

State of Arizona
House of Representatives
Fifty-second Legislature
First Regular Session
2015

HOUSE BILL 2348

AN ACT

AMENDING SECTION 32-1121, ARIZONA REVISED STATUTES; AMENDING SECTION 32-1122, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2015, CHAPTER 4, SECTION 3; 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 32-1121, Arizona Revised Statutes, is amended to
3 read:

4 32-1121. Persons not required to be licensed: penalties:
5 applicability

6 A. This chapter shall not be construed to apply to:

7 1. An authorized representative of the United States government, this
8 state or any county, incorporated city or town, reclamation district,
9 irrigation district or other municipality or political subdivision of this
10 state.

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

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

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

34 5. Owners of property who improve such property or who build or
35 improve structures or appurtenances on such property and who do the work
36 themselves, with their own employees or with duly licensed contractors, if
37 the structure, group of structures or appurtenances, including the
38 improvements thereto, are intended for occupancy solely by the owner and are
39 not intended for occupancy by members of the public as the owner's employees
40 or business visitors and the structures or appurtenances are not intended for
41 sale or for rent. In all actions brought under this chapter, except an
42 action against an owner-occupant as defined in section 33-1002, proof of the
43 sale or rent or the offering for sale or rent of any such structure by the
44 owner-builder within one year after completion or issuance of a certificate
45 of occupancy is prima facie evidence that such project was undertaken for the

1 purpose of sale or rent. For the purposes of this paragraph, "sale" or
2 "rent" includes any arrangement by which the owner receives compensation in
3 money, provisions, chattels or labor from the occupancy or the transfer of
4 the property or the structures on the property.

5 6. Owners of property who are acting as developers and who build
6 structures or appurtenances to structures on their property for the purpose
7 of sale or rent and who contract for such a project with a general contractor
8 licensed pursuant to this chapter and owners of property who are acting as
9 developers, who improve structures or appurtenances to structures on their
10 property for the purpose of sale or rent and who contract for such a project
11 with a general contractor or specialty contractors licensed pursuant to this
12 chapter. To qualify for the exemption under this paragraph, the licensed
13 contractors' names and license numbers shall be included in all sales
14 documents.

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

19 (a) Subsurface utility location and designation services.

20 (b) Potholing.

21 (c) Drilling for any of the following:

22 (i) Soil samples.

23 (ii) Rock samples.

24 (iii) Pavement samples.

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

27 8. A person licensed, certified or registered pursuant to chapter 22
28 of this title or a person working under the direct supervision of a person
29 certified or qualified pursuant to chapter 22 of this title to the extent the
30 person is engaged in pest management.

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

1 10. Employees of the owners of condominiums, townhouses, cooperative
2 units or apartment complexes of four units or less or the owners' management
3 agent or employees of the management agent repairing or maintaining
4 structures owned by them.

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

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

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

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

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

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

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

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

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

6 17. Alarm agents as defined in section 32-101.

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

11 C. Any person who does not have an exemption from licensure pursuant
12 to subsection A, paragraph 14, subdivision (c) of this section is subject to
13 prosecution for a violation of section 44-1522. The attorney general may
14 investigate the act or practice and take appropriate action pursuant to title
15 44, chapter 10, article 7.

16 D. The exemptions from licensure pursuant to subsection A, paragraphs
17 4, 9 and 14 of this section do not apply to ~~either~~ ANY of the following:

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

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

32 3. THE INSTALLATION, MAINTENANCE, REPAIR AND REPLACEMENT OF ANY TYPE
33 OF BACKFLOW PREVENTION DEVICE TO PROTECT POTABLE WATER SUPPLIES FROM
34 CONTAMINATION OR POLLUTION DUE TO BACKFLOW.

35 Sec. 2. Section 32-1122, Arizona Revised Statutes, as amended by Laws
36 2015, chapter 4, section 3, is amended to read:

37 32-1122. Qualifications for license

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

40 1. Classify and qualify applicants for a license.

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

44 3. Conduct investigations the registrar deems necessary.

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

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

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

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

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

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

15 (d) If the applicant is a corporation, an association or any other
16 organization, the names and addresses of the president, ~~vice-president~~ VICE
17 PRESIDENT, if any, secretary and treasurer or the names and addresses of the
18 functional equivalent of these officers, the directors and the owners of
19 twenty-five percent or more of the stock or beneficial interest.

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

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

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

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

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

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

36 ~~D.~~ C. To obtain or renew a license under this chapter, each person
37 shall be of good character and reputation. Lack of good character and
38 reputation may be established by showing that a person has engaged in
39 contracting without a license or committed any act that, if committed or done
40 by any licensed contractor, would be grounds for suspension or revocation of
41 a contractor's license or by showing that the person was named on a
42 contractor's license that was suspended or revoked in another state.

43 ~~E.~~ D. To obtain a license under this chapter, a person shall not have
44 had a license refused or revoked, within one year before the person's
45 application, or shall not have engaged in the contracting business, nor shall

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

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

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

26 2. Successfully show, by written examination taken not more than two
27 years before application, if required, qualification in the kind of work for
28 which the applicant proposes to contract, the applicant's general knowledge
29 of the building, safety, health and lien laws of the state, administrative
30 principles of the contracting business and the rules adopted by the registrar
31 of contractors pursuant to this chapter, demonstrate knowledge and
32 understanding of construction plans and specifications applicable to the
33 particular industry or craft and of the standards of construction work and
34 techniques and practices in the particular industry or craft and demonstrate
35 a general understanding of other related construction trades, in addition to
36 any other matters as may be deemed appropriate by the registrar to determine
37 that the qualifying party meets the requirements of this chapter. The
38 registrar shall maintain multiple versions of examinations for each type of
39 license that requires an examination.

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

43 ~~H.~~ G. Before receiving, renewing and holding a license pursuant to
44 this chapter, the registrar may require a license applicant or licensee to
45 submit to the registrar a full set of fingerprints and the fees required in

1 section 41-1750. The registrar shall submit the fingerprints and fees to the
2 department of public safety for the purpose of obtaining a state and federal
3 criminal records check pursuant to section 41-1750 and Public Law 92-544.
4 The department of public safety may exchange this fingerprint data with the
5 federal bureau of investigation.

6 Sec. 3. Retroactivity

7 This act applies retroactively to from and after December 31, 2014.

8 *(ENACTED WITHOUT THE EMERGENCY)*

9 Sec. 4. Emergency

10 This act is an emergency measure that is necessary to preserve the
11 public peace, health or safety and is operative immediately as provided by
12 law.