

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

CHAPTER 187
HOUSE BILL 2176

AN ACT

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

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 32-101, Arizona Revised Statutes, is amended to
3 read:
4 32-101. Purpose: definitions
5 A. The purpose of this chapter is to provide for the safety, health
6 and welfare of the public through the promulgation and enforcement of
7 standards of qualification for those individuals registered or certified and
8 seeking registration or certification pursuant to this chapter.
9 B. In this chapter, unless the context otherwise requires:
10 1. "Advertising" includes business cards, signs or letterhead provided
11 by a person to the public.
12 2. "Alarm" or "alarm system":
13 (a) Means any mechanical or electrical device that is designed to emit
14 an audible alarm or transmit a signal or message if activated and that is
15 used to detect an unauthorized entry into a building or other facility or
16 alert other persons of the occurrence of a medical emergency or the
17 commission of an unlawful act against a person or in a building or other
18 facility.
19 (b) Includes a silent, panic, holdup, robbery, duress, burglary,
20 medical alert or proprietor alarm that requires emergency personnel to
21 respond.
22 (c) Does not include a telephone call diverter or a system that is
23 designed to report environmental and other occurrences and that is not
24 designed or used to alert or cause other persons to alert public safety
25 personnel.
26 3. "Alarm agent":
27 (a) Means a person, whether an employee, an independent contractor or
28 otherwise, who acts on behalf of an alarm business and who tests, maintains,
29 services, repairs, sells, rents, leases or installs alarm systems ~~other than~~
30 ~~an alarm system located on the person's own property or the property of the~~
31 ~~person's employer.~~
32 (b) DOES NOT INCLUDE ANY ACTION BY A PERSON THAT:
33 (i) IS PERFORMED IN CONNECTION WITH AN ALARM SYSTEM LOCATED ON THE
34 PERSON'S OWN PROPERTY OR THE PROPERTY OF THE PERSON'S EMPLOYER.
35 (ii) IS ACTING ON BEHALF OF AN ALARM BUSINESS WHOSE WORK DUTIES DO NOT
36 INCLUDE VISITING THE LOCATION WHERE AN ALARM SYSTEM INSTALLATION OCCURS.
37 4. "Alarm business":
38 (a) Means any person who, either alone or through a third party,
39 engages in the business of either of the following:
40 (i) Providing alarm monitoring services.
41 (ii) Selling, leasing, renting, maintaining, repairing or installing a
42 nonproprietor alarm system or service.

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

1 available to perform any assaying services for anyone other than the person's
2 employer.

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

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

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

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

21 14. "Controlling person":

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

23 (b) Does not include an alarm agent.

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

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

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

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

42 16. "Engineer" means a person who, by reason of special knowledge of
43 the mathematical and physical sciences and the principles and methods of
44 engineering analysis and design acquired by professional education and

1 practical experience, is qualified to practice engineering as attested by
2 registration as a professional engineer.

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

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

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

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

44 21. "Geologist" means a person, not of necessity an engineer, who by
45 reason of special knowledge of the earth sciences and the principles and

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

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

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

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

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

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

41 26. "Home inspector-in-training" means a candidate for certification as
42 a home inspector who has completed a course of study approved by the board
43 and who is participating in a training program that complies with standards
44 recommended by the home inspector rules and standards committee and approved
45 by the board.

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

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

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

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

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

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

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

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

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

41 31. "Landscape architect-in-training" means a candidate for
42 registration as a professional landscape architect who is a graduate of a
43 school approved by the board or who has had four years or more of education
44 or experience, or both, in landscape architectural work which meets standards

1 specified by the board in its rules. In addition, the candidate shall have
2 passed the landscape architect-in-training examination.

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

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

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

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

27 36. "Person" means any individual, firm, partnership, corporation,
28 association or other organization.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 32-1101. Definitions

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

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

43 2. "Commercial contractor" is synonymous with the terms "commercial
44 builder", "industrial builder" and "public works builder" and means any
45 person, firm, partnership, corporation, association or other organization, or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 with a general contractor or specialty contractors licensed pursuant to this
2 chapter. To qualify for the exemption under this paragraph, the licensed
3 contractors' names and license numbers shall be included in all sales
4 documents.

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

9 (a) Subsurface utility location and designation services.

10 (b) Potholing.

11 (c) Drilling for any of the following:

12 (i) Soil samples.

13 (ii) Rock samples.

14 (iii) Pavement samples.

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

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

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

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

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

43 12. A surety company or companies that are authorized to transact
44 business in this state and that undertake to complete a contract on which

1 they issued a performance or completion bond, provided all construction work
2 is performed by duly licensed contractors.

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

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

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

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

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

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

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

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

43 B. A person who is licensed to perform work in a particular trade
44 pursuant to this chapter shall not be required to obtain and maintain a

1 separate license for mechanical or structural service work performed within
2 the scope of such trade by such person.

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

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

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

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

24 Sec. 5. Section 32-1136, Arizona Revised Statutes, is amended to read:
25 32-1136. Statute of limitations; recovery from fund

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

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

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

7 C. The injured person shall not be the spouse of the residential
8 contractor or the personal representative of the spouse of the residential
9 contractor.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

42 5. General residential contractors and subclassifications of general
43 residential contractors shall furnish a surety bond or cash deposit in an
44 amount of not more than fifteen thousand dollars and not less than five
45 thousand dollars.

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

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

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

16 C. Dual licensed contractors and residential contractors shall also
17 either:

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

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

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

39 E. The bonds or deposit required by subsection B of this section shall
40 be for the benefit of and shall be subject to claims by the registrar of
41 contractors for failure to pay any sum required pursuant to this chapter.
42 The bond or deposit required by subsection B, paragraphs 1, 2 and 3 of this
43 section is for the benefit of and subject to claims by a licensee under this
44 chapter or a lessee, owner or co-owner of nonresidential real property
45 including, but not limited to, a tenant in common or joint tenant, or their

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

1 may authorize payment from the cash deposit of the amount claimed or of
2 whatever lesser amount remains on file. In any action against a cash
3 deposit, the claimant, at the time of filing suit, may notify the registrar
4 in writing of the action against the cash deposit, but shall not name as a
5 defendant in the action the registrar, the treasurer, ~~or~~ or the state. Failure
6 to so notify the registrar at the time of filing suit may result in the cash
7 deposit being withdrawn by the licensee ~~prior to~~ BEFORE judgment pursuant to
8 subsection D of this section.

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

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

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

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

41 2. When either the applicant or qualifying party was an officer,
42 member, partner or qualifying party for a licensee at any time during which
43 cause for disciplinary action occurred resulting in suspension or revocation
44 of such licensee's license and such applicant or qualifying party had

1 knowledge of or participated in the act or omission ~~which~~ THAT was the cause
2 of such disciplinary action for a violation of this chapter.

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

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

8 32-1154. Grounds for suspension or revocation of license;
9 continuing jurisdiction; civil penalty; recovery
10 fund award; summary suspension

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

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

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

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

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

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

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

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

32 8. Conviction of a felony.

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

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

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

1 as payment for the particular construction work project or operation for
2 which the services or materials were rendered or purchased.

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

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

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

10 15. Acting in the capacity of a contractor under any license issued
11 under this chapter in a name other than as set forth ~~upon~~ ON the license.

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

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

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

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

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

25 21. Having a person named on the license who is OR WAS named on any
26 other license in this state or in another state ~~which~~ THAT is under
27 suspension or revocation FOR ANY ACT OR OMISSION THAT OCCURS WHILE THE PERSON
28 IS OR WAS NAMED ON THE LICENSE unless the prior revocation was based solely
29 on a violation of this paragraph.

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

33 (a) Not performed at the required location.

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

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

1 24. Prohibit, threaten to prohibit, retaliate, threaten to retaliate or
2 otherwise intimidate any contractor or materialman from serving a preliminary
3 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. The expiration, cancellation, suspension or revocation of a license
30 by operation of law or by decision and order of the registrar or a court of
31 law or the voluntary surrender of a license by a licensee shall not deprive
32 the registrar of jurisdiction to proceed with any investigation of or action
33 or disciplinary proceeding against such licensee, or to render a decision
34 suspending or revoking such a license, or denying the renewal or right of
35 renewal of such license.

36 D. The registrar may impose a civil penalty of not to exceed five
37 hundred dollars on a contractor for each violation of subsection A, paragraph
38 23 of this section. Civil penalties collected pursuant to this subsection
39 shall be deposited in the residential contractors' recovery fund. The
40 failure by the licensee to pay any civil penalty imposed under this
41 subsection results in the automatic revocation of the license thirty days
42 after the effective date of the order providing for the civil penalty. No
43 future license may be issued to an entity consisting of a person, **AS DEFINED**
44 **IN SECTION 32-1101, SUBSECTION A, PARAGRAPH 6, WHO IS** associated with the

1 contractor, ~~as defined in section 32-1101, subsection A, paragraph 5,~~ unless
2 payment of any outstanding civil penalty is tendered.

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

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

36 Sec. 8. Section 32-1155, Arizona Revised Statutes, is amended to read:
37 **32-1155. Filing of complaint; resolution of complaint; service**
38 **of notice; failure to answer; prohibited citations**

39 A. ~~Upon~~ **ON** the filing of a written complaint with the registrar
40 charging a licensee with the commission, within two years ~~prior to~~ **BEFORE** the
41 date of filing the complaint, of an act that is cause for suspension or
42 revocation of a license, the registrar after investigation, **IN ITS SOLE**
43 **DISCRETION**, may issue a citation directing the licensee, within ten days
44 after service of the citation ~~upon~~ **ON** the licensee, to appear by filing with
45 the registrar the licensee's written answer to the citation and complaint

1 showing cause, if any, why the licensee's license should not be suspended or
2 revoked. Service of citation ~~upon~~ ON the licensee shall be fully effected by
3 personal service or by mailing a true copy thereof, together with a true copy
4 of the complaint, by registered mail in a sealed envelope with postage
5 prepaid and addressed to the licensee at the licensee's latest address of
6 record in the registrar's office. Service of the citation and complaint
7 shall be complete at the time of personal service or five days after deposit
8 in the mail. The two-year period prescribed by this subsection shall
9 commence on the earlier of the close of escrow or actual occupancy for new
10 home or other new building construction and otherwise shall commence on
11 completion of the specific project.

12 B. Failure of the licensee to answer within ten days after service
13 shall be deemed an admission by the licensee of the licensee's commission of
14 the act or acts charged in the complaint, and the registrar may then suspend
15 or revoke the licensee's license.

16 C. The registrar shall not issue a citation for failure to perform
17 work in a professional and workmanlike manner or in accordance with any
18 applicable building codes and professional industry standards if either:

19 1. The contractor is not provided an opportunity to inspect the work
20 within fifteen days after receiving a written notice from the registrar.

21 2. The contractor's work has been subject to neglect, modification or
22 abnormal use.

23 D. NOTWITHSTANDING SUBSECTION C OF THIS SECTION, THE REGISTRAR MAY
24 INVESTIGATE THE COMPLAINT WITHOUT WAITING FIFTEEN DAYS.

APPROVED BY THE GOVERNOR MAY 7, 2013.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 8, 2013.