as required by the
7 registrar, the registrar shall notify the applicant within sixty days from
8 the date of the filing of a complete application of the action taken on the
9 application, and if the registrar determines that the applicant is qualified
10 to hold a license in accordance with this chapter, the registrar shall issue
11 a license to the applicant permitting the applicant to engage in business as
12 a contractor under the terms of this chapter.

13 B. Licenses issued under this chapter and any renewals shall be signed
14 by the registrar or the registrar's designated representative and by the
15 licensee. The license shall be nontransferable, and satisfactory evidence of
16 possession shall be exhibited by the licensee ~~upon~~ ON demand. The license
17 number appearing on any licenses held by the licensee shall be preceded by
18 the acronym "ROC" and shall be posted in a conspicuous place on premises
19 where any work is being performed, shall be placed on all written bids
20 submitted by the licensee and shall be placed on all broadcast, published,
21 internet or billboard advertising, letterheads and other documents used by
22 the licensee to correspond with the licensee's customers or potential
23 customers in the conduct of business regulated by this chapter. A violation
24 of this subsection relating to posting and placement of license numbers shall
25 be, at the discretion of the registrar, grounds for disciplinary action
26 pursuant to section 32-1154, subsection A, paragraph ~~13~~ 12, but not grounds
27 for preventing the award of a contract, voiding an awarded contract, or any
28 other claim or defense against the licensee. For the purposes of this
29 subsection, advertising does not include a trade association directory
30 listing that is distributed solely to the members of the association and not
31 to the general public.

32 C. If an application for a license is denied for any reason provided
33 in this chapter, the application fee paid by the applicant shall be forfeited
34 and deposited pursuant to section 32-1107. A reapplication for a license
35 shall be accompanied by the fee fixed by this chapter.

36 D. On issuance or renewal of a license, the registrar, at the request
37 of a licensee, shall issue a single license certificate showing all
38 contracting licenses held by the licensee ~~which~~ THAT are currently in good
39 standing and their dates of expiration.

40 E. The registrar may establish procedures to allow a licensee to
41 establish a common expiration or renewal date for all licenses issued to the
42 licensee and may provide for proration of license fees for that purpose.

43 F. The registrar shall suspend by operation of law a license issued
44 under this chapter if any of the following occurs:

45 1. The licensed entity is dissolved. The dissolution of the licensed
46 entity includes the death of a sole owner, a change to the partnership by

1 either adding or removing a partner, the revocation or dissolution of
2 corporate authority or the dissolution of a limited liability company or
3 limited liability partnership.

4 2. The licensed entity does not have authority to do business in this
5 state.

6 3. The license is obtained or renewed with an insufficient funds
7 check. The license remains suspended until the registrar receives a
8 certified check, a money order or cash as payment for the license fees and
9 assessments.

10 Sec. 2. Section 32-1154, Arizona Revised Statutes, is amended to read:

11 32-1154. Grounds for suspension or revocation of license;
12 continuing jurisdiction; civil penalty; recovery
13 fund award; summary suspension

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

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

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

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

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

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

30 ~~6.~~ 5. Misrepresentation of a material fact by the applicant in
31 obtaining a license.

32 ~~7.~~ 6. The doing of a fraudulent act by the licensee as a contractor
33 resulting in another person being substantially injured.

34 ~~8.~~ 7. Conviction of a felony.

35 ~~9.~~ 8. Failure in a material respect by the licensee to complete a
36 construction project or operation for the price stated in the contract, or in
37 any modification of the contract.

38 ~~10.~~ 9. Aiding or abetting a licensed or unlicensed person to evade
39 this chapter, knowingly or recklessly combining or conspiring with a licensed
40 or unlicensed person, allowing one's license to be used by a licensed or
41 unlicensed person or acting as agent, partner, associate or otherwise of a
42 licensed or unlicensed person with intent to evade this chapter.

43 ~~11.~~ 10. Failure by a licensee or agent or official of a licensee to
44 pay monies in excess of seven hundred fifty dollars when due for materials or
45 services rendered in connection with the licensee's operations as a
46 contractor when the licensee has the capacity to pay or, if the licensee

1 lacks the capacity to pay, when the licensee has received sufficient monies
2 as payment for the particular construction work project or operation for
3 which the services or materials were rendered or purchased.

4 ~~12.~~ 11. Failure of a contractor to comply with any safety or labor
5 laws or codes of the federal government, state or political subdivisions of
6 the state.

7 ~~13.~~ 12. Failure in any material respect to comply with this chapter.

8 ~~14.~~ 13. Knowingly entering into a contract with a contractor for work
9 to be performed for which a license is required with a person not duly
10 licensed in the required classification.

11 ~~15.~~ 14. Acting in the capacity of a contractor under any license
12 issued under this chapter in a name other than as set forth on the license.

13 ~~16.~~ 15. False, misleading or deceptive advertising whereby any member
14 of the public may be misled and injured.

15 ~~17.~~ 16. Knowingly contracting beyond the scope of the license or
16 licenses of the licensee.

17 ~~18.~~ 17. Contracting or offering to contract or submitting a bid while
18 the license is under suspension or while the license is on inactive status.

19 ~~19.~~ 18. Failure to notify the registrar in writing within a period of
20 fifteen days of any disassociation of the person who qualified for the
21 license. Such licensee shall have sixty days from the date of such
22 disassociation to qualify through another person.

23 ~~20.~~ 19. Subsequent discovery of facts that if known at the time of
24 issuance of a license or the renewal of a license would have been grounds to
25 deny the issuance or renewal of a license.

26 ~~21.~~ 20. Having a person named on the license who is or was named on
27 any other license in this state or in another state that is under suspension
28 or revocation for any act or omission that occurs while the person is or was
29 named on the license unless the prior revocation was based solely on a
30 violation of this paragraph.

31 ~~22.~~ 21. Continuing a new single family residential construction
32 project with actual knowledge that a pretreatment wood-destroying pests or
33 organisms application was either:

34 (a) Not performed at the required location.

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

37 ~~23.~~ 22. Failure to take appropriate corrective action to comply with
38 this chapter or with rules adopted pursuant to this chapter without valid
39 justification within a reasonable period of time after receiving a written
40 directive from the registrar. The written directive shall set forth the time
41 within which the contractor is to complete the remedial action. The time
42 permitted for compliance shall not be less than fifteen days from the date of
43 issuance of the directive. A license shall not be revoked or suspended nor
44 shall any other penalty be imposed for a violation of this paragraph until
45 after a hearing has been held.

1 ~~24.~~ 23. Prohibit, threaten to prohibit, retaliate, threaten to
2 retaliate or otherwise intimidate any contractor or materialman from serving
3 a preliminary notice pursuant to section 33-992.01.

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

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

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

29 C. PURSUANT TO THIS CHAPTER, THE REGISTRAR SHALL TEMPORARILY SUSPEND
30 OR PERMANENTLY REVOKE THE LICENSE ISSUED TO A PERSON UNDER THIS CHAPTER UPON
31 NOTICE FROM THE DEPARTMENT OF REVENUE THAT A TAX DEBT RELATED TO INCOME
32 TAXES, WITHHOLDING TAXES OR ANY TAX IMPOSED OR ADMINISTERED BY TITLE 42,
33 CHAPTER 5 THAT WAS INCURRED IN THE OPERATION OF THE LICENSED BUSINESS HAS
34 BECOME FINAL AND THE PERSON NEGLECTS TO PAY OR REFUSES TO PAY THE TAX DEBT.

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

42 ~~D.~~ E. The registrar may impose a civil penalty of not to exceed five
43 hundred dollars on a contractor for each violation of subsection A, paragraph
44 ~~23~~ 22 of this section. Civil penalties collected pursuant to this subsection
45 shall be deposited in the residential contractors' recovery fund. The
46 failure by the licensee to pay any civil penalty imposed under this

1 subsection results in the automatic revocation of the license thirty days
2 after the effective date of the order providing for the civil penalty. No
3 future license may be issued to an entity consisting of a person, as defined
4 in section 32-1101, subsection A, paragraph 6, who is associated with the
5 contractor, unless payment of any outstanding civil penalty is tendered.

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

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

39 Sec. 3. Section 32-1164, Arizona Revised Statutes, is amended to read:

40 32-1164. Violation; classification; probation; conditions

41 A. Commission by a contractor of any of the following acts is a class
42 1 misdemeanor:

43 1. Any act specified in section 32-1154, subsection A, paragraph ~~7~~ 6
44 or ~~10~~ 9.

45 2. Acting in the capacity of a contractor within the meaning of this
46 chapter without a license.

- 1 B. For the first offense under subsection A of this section, a
2 contractor shall be fined not less than one thousand dollars. For the second
3 or any subsequent offense under subsection A of this section, a contractor
4 shall be fined not less than two thousand dollars.
- 5 C. If a person is convicted of a ~~violation of~~ MISDEMEANOR PURSUANT TO
6 subsection A of this section and the court sentences the person to a term of
7 probation, the court shall order that as conditions of probation the person
8 ~~does~~ DO all of the following:
- 9 1. ~~Pays~~ PAY in full all transaction privilege tax or use tax amounts
10 that are due under title 42, chapter 5, article 2 or 4 and that arise from
11 the acts or omissions constituting the ~~violation~~ OFFENSE.
 - 12 2. ~~Pays~~ PAY in full all transaction privilege or use tax amounts that
13 are due to the county in which the ~~violation~~ OFFENSE occurred and that arise
14 from the acts or omissions constituting the ~~violation~~ OFFENSE.
 - 15 3. ~~Pays~~ PAY in full all transaction privilege or use tax amounts that
16 are owed to the local municipal government, city or town in which the
17 ~~violation~~ OFFENSE occurred and that arise from the acts or omissions
18 constituting the ~~violation~~ OFFENSE.

APPROVED BY THE GOVERNOR APRIL 23, 2014.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 24, 2014.