

State of Arizona
Senate
Fifty-fourth Legislature
First Regular Session
2019

SENATE BILL 1397

AN ACT

AMENDING SECTIONS 32-1101, 32-1104, 32-1105, 32-1107, 32-1121, 32-1122, 32-1123, 32-1123.01, 32-1124, 32-1125, 32-1125.01, 32-1126 AND 32-1127, ARIZONA REVISED STATUTES; AMENDING TITLE 32, CHAPTER 10, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 32-1127.01; AMENDING SECTIONS 32-1131 AND 32-1132, ARIZONA REVISED STATUTES; AMENDING TITLE 32, CHAPTER 10, ARTICLE 2.1, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 32-1132.01, 32-1133 AND 32-1133.01; AMENDING SECTIONS 32-1134 AND 32-1134.02, ARIZONA REVISED STATUTES; REPEALING SECTION 32-1136, ARIZONA REVISED STATUTES; AMENDING SECTIONS 32-1137, 32-1151.02, 32-1152, 32-1152.01, 32-1154 AND 32-1155, ARIZONA REVISED STATUTES; REPEALING SECTION 32-1155.01, ARIZONA REVISED STATUTES; AMENDING SECTIONS 32-1156, 32-1156.01 AND 32-1161, ARIZONA REVISED STATUTES; AMENDING TITLE 32, CHAPTER 10, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 32-1162; AMENDING SECTION 32-1165, ARIZONA REVISED STATUTES; REPEALING SECTIONS 32-1166 AND 32-1166.01, ARIZONA REVISED STATUTES; AMENDING TITLE 32, CHAPTER 10, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING NEW SECTIONS 32-1166 AND 32-1166.01; REPEALING SECTIONS 32-1166.02 AND 32-1167, ARIZONA REVISED STATUTES; AMENDING SECTIONS 32-1168, 32-1169 AND 32-1170.02, ARIZONA REVISED STATUTES; PROVIDING FOR TRANSFERRING AND RENUMBERING; AMENDING TITLE 32, CHAPTER 10, ARIZONA REVISED STATUTES, BY ADDING A NEW ARTICLE 5; AMENDING SECTIONS 32-1181, 32-1182, 32-1183, 32-1185, 32-1186, 32-1187 AND 32-1188, ARIZONA REVISED STATUTES, AS TRANSFERRED AND RENUMBERED; 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 32-1101, Arizona Revised Statutes, is amended to
3 read:

4 32-1101. Definitions

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

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

11 2. "Commercial contractor" is synonymous with the terms "commercial
12 builder", "industrial builder" and "public works builder" and means any
13 person, firm, partnership, corporation, association or other organization,
14 or ~~any~~ A combination OF ANY OF THEM, that, for compensation, undertakes to
15 or offers to undertake to, purports to have the capacity to undertake to,
16 submits a bid OR RESPONDS TO A REQUEST FOR QUALIFICATION OR A REQUEST FOR
17 PROPOSALS FOR CONSTRUCTION SERVICES to, does himself or by or through
18 others, or directly or indirectly supervises others, except within
19 residential property lines, to:

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

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

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

29 3. "Contractor":

30 (a) Is synonymous with the term "builder" and means any person,
31 firm, partnership, corporation, association or other organization, or a
32 combination of any of them, that, for compensation, undertakes to or
33 offers to undertake to, purports to have the capacity to undertake to,
34 submits a bid or responds to a request for qualification or a request for
35 proposals for construction services to, does himself or by or through
36 others, or directly or indirectly supervises others to:

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

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

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

1 (b) INCLUDES SUBCONTRACTORS, SPECIALTY CONTRACTORS, FLOOR COVERING
2 CONTRACTORS, HARDSCAPE CONTRACTORS AND CONSULTANTS WHO REPRESENT THAT THEY
3 ARE ABLE TO SUPERVISE OR MANAGE A CONSTRUCTION PROJECT FOR THE PROPERTY
4 OWNER'S BENEFIT, INCLUDING HIRING AND FIRING SPECIALTY CONTRACTORS,
5 SCHEDULING WORK ON THE PROJECT AND SELECTING AND PURCHASING CONSTRUCTION
6 MATERIAL.

7 4. "Dual licensed contractor" is synonymous with the term
8 "commercial and residential builder" and means any person, firm,
9 partnership, corporation, association or other organization, or ~~any~~ A
10 combination OF ANY OF THEM, that FOR COMPENSATION undertakes to or offers
11 to undertake to, purports to have the capacity to undertake to, submits a
12 bid OR RESPONDS TO A REQUEST FOR QUALIFICATION OR A REQUEST FOR PROPOSALS
13 FOR CONSTRUCTION SERVICES to, does himself or by or through others, or
14 directly or indirectly supervises others under a single license on
15 commercial or residential property to:

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

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

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

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

26 6. "Named on a license" means required to be identified pursuant to
27 section 32-1122, subsection B.

28 7. "Person" means a corporation, company, partnership, firm,
29 association, trust, society or natural person.

30 8. "QUALIFYING PARTY" MEANS A PERSON WHO IS RESPONSIBLE FOR A
31 LICENSEE'S ACTIONS AND CONDUCT PERFORMED UNDER THE LICENSE AND WHO EITHER:

32 (a) HAS AN OWNERSHIP INTEREST IN THE LICENSE.

33 (b) IS REGULARLY EMPLOYED BY THE LICENSEE.

34 ~~8.~~ 9. "Registrar" means the registrar of contractors.

35 ~~9.~~ 10. "Residential contractor":

36 (a) Is synonymous with the term "residential builder" and means any
37 person, firm, partnership, corporation, association or other organization,
38 or a combination of any of them, that FOR COMPENSATION undertakes to or
39 offers to undertake to, purports to have the capacity to undertake to,
40 submits a bid OR RESPONDS TO A REQUEST FOR QUALIFICATION OR A REQUEST FOR
41 PROPOSALS FOR CONSTRUCTION SERVICES to, or does himself or by or through
42 others, within residential property lines:

43 ~~(a)~~ (i) Construct, alter, repair, add to, subtract from, improve,
44 move, wreck or demolish any residential structure, such as houses,
45 townhouses, condominiums or cooperative units. ~~Residential structures~~

1 ~~also include apartment complexes of four units or less~~ and any
2 appurtenances on or within residential property lines.

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

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

7 (b) DOES NOT INCLUDE AN OWNER MAKING IMPROVEMENTS TO THE OWNER'S
8 PROPERTY PURSUANT TO SECTION 32-1121, SUBSECTION A, PARAGRAPH 5.

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

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

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

21 Sec. 2. Section 32-1104, Arizona Revised Statutes, is amended to
22 read:

23 32-1104. Powers and duties

24 A. The registrar, in addition to other duties and rights provided
25 for in this chapter, shall:

26 1. Maintain an office in Phoenix and in such other cities and towns
27 in the state as the registrar deems advisable and necessary.

28 2. Maintain a complete indexed record of all applications and
29 licenses issued, renewed, terminated, cancelled, revoked or suspended
30 under this chapter, including timely notation of any judicial disposition
31 on appeal, for a period of not less than seven years.

32 3. Furnish a certified copy of any license issued or an affidavit
33 that no license exists or that a license has been cancelled or suspended,
34 including information as to the status on appeal of such A cancellation or
35 suspension, ~~upon~~ ON receipt of the prescribed fee, and ~~such~~ THAT certified
36 copy OR AFFIDAVIT shall be received in all courts and elsewhere as prima
37 facie evidence of the facts stated therein. The registrar shall also
38 furnish certified copies of license bonds or cash deposit certificates
39 ~~upon~~ ON receipt of the prescribed fee. Fees charged pursuant to this
40 paragraph ~~shall be at a rate of ten dollars~~ ARE \$10 per hour, except that
41 the minimum fee charged pursuant to this paragraph ~~shall be ten dollars~~
42 IS \$10.

43 4. Employ such deputies, investigators and assistants subject to
44 title 41, chapter 4, article 4, and procure such equipment and records, as
45 are necessary to enforce this chapter. With respect to the enforcement of

1 section 32-1164, the registrar or the registrar's investigators are vested
2 with the authority to issue a citation to any violators of this chapter in
3 accordance with section 13-3903. When the registrar or the registrar's
4 investigators conduct investigations they are authorized to receive
5 criminal history record information from the department of public safety
6 and other law enforcement agencies.

7 5. Make rules the registrar deems necessary to effectually carry
8 out the provisions and intent of this chapter. Such rules shall include
9 the adoption of minimum standards for good and workmanlike construction.
10 In ~~the adoption of~~ ADOPTING such rules of minimum standards, the registrar
11 shall be guided by established usage and procedure as found in the
12 construction business in this state. If the rules of minimum standards
13 adopted by the registrar are in any manner inconsistent with a building or
14 other code of ~~the~~ THIS state, a county, city or other political
15 subdivision or local authority of ~~the~~ THIS state, compliance with such
16 code shall constitute good and workmanlike construction for the purposes
17 of this chapter.

18 6. Apply the following to proposed rule changes:

19 (a) The registrar of contractors, at the time the registrar files
20 notice of proposed rule change with the secretary of state in compliance
21 with title 41, chapter 6, shall mail to each trade association that
22 qualifies in accordance with subdivision (b) OF THIS PARAGRAPH, and any
23 other individual holding a bona fide contractor's license who qualifies in
24 accordance with subdivision (b) OF THIS PARAGRAPH, a copy of the notice of
25 proposed rule change.

26 (b) Every trade association in this state allied with the
27 contracting business that files a written request that a notice be mailed
28 to it and shows that the association has an interest in the rules of the
29 registrar of contractors shall receive a copy thereof, as set forth in
30 subdivision (a) OF THIS PARAGRAPH. Such filing of a request ~~shall~~ MAY be
31 made every two years ~~during the month of January~~, and it shall contain
32 information as to the nature of the association and its mailing address.
33 Any duly licensed contractor who files a written request shall receive a
34 copy of the proposed rule changes in accordance with this paragraph. Each
35 such request ~~shall~~ MAY be made every two years ~~during the month of~~
36 ~~January~~.

37 7. Prepare and furnish decals and business management books when
38 deemed advisable by the registrar. A reasonable fee may be charged for
39 such decals and business management books.

40 8. Refer criminal violations of this chapter ~~committed by persons~~
41 ~~previously named on a license which has been revoked~~ to the appropriate
42 law enforcement agency or prosecuting authority.

1 B. The registrar may develop and institute programs to do any of
2 the following:

3 1. Educate the public and contractors licensed pursuant to this
4 chapter regarding statutes, rules, policies and operations of the agency.

5 2. Assist in ~~the resolution of~~ RESOLVING disputes in an informal
6 process before a reportable written complaint is filed. The registrar
7 ~~shall~~ MUST notify the licensed contractor in an alleged dispute before a
8 written complaint is filed and allow the contractor the opportunity to be
9 present at any inspection regarding the alleged dispute. The registrar
10 ~~shall~~ MUST give the contractor at least five days' notice before the
11 inspection. Issues in the alleged dispute under this section shall not be
12 limited in number and shall not be considered formal written
13 complaints. The homeowner reserves the right to deny access to the
14 contractor under this informal complaint process. The registrar ~~shall~~
15 MUST notify the contractor and the homeowner in writing of the registrar's
16 findings within five days after the date of the inspection. The registrar
17 ~~shall~~ MAY not post any information regarding the informal complaint
18 process as part of a licensee's record on the registrar's ~~web site~~
19 WEBSITE.

20 3. Develop, manage, operate and sponsor construction related
21 programs designed to benefit the public in conjunction with other private
22 and public entities.

23 ~~C. The registrar may adopt rules for the posting of names of
24 applicants and personnel of applicants for contractors' licenses and
25 furnish copies of such posting lists upon written request. The name and
26 address of the applicant, together with the names and addresses and
27 official capacity of all persons associated with the applicant who have
28 signed the application, shall be publicly posted in the place and manner
29 to be prescribed by the registrar for a period of not less than twenty
30 days, except as otherwise provided in this subsection, commencing on the
31 day designated by the registrar of contractors. The registrar may waive a
32 part of the posting period when the records reflect that the applicant or
33 qualifying party has previously undergone the twenty day posting for a
34 previous license. A reasonable charge of not to exceed two dollars per
35 month may be made for compilation, printing and postage for such posting
36 lists.~~

37 C. THE REGISTRAR SHALL PUBLICLY POST A LIST OF APPLICANTS FOR A
38 CONTRACTOR LICENSE ON ITS WEBSITE FOR AT LEAST TWENTY DAYS, COMMENCING ON
39 THE DAY DESIGNATED BY THE REGISTRAR. THE REGISTRAR SHALL ISSUE A LICENSE
40 IF THE APPLICANT MEETS ALL REQUIREMENTS REGARDLESS OF THE TWENTY-DAY
41 POSTING PERIOD. THE REGISTRAR SHALL FURNISH COPIES OF THE POSTING LIST ON
42 WRITTEN REQUEST. A REASONABLE CHARGE, NOT TO EXCEED \$2 PER MONTH, MAY BE
43 MADE FOR COMPILATION, PRINTING AND POSTAGE FOR THE POSTING LIST. THE LIST
44 SHALL CONTAIN THE FOLLOWING INFORMATION:

45 1. THE NAME AND ADDRESS OF THE APPLICANT.

1 2. THE NAMES, ADDRESSES AND OFFICIAL CAPACITY OF ALL PERSONS
2 REQUIRED TO SIGN THE APPLICATION UNDER SECTION 32-1122.

3 D. The registrar may accept voluntary gifts, grants or matching
4 monies from public agencies or enterprises for the conduct of programs
5 that are authorized by this section or that are consistent with the
6 purpose of this chapter.

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

9 32-1105. Rulemaking powers for purposes of classifying and
10 reclassifying contractors

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

18 B. The registrar shall establish by rule license classifications
19 for dual licensed contractors. A contractor classified as a dual licensed
20 contractor may perform equivalent construction work on both commercial and
21 residential projects under a single license. The registrar shall adopt
22 rules necessary to establish the scope of work that may be done under the
23 dual license classifications.

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

29 D. ~~Nothing in~~ This chapter ~~shall prohibit~~ DOES NOT PROHIBIT a
30 specialty contractor from taking and executing a contract involving the
31 use of two or more crafts or trades if the performance of the work in the
32 crafts or trades other than those in which the specialty contractor is
33 licensed is incidental and supplemental to the performance of work in the
34 craft for which the specialty contractor is licensed.

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

37 32-1107. Registrar of contractors fund

38 A. The registrar of contractors fund is established. The registrar
39 of contractors shall administer the fund. The registrar shall deposit,
40 pursuant to sections 35-146 and 35-147, NINETY PERCENT OF all monies
41 collected under this chapter IN THE REGISTRAR OF CONTRACTORS FUND AND TEN
42 PERCENT OF ALL MONIES COLLECTED UNDER THIS CHAPTER IN THE STATE GENERAL
43 FUND, except monies collected for the residential contractors' recovery
44 fund and the contractors' cash bond fund and monies received from civil
45 penalties. ~~, as follows:~~

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

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

5 ~~3. For all fiscal years that begin after June 30, 1996, ninety per~~
6 ~~cent in the registrar of contractors fund and ten per cent in the state~~
7 ~~general fund.~~

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

12 Sec. 5. Section 32-1121, Arizona Revised Statutes, is amended to
13 read:

14 32-1121. Persons not required to be licensed; penalties;
15 applicability

16 A. This chapter ~~shall~~ DOES not ~~be construed to~~ apply to:

17 1. An authorized representative of the United States government,
18 this state or any county, incorporated city or town, reclamation district,
19 irrigation district or other municipality or political subdivision of this
20 state.

21 2. OFFICERS OF A COURT OR trustees of an express trust that is not
22 formed for the purpose of conducting business as a contractor ~~or officers~~
23 ~~of a court~~, if they are acting within the terms of their ~~trust~~ OFFICE or
24 ~~office~~ TRUST.

25 3. Public utilities operating under regulation of the corporation
26 commission or construction, repair or operation incidental to discovering
27 or producing petroleum or gas, or the drilling, testing, abandoning or
28 other operation of a petroleum or gas well, if performed by an owner or
29 lessee.

30 4. EXCEPT AS PROVIDED IN SUBSECTION D OF THIS SECTION, any
31 materialman, manufacturer or retailer who INFORMS THE PURCHASER THAT THE
32 INSTALLATION MAY ALSO BE PERFORMED BY A LICENSED CONTRACTOR WHOSE NAME AND
33 ADDRESS THE PURCHASER MAY REQUEST AND WHO furnishes finished products,
34 materials or articles of merchandise and who:

35 (a) Does not install or attach such items. ~~or~~

36 (b) Installs or attaches such items if the total value of the sales
37 contract or transaction involving such items and the cost of the
38 installation or attachment of such items to a structure does not exceed
39 ~~one thousand dollars~~ \$1,000, including labor, materials and all other
40 items, but excluding any electrical fixture or appliance that MEETS ALL OF
41 THE FOLLOWING:

42 (i) Was designed by the manufacturer. ~~, that~~

43 (ii) Is unaltered, unchanged or unmodified by any person. ~~, that~~

44 (iii) Can be plugged into a common ~~household~~ electrical outlet
45 ~~utilizing a two-pronged or three-pronged electrical connector and that~~

~~1 does not use any other form of energy, including natural gas, propane or
2 other petroleum or gaseous fuel, to operate or is attached by a nail,
3 screw or other fastening device to the frame or foundation of any
4 residential structure. The materialman, manufacturer or retailer shall
5 inform the purchaser that the installation may also be performed by a
6 licensed contractor whose name and address the purchaser may request.~~

7 5. Owners of property who improve such property or who build or
8 improve structures or appurtenances on such property and who do the work
9 themselves, with their own employees or with duly licensed contractors, if
10 the structure, group of structures or appurtenances, including the
11 improvements thereto, are intended for occupancy solely by the owner and
12 are not intended for occupancy by members of the public as the owner's
13 employees or business visitors and the structures or appurtenances are not
14 intended for sale or for rent. In all actions brought under this chapter,
15 except an action against an owner-occupant as defined in section 33-1002,
16 proof of the sale or rent or the offering for sale or rent of any such
17 structure by the owner-builder within one year after completion or
18 issuance of a certificate of occupancy is prima facie evidence that such
19 project was undertaken for the purpose of sale or rent. For the purposes
20 of this paragraph, "sale" or "rent" includes any arrangement by which the
21 owner receives compensation in money, provisions, chattels or labor from
22 the occupancy or the transfer of the property or the structures on the
23 property.

24 6. Owners of property who are acting as developers and who build
25 structures or appurtenances to structures on their property for the
26 purpose of sale or rent and who contract for such a project with a general
27 contractor licensed pursuant to this chapter and owners of property who
28 are acting as developers, who improve structures or appurtenances to
29 structures on their property for the purpose of sale or rent and who
30 contract for such a project with a general contractor or specialty
31 contractors licensed pursuant to this chapter. To qualify for the
32 exemption under this paragraph, the licensed contractors' names and
33 license numbers ~~shall~~ MUST be included in all sales documents.

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

- 38 (a) Subsurface utility location and designation services.
- 39 (b) Potholing.
- 40 (c) Drilling for any of the following:
 - 41 (i) Soil samples.
 - 42 (ii) Rock samples.
 - 43 (iii) Pavement samples.

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

4 8. A person licensed, certified or registered pursuant to title 3,
5 chapter 20 or a person working under the direct supervision of a person
6 certified or qualified pursuant to title 3, chapter 20 to the extent the
7 person is engaged in pest management.

8 9. EXCEPT AS PROVIDED IN SUBSECTION D OF THIS SECTION, the sale or
9 installation of finished products, materials or articles of merchandise
10 that are not fabricated into and do not become a permanent fixed part of
11 the structure. This exemption does not apply if a local building permit
12 is required, IF THE REMOVAL OF THE FINISHED PRODUCT, MATERIAL OR ARTICLE
13 OF MERCHANDISE CAUSES DAMAGE TO THE STRUCTURE OR RENDERS THE STRUCTURE
14 UNFIT FOR ITS INTENDED USE OR if the total price of the finished product,
15 material or article of merchandise IS MORE THAN \$1,000, including labor
16 but excluding any electrical fixture or appliance that MEETS ALL OF THE
17 FOLLOWING:

18 (a) Was designed by the manufacturer. ~~, that~~

19 (b) Is unaltered, unchanged or unmodified by any person. ~~, that~~

20 (c) Can be plugged into a common household electrical outlet
21 ~~utilizing a two-pronged or three-pronged electrical connector and that~~
22 ~~does not use any other form of energy, including natural gas, propane or~~
23 ~~other petroleum or gaseous fuel, to operate or is attached by a nail,~~
24 ~~screw or other fastening device to the frame or foundation of any~~
25 ~~residential structure, is more than one thousand dollars or if the removal~~
26 ~~of the finished product, material or article of merchandise causes damage~~
27 ~~to the structure or renders the structure unfit for its intended use.~~

28 10. Employees of the owners of condominiums, townhouses,
29 cooperative units or apartment complexes of four units or less or the
30 owners' management agent or employees of the management agent repairing or
31 maintaining structures owned by them.

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

35 12. A surety company or companies that are authorized to transact
36 business in this state and that undertake to complete a contract on which
37 they issued a performance or completion bond, ~~provided that~~ IF construction
38 work is performed by duly licensed contractors.

39 13. Insurance companies that are authorized to transact business in
40 this state and that undertake to perform repairs resulting from casualty
41 losses pursuant to the provisions of a policy, ~~provided that~~ IF
42 construction work is performed by duly licensed contractors.

43 14. EXCEPT AS PROVIDED IN SUBSECTION D OF THIS SECTION, any person
44 other than a licensed contractor engaging in any work or operation on one
45 undertaking or project by one or more contracts, for which the aggregate

1 contract price IS LESS THAN \$1,000, including labor, materials and all
2 other items, but excluding any electrical fixture or appliance that was
3 designed by the manufacturer, that is unaltered, unchanged or unmodified
4 by any person, ~~AND~~ that can be plugged into a common household electrical
5 outlet ~~utilizing a two-pronged or three-pronged electrical connector and~~
6 ~~that does not use any other form of energy, including natural gas, propane~~
7 ~~or other petroleum or gaseous fuel, to operate or is attached by a nail,~~
8 ~~screw or other fastening device to the frame or foundation of any~~
9 ~~residential structure, is less than one thousand dollars.~~ The work or
10 operations that are exempt under this paragraph ~~shall~~ MUST be of a casual
11 or minor nature. This exemption does not apply:

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

14 (b) In any case in which the work or construction is only a part of
15 a larger or major operation, whether undertaken by the same or a different
16 contractor, or in which a division of the operation is made in contracts
17 of amounts less than ~~one thousand dollars~~ \$1,000, excluding any electrical
18 fixture or appliance that was designed by the manufacturer, that is
19 unaltered, unchanged or unmodified by any person, ~~AND~~ that can be plugged
20 into a common household electrical outlet ~~utilizing a two-pronged or~~
21 ~~three-pronged electrical connector and that does not use any other form of~~
22 ~~energy, including natural gas, propane or other petroleum or gaseous fuel,~~
23 ~~to operate or is attached by a nail, screw or other fastening device to~~
24 ~~the frame or foundation of any residential structure, for the purpose of~~
25 ~~evasion of this chapter or otherwise.~~

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

29 15. A person who is licensed, certified or registered pursuant to
30 title 41, chapter 37, article 4 and who is not otherwise required to be
31 licensed under this chapter or an employee of such person.

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

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

35 B. A person who is licensed to perform work in a particular trade
36 pursuant to this chapter ~~shall~~ IS not ~~be~~ required to obtain and maintain a
37 separate license for mechanical or structural service work performed
38 within the scope of such trade by such person.

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

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

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

14 2. All work that is done, including the installation, maintenance
15 and repair of devices, appliances or equipment, that involves the
16 connecting to any supply of natural gas, propane or other petroleum or
17 gaseous fuel. Nothing in this paragraph impacts the effect of section
18 36-1624.01.

19 E. A JOINT VENTURE OR OTHER COMBINATION OF PERSONS, FIRMS,
20 PARTNERSHIPS, CORPORATIONS, ASSOCIATIONS OR OTHER ORGANIZATIONS IS NOT
21 REQUIRED TO OBTAIN A SEPARATE CONTRACTOR'S LICENSE IN ITS OWN NAME IF ALL
22 OF THE FOLLOWING APPLY:

23 1. AT LEAST ONE MEMBER OF THE JOINT VENTURE OR COMBINATION HOLDS A
24 CONTRACTOR'S LICENSE IN GOOD STANDING WITH THE REGISTRAR.

25 2. EACH MEMBER OF THE JOINT VENTURE OR COMBINATION THAT ACTS AS A
26 CONTRACTOR HOLDS A LICENSE IN GOOD STANDING WITH THE REGISTRAR.

27 3. EACH LICENSED MEMBER OF THE JOINT VENTURE OR COMBINATION ONLY
28 PERFORMS WORK WITHIN THE SCOPE OF THAT MEMBER'S CONTRACTOR'S LICENSE OR
29 LICENSES.

30 Sec. 6. Section 32-1122, Arizona Revised Statutes, is amended to
31 read:

32 32-1122. Qualifications for license

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

35 1. Classify and qualify applicants for a license.

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

39 3. Conduct investigations the registrar deems necessary.

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

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

- 1 1. Submit to the registrar of contractors a verified application on
2 forms that are prescribed by the registrar of contractors and that contain
3 the following information:
- 4 (a) A designation of the classification of license that is sought
5 by the applicant.
- 6 (b) If the applicant is a sole proprietorship, the applicant's name
7 and address.
- 8 (c) If the applicant is a partnership, the names and addresses of
9 all partners with a designation of any limited partners.
- 10 (d) If the applicant is a limited liability company, the names and
11 addresses of all of the following, as applicable:
- 12 (i) If the applicant is a manager-managed limited liability
13 company, all managers.
- 14 (ii) If the applicant is a member-managed limited liability
15 company, all members.
- 16 (iii) All owners of twenty-five percent or more of the stock or
17 beneficial interest.
- 18 (e) If the applicant is a corporation, an association or any other
19 organization, the names and addresses of all of the following:
- 20 (i) The president, vice president, secretary and treasurer or the
21 names and addresses of the functional equivalent of all of these officers.
- 22 (ii) The directors.
- 23 (iii) The owners of twenty-five percent or more of the stock or
24 beneficial interest.
- 25 (f) The name and address of the qualifying party.
- 26 (g) If the applicant is a limited liability company or corporation,
27 ~~evidence~~ AN ATTESTATION that the limited liability company or corporation
28 is in good standing with the corporation commission.
- 29 (h) The address or location of the applicant's place of business
30 and the mailing address if it is different from the applicant's place of
31 business.
- 32 (i) ~~Proof~~ AN ATTESTATION that the applicant has complied with the
33 statutes ~~or~~ AND rules governing workers' compensation insurance. IF THE
34 APPLICANT IS REQUIRED BY LAW TO SECURE WORKERS' COMPENSATION INSURANCE
35 PURSUANT TO SECTION 23-961, THE ATTESTATION MUST CONTAIN THE WORKERS'
36 COMPENSATION INSURANCE POLICY NUMBER OR BE ACCOMPANIED BY PROOF OF
37 SELF-INSURANCE.
- 38 (j) IF THE APPLICANT IS A TRUST, THE NAMES AND ADDRESSES OF ALL
39 TRUSTEES.
- 40 2. Submit the appropriate fee required under this chapter.
- 41 3. Submit and maintain the appropriate bond required under this
42 chapter.
- 43 4. Notify the registrar of any change in the information required
44 by this section within thirty days after the change occurs.

1 C. To obtain, renew or maintain a license under this chapter, each
2 person who is named on a license ~~shall~~ MUST be of good character and
3 reputation. Lack of good character and reputation may be established by
4 showing that a person ~~has~~ engaged in contracting without a license or
5 committed any act that, if committed or done by any licensed contractor,
6 would be grounds for suspension or revocation of a contractor's license or
7 by showing that the person was named on a license that was suspended or
8 revoked in THIS STATE OR another state.

9 D. To obtain a license under this chapter, a person ~~shall~~ MAY not
10 have had a license DENIED, refused or revoked, within one year before the
11 person's application, ~~or shall not have engaged in the contracting~~
12 ~~business, nor shall the person have submitted a bid without first having~~
13 ~~been licensed within one year before the person's application, nor shall a~~
14 ~~person act as a contractor between the filing of the application and~~
15 ~~actual issuance of the license.~~ The registrar may find ~~any of those~~
16 ~~actions or~~ circumstances to be BEHIND THE DENIAL, REFUSAL OR REVOCATION
17 excusable if ~~there was reasonable doubt as to the need for licensure or~~
18 ~~the actions of the applicant~~ APPLICANT'S ACTIONS did not result in an
19 unremedied hardship or danger or loss to the public. A person who has
20 been convicted of contracting without a license is not eligible to obtain
21 a license under this chapter for one year after the date of the last
22 conviction.

23 E. Before a license is issued, the qualifying party ~~shall~~ MUST:

24 1. Have a minimum of four years' practical or management trade
25 experience, at least two of which must have been within the last ten
26 years, dealing specifically with the type of construction, or its
27 equivalent, for which the applicant is applying for a license. Technical
28 training in an accredited college or university or in a manufacturer's
29 accredited training program may be substituted for a portion of such
30 experience, but in no case may credited technical training exceed two
31 years of the required four years' experience. The registrar of
32 contractors may reduce the four years' practical or management experience
33 requirement if in the registrar's opinion it has been conclusively shown
34 by custom and usage in the particular industry or craft involved that the
35 four-year requirement is excessive. The registrar shall waive the work
36 experience documentation and verification if the records reflect that the
37 qualifying party is currently or has previously been a qualifying party
38 for a licensee in this state in the same classification and meets all
39 other qualifications.

40 2. Successfully show, by written examination taken not more than
41 two years before application, if required, qualification in the kind of
42 work for which the applicant proposes to contract, the applicant's general
43 knowledge of the building, safety, health and lien laws of the state,
44 administrative principles of the contracting business and the rules
45 adopted by the registrar of contractors pursuant to this chapter,

1 demonstrate knowledge and understanding of construction plans and
2 specifications applicable to the particular industry or craft and of the
3 standards of construction work and techniques and practices in the
4 particular industry or craft and demonstrate a general understanding of
5 other related construction trades, in addition to any other matters as may
6 be deemed appropriate by the registrar to determine that the qualifying
7 party meets the requirements of this chapter.

8 F. The registrar shall maintain multiple versions of examinations
9 for each type of license that requires an examination. The registrar
10 shall waive the examination requirement if the records reflect that the
11 qualifying party is currently or has previously been a qualifying party
12 for a licensee in this state in the same classification within the
13 preceding five years.

14 ~~F.~~ G. A license ~~shall~~ MAY not be issued to a minor, to any
15 partnership in which one of the partners is a minor or to any corporation
16 in which a corporate officer is a minor.

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

25 Sec. 7. Section 32-1123, Arizona Revised Statutes, is amended to
26 read:

27 32-1123. Unlicensed contractors; contract bidding; license
28 denial; exemptions; warning

29 A. Except as provided in subsection D of this section, if an entity
30 that is not licensed OR NOT PROPERLY LICENSED pursuant to this chapter
31 bids on a contract for a project with an aggregate worth of more than ~~one~~
32 ~~thousand dollars~~ \$1,000, ~~excluding~~ THE REGISTRAR MAY NOT ISSUE THE ENTITY
33 A LICENSE FOR ONE YEAR AFTER THE BID DATE. FOR THE PURPOSES OF THIS
34 SUBSECTION, AGGREGATE WORTH DOES NOT INCLUDE any electrical fixture or
35 appliance that MEETS ALL OF THE FOLLOWING:

- 36 1. Was designed by the manufacturer. ~~, that~~
- 37 2. Is unaltered, unchanged or unmodified by any person. ~~, that~~
- 38 3. Can be plugged into a common ~~household~~ electrical outlet.
39 ~~utilizing a two pronged or three pronged electrical connector and that~~
- 40 4. Does not ~~use any other form of energy, including~~ INVOLVE THE
41 CONNECTION TO A SUPPLY OF natural gas, propane or other petroleum or
42 gaseous fuel, ~~to operate or is attached by a nail, screw or other~~
43 ~~fastening device to the frame or foundation of any residential structure,~~
44 ~~the registrar shall not issue the entity a license pursuant to this~~
45 ~~chapter for one year after the date of the bid.~~

1 B. This section does not apply to an entity that bids on a contract
2 for either of the following:

- 3 1. A department of transportation project.
- 4 2. A project that is subject to the federal acquisition regulation,
5 title 48 Code of Federal Regulations, including the department of defense
6 federal acquisition regulation.

7 C. This section does not affect the licensing exemptions prescribed
8 in section 32-1121.

9 D. ~~if an~~ THE REGISTRAR SHALL ISSUE AN ENTITY A WRITTEN WARNING
10 RELATING TO UNLICENSED ACTIVITY IF THE REGISTRAR HAS NOT PREVIOUSLY ISSUED
11 THE ENTITY A WARNING AND IF THE entity bids on a contract for a project
12 pursuant to subsection A of this section and the project has an aggregate
13 worth of more than ~~one thousand dollars~~ \$1,000 BUT LESS THAN \$20,000,
14 excluding any electrical fixture or appliance that MEETS ALL OF THE
15 FOLLOWING:

- 16 1. Was designed by the manufacturer. ~~, that~~
- 17 2. Is unaltered, unchanged or unmodified by any person. ~~, that~~
- 18 3. Can be plugged into a common ~~household~~ electrical outlet
19 ~~utilizing a two pronged or three pronged electrical connector and that~~
20 ~~does not use any other form of energy, including natural gas, propane or~~
21 ~~other petroleum or gaseous fuel, to operate or is attached by a nail,~~
22 ~~screw or other fastening device to the frame or foundation of any~~
23 ~~residential structure, and less than twenty thousand dollars, the~~
24 ~~registrar shall issue the entity a written warning relating to the~~
25 ~~unlicensed activity if the registrar has not previously issued the entity~~
26 ~~a warning.~~

27 4. DOES NOT INVOLVE THE CONNECTION TO A SUPPLY OF NATURAL GAS,
28 PROPANE OR OTHER PETROLEUM OR GASEOUS FUEL.

29 Sec. 8. Section 32-1123.01, Arizona Revised Statutes, is amended to
30 read:

31 32-1123.01. Staggered periods of licensure; biennial renewal

32 A. The registrar shall maintain a system of staggered licensure to
33 distribute the work of licensure throughout the twelve months of the year.

34 B. ~~From and after January 1, 1993,~~ The registrar shall implement a
35 system for biennial license renewal and provide for proration of license
36 renewal fees for that purpose.

37 C. The registrar may grant an exception to the biennial licensing
38 or biennial renewal requirements of this section and may allow an annual
39 renewal based on a written petition by a contractor claiming that the
40 biennial requirements would cause a real and immediate hardship. ~~The~~
41 ~~written petition shall include a detailed statement of the contractor's~~
42 ~~current financial condition containing information that is required by the~~
43 ~~registrar on a form furnished by or acceptable to the registrar. The~~
44 ~~registrar shall notify the contractor in writing of the decision and shall~~
45 ~~specify the terms of the exception if granted. Failure of the contractor~~

1 ~~to provide a detailed statement of current financial condition is grounds~~
2 ~~for denial.~~

3 Sec. 9. Section 32-1124, Arizona Revised Statutes, is amended to
4 read:

5 32-1124. License issuance

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

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

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

39 D. On issuance or renewal of a license, the registrar, at the
40 request of a licensee, shall issue a single license certificate showing
41 all contracting licenses held by the licensee that are currently in good
42 standing and their dates of expiration.

43 E. The registrar may establish procedures to allow a licensee to
44 establish a common expiration or renewal date for all licenses issued to

1 the licensee and may provide for proration of license fees for that
2 purpose.

3 F. The registrar ~~shall~~ MAY suspend by operation of law a license
4 issued under this chapter if any of the following occurs:

5 1. The licensed entity is dissolved. The dissolution of the
6 licensed entity includes the death of a sole owner, a change to the
7 partnership by either adding or removing a partner, the revocation or
8 dissolution of corporate authority or the dissolution of a limited
9 liability company or limited liability partnership.

10 2. The licensed entity does not have authority to do business in
11 this state.

12 3. The license is obtained or renewed with an insufficient funds
13 check. The license remains suspended until the registrar receives
14 ~~a certified check, a money order or cash~~ SUFFICIENT FUNDS as payment for
15 the license fees and assessments.

16 Sec. 10. Section 32-1125, Arizona Revised Statutes, is amended to
17 read:

18 32-1125. Renewal of license; qualifying party

19 A. Except as provided in section 32-4301, a license issued under
20 this chapter ~~shall be~~ IS suspended on the NEXT BUSINESS day following its
21 renewal date by operation of law. An application for renewal of any
22 current contracting license addressed to the registrar, with a valid bond
23 or cash deposit on file with the registrar, accompanied by the required
24 fee and received by the registrar or deposited in the United States mail
25 postage prepaid on or before the renewal date ~~shall authorize~~ AUTHORIZES
26 the licensee to operate as a contractor until actual issuance of the
27 renewal license. The registrar may refuse to renew a license if a
28 licensee or person has committed or been found guilty of any act listed in
29 section 32-1154.

30 B. A license ~~which~~ THAT has been suspended by operation of law for
31 failure to renew may be reactivated and renewed within one year of its
32 suspension by filing the required application and ~~payment of~~ PAYING the
33 application fee in the amount provided for renewal in this chapter in
34 addition to a ~~fifty dollar~~ \$50 fee. When a license has been suspended for
35 ~~one or more years~~ THAN ONE YEAR for failure to renew, a new application
36 for a license must be made and a new license issued in accordance with
37 this chapter.

38 C. A licensee may ~~make written application~~ APPLY IN WRITING to the
39 registrar for exemption from a qualifying party. The ~~applicant shall~~
40 LICENSEE MUST show to the satisfaction of the registrar that during the
41 past five years THE LICENSEE:

42 ~~1. The license has been in effect.~~

43 ~~2. A transfer of ownership of fifty per cent or more of the stock,~~
44 ~~if applicable, or beneficial interest, in the licensee has not occurred.~~

1 ~~3. No more than five valid complaints which have not been resolved~~
2 ~~by the licensee, as determined by the registrar, have been filed against~~
3 ~~the licensee.~~

4 1. HELD A VALID AND ACTIVE LICENSE AND COULD LEGALLY CONTRACT UNDER
5 THIS CHAPTER FOR THE ENTIRE FIVE-YEAR PERIOD.

6 2. DID NOT TRANSFER FIFTY PERCENT OR MORE OF ITS STOCK OR
7 BENEFICIAL INTEREST.

8 3. DID NOT COMMIT A VIOLATION OF SECTION 32-1154, SUBSECTION A THAT
9 HAS NOT BEEN REMEDIED.

10 D. The REGISTRAR shall APPROVE OR DENY THE application ~~be approved~~
11 ~~or denied~~ within thirty days after its receipt. If the application is not
12 approved, the licensee, ~~may~~ within thirty days, MAY request a hearing to
13 be held pursuant to section 32-1156. If the application is approved, the
14 exemption takes effect immediately.

15 ~~D.~~ E. A licensee ~~which~~ THAT is exempt from the requirement for a
16 qualifying party pursuant to subsection C of this section may be required
17 by the registrar after a hearing to obtain a qualifying party within sixty
18 days on a finding that:

19 1. A transfer of ownership of fifty ~~per cent~~ PERCENT or more of the
20 stock, if applicable, or beneficial interest, in the licensee has
21 occurred.

22 2. A violation of section 32-1154 has occurred.

23 Sec. 11. Section 32-1125.01, Arizona Revised Statutes, is amended
24 to read:

25 32-1125.01. Inactive license

26 A. A contractor may request the registrar, on forms prescribed by
27 the registrar, to inactivate ~~his~~ THE CONTRACTOR'S current license for a
28 period not to exceed five years at one time by giving written notice to
29 the registrar. The registrar ~~may~~, in the absence of any disciplinary
30 proceeding or disciplinary suspension and ~~upon~~ ON payment of reasonable
31 fees determined by the registrar, MAY issue to the contractor an inactive
32 license certificate. The inactive license certificate may consist of an
33 endorsement ~~upon~~ ON the contractor's license stating that the license is
34 inactive. The registrar may not refund any of the license renewal fee
35 ~~which~~ a contractor paid ~~prior to~~ BEFORE requesting inactive status.

36 B. A contractor's license ~~which~~ THAT is not suspended or revoked
37 and THAT is inactive may be reactivated as an active license ~~upon~~ ON
38 payment of the current renewal fee and thirty days' written notice to the
39 registrar. ~~No~~ AN examination may NOT be required to reactivate an
40 inactive license. If the license is not reactivated within five years, a
41 new application for licensing must be made unless the contractor requests,
42 on forms prescribed by the registrar, to inactivate the license for an
43 additional period not to exceed five years. ~~No~~ A contractor may NOT
44 inactivate the license more than twice.

1 C. The holder of an inactive license ~~shall~~ MAY not practice as a
2 contractor until ~~his~~ THE license is reactivated as an active license.

3 D. The inactive status of a contractor's license ~~shall~~ DOES not ~~bar~~
4 PREVENT THE REGISTRAR FROM TAKING any disciplinary action ~~by the registrar~~
5 against a licensed contractor for any of the grounds stated in this
6 chapter.

7 Sec. 12. Section 32-1126, Arizona Revised Statutes, is amended to
8 read:

9 32-1126. Fees

10 A. The license fees prescribed by this chapter ~~shall be~~ ARE as
11 follows:

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

13 (a) For general residential contracting and subclassifications of
14 general residential contracting, not more than ~~five hundred dollars~~ \$500.

15 (b) For general commercial contracting and subclassifications of
16 general commercial contracting, not more than ~~one thousand five hundred~~
17 ~~dollars~~ \$1,500.

18 (c) For general dual licensed contracting, not more than ~~two~~
19 ~~thousand dollars~~ \$2,000.

20 (d) For specialty residential contracting, not more than ~~three~~
21 ~~hundred fifty dollars~~ \$350.

22 (e) For specialty commercial contracting, not more than ~~one~~
23 ~~thousand dollars~~ \$1,000.

24 (f) For specialty dual licensed contracting, not more than ~~one~~
25 ~~thousand three hundred fifty dollars~~ \$1,350.

26 2. Biennial license renewal fee:

27 (a) For general residential contracting and subclassifications of
28 general residential contracting, not more than ~~three hundred twenty~~
29 ~~dollars~~ \$320.

30 (b) For general commercial contracting and subclassifications of
31 general commercial contracting, not more than ~~one thousand dollars~~ \$1,000.

32 (c) For general dual licensed contracting, not more than ~~one~~
33 ~~thousand three hundred twenty dollars~~ \$1,320.

34 (d) For specialty residential contracting, not more than ~~two~~
35 ~~hundred seventy dollars~~ \$270.

36 (e) For specialty commercial contracting, not more than ~~nine~~
37 ~~hundred dollars~~ \$900.

38 (f) For specialty dual licensed contracting, not more than ~~one~~
39 ~~thousand one hundred seventy dollars~~ \$1,170.

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

43 C. The registrar may establish reasonable fees for services
44 performed by the registrar relating to reexaminations, processing of

1 applications, changes of qualifying party and approval of name changes on
2 licenses.

3 D. The penalty for failure to apply for renewal of a license within
4 the time prescribed by this chapter ~~shall be fifty dollars~~ IS \$50.

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

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

9 G. EXCEPT AS PROVIDED IN SECTION 32-1152, SUBSECTION C, A PERSON
10 APPLYING FOR A CONTRACTOR LICENSE OR FOR RENEWAL OF A CONTRACTOR LICENSE
11 TO ENGAGE IN RESIDENTIAL CONTRACTING SHALL PAY AN ASSESSMENT OF NOT MORE
12 THAN \$600 DURING THE BIENNIAL LICENSE PERIOD FOR DEPOSIT IN THE
13 RESIDENTIAL CONTRACTORS' RECOVERY FUND ESTABLISHED BY SECTION 32-1132. IF
14 THE REGISTRAR DOES NOT ISSUE THE LICENSE, THE ASSESSMENT SHALL BE RETURNED
15 TO THE APPLICANT.

16 Sec. 13. Section 32-1127, Arizona Revised Statutes, is amended to
17 read:

18 32-1127. Qualifying party; responsibility

19 ~~The terms "responsible managing employee" and "qualifying party"~~
20 ~~shall, for the purpose of administering this chapter, be synonymous, and~~
21 ~~shall mean an employee who is regularly employed by the licensee and is~~
22 ~~actively engaged in the classification of work for which such responsible~~
23 ~~managing employee qualifies in behalf of the licensee.~~

24 A. While engaged as a qualifying party for a licensee, the
25 qualifying party ~~shall~~ MAY not take other employment that would conflict
26 with his duties as qualifying party or conflict with his ability to
27 adequately supervise the work performed by the licensee. Such person may
28 act in the capacity of the qualifying party for one additional licensee if
29 one of the following conditions exists:

30 1. There is a common ownership of at least twenty-five per cent of
31 each licensed entity for which the person acts in a qualifying capacity.

32 2. One licensee is a subsidiary of another licensee for which the
33 same person acts in a qualifying capacity. "Subsidiary" as used in this
34 ~~section~~ PARAGRAPH means a corporation of which at least twenty-five ~~per~~
35 ~~cent~~ PERCENT is owned by the other licensee.

36 B. WHILE ENGAGED AS THE QUALIFYING PARTY FOR A LICENSEE, THE
37 QUALIFYING PARTY IS RESPONSIBLE FOR ANY VIOLATION OF THIS CHAPTER BY THE
38 LICENSEE.

39 Sec. 14. Title 32, chapter 10, article 2, Arizona Revised Statutes,
40 is amended by adding section 32-1127.01, to read:

41 32-1127.01. Qualifying parties; disassociation with license;
42 requalification

43 A. IF A PERSON WHO QUALIFIED FOR A LICENSE CEASES TO BE CONNECTED
44 WITH THE LICENSEE, BOTH THE LICENSEE AND THE QUALIFYING PARTY SHALL NOTIFY
45 THE REGISTRAR IN WRITING WITHIN FIFTEEN DAYS AFTER THE DISASSOCIATION.

1 B. A LICENSEE SHALL REQUALIFY THROUGH ANOTHER PERSON WITHIN SIXTY
2 DAYS AFTER THE DATE OF A DISASSOCIATION.

3 C. IF A LICENSEE FAILS TO REQUALIFY THROUGH ANOTHER PERSON WITHIN
4 SIXTY DAYS, THE LICENSE IS AUTOMATICALLY SUSPENDED BY OPERATION OF LAW AT
5 THE END OF THE PERIOD UNTIL THE LICENSEE QUALIFIES THROUGH ANOTHER PERSON.

6 Sec. 15. Section 32-1131, Arizona Revised Statutes, is amended to
7 read:

8 32-1131. Definitions

9 In this article, unless the context otherwise requires:

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

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

13 ~~3. "Person injured":~~

14 ~~(a) Means any owner of residential real property that is either~~
15 ~~noncommercial historic property as defined in section 42-12101 or~~
16 ~~classified as class three property under section 42-12003. The property~~
17 ~~must also be actually occupied or intended to be occupied by the owner as~~
18 ~~a residence including community property, tenants in common or joint~~
19 ~~tenants who are damaged by the failure of a residential contractor or a~~
20 ~~dual licensed contractor to adequately build or improve a residential~~
21 ~~structure or appurtenance on that real property.~~

22 ~~(b) Includes lessees of residential real property who contract~~
23 ~~directly with a residential contractor or indirectly with a subcontractor~~
24 ~~of that contractor and homeowners' or unit owners' associations after~~
25 ~~transfer of control from the builder or developer for damages to the~~
26 ~~common elements within the complex.~~

27 ~~4.~~ 3. "Residential contractor" means a contractor as defined in
28 section 32-1101 who is licensed to perform work on residential property
29 pursuant to this chapter and who engages in residential contracting.

30 Sec. 16. Section 32-1132, Arizona Revised Statutes, is amended to
31 read:

32 32-1132. Residential contractors' recovery fund; claimants;
33 eligibility; definition

34 A. The residential contractors' recovery fund is established, to be
35 administered by the registrar, ~~from which any person injured~~ FOR THE
36 BENEFIT OF A CLAIMANT DAMAGED by an act, representation, transaction or
37 conduct of a residential contractor licensed pursuant to this chapter that
38 is in violation of this chapter or the rules adopted pursuant to this
39 chapter. ~~may be awarded in the county where the violation occurred an~~
40 ~~amount of not more than thirty thousand dollars for damages sustained by~~
41 ~~the act, representation, transaction or conduct. An award from the fund~~
42 ~~is limited to the actual damages suffered by the claimant as a direct~~
43 ~~result of the contractor's violation but shall not exceed an amount~~
44 ~~necessary to complete or repair a residential structure or appurtenance~~
45 ~~within residential property lines. Actual damages shall not be~~

1 ~~established by bids supplied by or the value of work performed by a person~~
2 ~~or entity that is not licensed pursuant to this chapter and that is~~
3 ~~required to be licensed pursuant to this chapter. If the claimant has~~
4 ~~paid a deposit or down payment and no actual work is performed or~~
5 ~~materials are delivered, the award of actual damages shall not exceed the~~
6 ~~exact dollar amount of the deposit or down payment plus interest at the~~
7 ~~rate of ten per cent a year from the date the deposit or down payment is~~
8 ~~made or not more than thirty thousand dollars, whichever is less.~~
9 ~~Interest shall not be paid from the fund on any other awards under this~~
10 ~~chapter unless ordered by a court of competent jurisdiction. An award~~
11 ~~from the fund shall not be available to persons injured by an act,~~
12 ~~representation, transaction or conduct of a residential contractor who was~~
13 ~~not licensed pursuant to this chapter or whose license was in an inactive~~
14 ~~status, expired, cancelled, revoked, suspended or not issued at the time~~
15 ~~of the contract. No more than the maximum individual award from the fund~~
16 ~~shall be made on any individual residence or to any injured person.~~
17 ~~Notwithstanding any other provision of law, monies in the residential~~
18 ~~contractors' recovery fund shall not be directly awarded for attorney fees~~
19 ~~or costs except in contested cases appealed to the superior court.~~

20 ~~B. Except as provided in section 32-1152, subsection C, every~~
21 ~~person making application for a contractor's license or for renewal of a~~
22 ~~contractor's license to engage in residential contracting shall pay an~~
23 ~~assessment of not more than six hundred dollars during the biennial~~
24 ~~license period for deposit in the fund. In the event that the registrar~~
25 ~~does not issue the license, this assessment shall be returned to the~~
26 ~~applicant.~~

27 B. ONLY THE FOLLOWING CLAIMANTS ARE ELIGIBLE FOR AN AWARD FROM THE
28 RESIDENTIAL CONTRACTORS' RECOVERY FUND:

29 1. AN INDIVIDUAL WHO BOTH:

30 (a) OWNS RESIDENTIAL REAL PROPERTY THAT IS DAMAGED BY THE FAILURE
31 OF A RESIDENTIAL CONTRACTOR TO ADEQUATELY BUILD OR IMPROVE A RESIDENTIAL
32 STRUCTURE OR APPURTENANCE.

33 (b) ACTUALLY OCCUPIES OR INTENDS TO OCCUPY THE RESIDENTIAL REAL
34 PROPERTY DESCRIBED IN SUBDIVISION (a) OF THIS PARAGRAPH AS THE
35 INDIVIDUAL'S PRIMARY RESIDENCE.

36 2. A LIMITED LIABILITY COMPANY TO WHICH ALL OF THE FOLLOWING APPLY:

37 (a) THE LIMITED LIABILITY COMPANY OWNS THE RESIDENTIAL REAL
38 PROPERTY THAT IS DAMAGED BY THE FAILURE OF A RESIDENTIAL CONTRACTOR TO
39 ADEQUATELY BUILD OR IMPROVE A RESIDENTIAL STRUCTURE OR APPURTENANCE.

40 (b) ALL OF THE LIMITED LIABILITY COMPANY'S MEMBERS ACTUALLY OCCUPY
41 OR INTEND TO OCCUPY THE RESIDENTIAL REAL PROPERTY AS DESCRIBED IN
42 SUBDIVISION (a) OF THIS PARAGRAPH AS THEIR PRIMARY RESIDENCE.

43 (c) A MEMBER OF THE LIMITED LIABILITY COMPANY HAS NOT RECEIVED
44 MONIES FROM THE FUND IN THE LAST TWO YEARS.

1 3. A TRUST TO WHICH ALL OF THE FOLLOWING APPLY:
2 (a) THE TRUST IS A REVOCABLE LIVING TRUST.
3 (b) THE TRUST OWNS THE RESIDENTIAL REAL PROPERTY THAT IS DAMAGED BY
4 THE FAILURE OF A RESIDENTIAL CONTRACTOR TO ADEQUATELY BUILD OR IMPROVE A
5 RESIDENTIAL STRUCTURE OR APPURTENANCE.
6 (c) ALL OF THE TRUST'S TRUSTORS ACTUALLY OCCUPY OR INTEND TO OCCUPY
7 THE RESIDENTIAL REAL PROPERTY DESCRIBED IN SUBDIVISION (b) OF THIS
8 PARAGRAPH AS THEIR PRIMARY RESIDENCE.
9 (d) A TRUSTOR HAS NOT RECEIVED MONIES FROM THE FUND IN THE LAST TWO
10 YEARS.
11 4. A PLANNED COMMUNITY AS DEFINED IN SECTION 33-1802 OR UNIT
12 OWNERS' ASSOCIATION AS DEFINED IN SECTION 33-1202 IF BOTH:
13 (a) THE BUILDER OR DEVELOPER TRANSFERRED CONTROL TO THE PLANNED
14 COMMUNITY AS DEFINED IN SECTION 33-1802 OR UNIT OWNERS' ASSOCIATION AS
15 DEFINED IN SECTION 33-1202.
16 (b) A LICENSED RESIDENTIAL CONTRACTOR'S FAILURE TO ADEQUATELY BUILD
17 OR IMPROVE A RESIDENTIAL STRUCTURE OR APPURTENANCE CAUSED DAMAGE TO THE
18 COMMON ELEMENTS WITHIN THE COMPLEX.
19 5. A LESSEE OF RESIDENTIAL REAL PROPERTY THAT MEETS ALL OF THE
20 FOLLOWING:
21 (a) CONTRACTS DIRECTLY WITH A RESIDENTIAL CONTRACTOR OR INDIRECTLY
22 WITH A SUBCONTRACTOR OF THE RESIDENTIAL CONTRACTOR.
23 (b) ACTUALLY OCCUPIES OR INTENDS TO OCCUPY THE RESIDENTIAL REAL
24 PROPERTY DESCRIBED IN SUBDIVISION (a) OF THIS PARAGRAPH AS THE LESSEE'S
25 PRIMARY RESIDENCE.
26 (c) IS DAMAGED BY THE LICENSED RESIDENTIAL CONTRACTOR'S FAILURE TO
27 ADEQUATELY BUILD OR IMPROVE A RESIDENTIAL STRUCTURE OR APPURTENANCE.
28 C. IN ORDER FOR A CLAIMANT TO BE ELIGIBLE FOR AN AWARD FROM THE
29 RESIDENTIAL CONTRACTORS' RECOVERY FUND, THE CONTRACTOR WHOSE ACTIONS
30 DAMAGED THE CLAIMANT MUST HAVE BEEN APPROPRIATELY LICENSED AT ONE OF THE
31 FOLLOWING TIMES:
32 1. THE DATE THAT THE UNDERLYING CONTRACT WAS SIGNED.
33 2. THE DATE THAT THE FIRST PAYMENT WAS MADE.
34 3. THE DATE THAT THE UNDERLYING WORK FIRST COMMENCED.
35 D. FOR THE PURPOSES OF THIS SECTION, "APPROPRIATELY LICENSED" MEANS
36 THE RESIDENTIAL CONTRACTOR HELD A VALID RESIDENTIAL CONTRACTOR LICENSE
37 THAT WAS ISSUED PURSUANT TO THIS CHAPTER AND THAT WAS NOT CANCELED, IN
38 INACTIVE STATUS, EXPIRED, SUSPENDED OR REVOKED.
39 Sec. 17. Title 32, chapter 10, article 2.1, Arizona Revised
40 Statutes, is amended by adding sections 32-1132.01, 32-1133 and
41 32-1133.01, to read:
42 32-1132.01. Actual damages; fund; limitations; definition
43 A. AN AWARD FROM THE RESIDENTIAL CONTRACTORS' RECOVERY FUND IS
44 LIMITED TO RESIDENTIAL REAL PROPERTIES. THE FUND MAY NOT ISSUE AN AWARD
45 COVERING DAMAGES TO COMMERCIAL PROPERTY.

1 B. AN AWARD FROM THE RESIDENTIAL CONTRACTORS' RECOVERY FUND MAY NOT
2 EXCEED THE ACTUAL DAMAGES SUFFERED BY THE CLAIMANT AS A DIRECT RESULT OF A
3 CONTRACTOR'S VIOLATION. ACTUAL DAMAGES:

4 1. MAY NOT EXCEED AN AMOUNT NECESSARY TO COMPLETE OR REPAIR A
5 RESIDENTIAL STRUCTURE OR APPURTENANCE WITHIN RESIDENTIAL PROPERTY LINES.

6 2. MUST BE ESTABLISHED BY BIDS SUPPLIED BY OR THE VALUE OF WORK
7 PERFORMED BY A PERSON THAT IS LICENSED PURSUANT TO THIS CHAPTER IF THE
8 PERSON IS REQUIRED TO BE LICENSED PURSUANT TO THIS CHAPTER.

9 C. IF THE CLAIMANT PAID A DEPOSIT OR DOWN PAYMENT AND NO ACTUAL
10 WORK IS PERFORMED OR MATERIALS ARE DELIVERED, THE CLAIMANT'S ACTUAL
11 DAMAGES ARE THE EXACT DOLLAR AMOUNT OF THE DEPOSIT OR DOWN PAYMENT PLUS
12 INTEREST AT THE RATE OF TEN PERCENT A YEAR FROM THE DATE THE DEPOSIT OR
13 DOWN PAYMENT IS MADE, BUT MAY NOT EXCEED \$30,000. INTEREST MAY NOT BE
14 PAID FROM THE FUND ON ANY OTHER AWARDS UNDER THIS CHAPTER UNLESS ORDERED
15 BY A COURT OF COMPETENT JURISDICTION.

16 D. THE MAXIMUM INDIVIDUAL AWARD FROM THE RESIDENTIAL CONTRACTORS'
17 RECOVERY FUND IS \$30,000. AN INDIVIDUAL CLAIMANT MAY NOT BE AWARDED MORE
18 THAN THE MAXIMUM INDIVIDUAL AWARD.

19 E. MONIES IN THE RESIDENTIAL CONTRACTORS' RECOVERY FUND MAY NOT BE
20 AWARDED FOR ATTORNEY FEES OR COSTS, EXCEPT IN CONTESTED CASES APPEALED TO
21 THE SUPERIOR COURT.

22 F. IF THE CLAIMANT HAS RECOVERED A PORTION OF THE CLAIMANT'S LOSS
23 FROM SOURCES OTHER THAN THE FUND, THE REGISTRAR SHALL DEDUCT THE AMOUNT
24 RECOVERED FROM OTHER SOURCES FROM THE AMOUNT OF ACTUAL DAMAGES SUFFERED
25 PURSUANT TO SUBSECTION B OF THIS SECTION AND DIRECT THE DIFFERENCE, NOT TO
26 EXCEED \$30,000, TO BE PAID FROM THE FUND.

27 G. THE CLAIMANT MAY NOT BE THE SPOUSE OF THE RESIDENTIAL CONTRACTOR
28 OR THE PERSONAL REPRESENTATIVE OF THE SPOUSE OF THE RESIDENTIAL
29 CONTRACTOR.

30 H. FOR THE PURPOSES OF THIS SECTION, "ACTUAL DAMAGES" MEANS THE
31 REASONABLE COST OF COMPLETING THE CONTRACT AND REPAIRING THE CONTRACTOR'S
32 DEFECTIVE PERFORMANCE, MINUS THE PART OF THE CONTRACT PRICE STILL UNPAID.

33 32-1133. Civil recovery; statute of limitations

34 A. AN ACTION FOR A JUDGMENT THAT MAY SUBSEQUENTLY RESULT IN AN
35 ORDER FOR COLLECTION FROM THE RESIDENTIAL CONTRACTORS' RECOVERY FUND MAY
36 NOT BE COMMENCED LATER THAN TWO YEARS AFTER THE DATE OF THE COMMISSION OF
37 THE ACT BY THE CONTRACTOR THAT IS THE CAUSE OF THE INJURY OR FROM THE DATE
38 OF OCCUPANCY.

39 B. WHEN A CLAIMANT COMMENCES AN ACTION FOR A JUDGMENT THAT MAY
40 RESULT IN COLLECTION FROM THE FUND, THE CLAIMANT MUST NOTIFY THE REGISTRAR
41 IN WRITING TO THIS EFFECT WITHIN THIRTY CALENDAR DAYS AFTER THE
42 COMMENCEMENT OF THE ACTION. THE REGISTRAR AT ANY TIME MAY INTERVENE IN
43 AND DEFEND THE ACTION.

1 C. WHEN ANY CLAIMANT RECOVERS A VALID JUDGMENT AGAINST ANY
2 RESIDENTIAL CONTRACTOR FOR AN ACT, REPRESENTATION, TRANSACTION OR CONDUCT
3 THAT IS IN VIOLATION OF THIS CHAPTER OR THE RULES ADOPTED PURSUANT TO THIS
4 CHAPTER, THE CLAIMANT, ON TWENTY DAYS' WRITTEN NOTICE TO THE REGISTRAR,
5 MAY APPLY TO THE COURT FOR AN ORDER DIRECTING PAYMENT OUT OF THE FUND, OF
6 THE AMOUNT UNPAID ON THE JUDGMENT, SUBJECT TO THE LIMITS STATED IN THIS
7 ARTICLE. IF THE CLAIMANT FAILS TO NOTIFY THE REGISTRAR WITHIN THIRTY
8 CALENDAR DAYS AFTER COMMENCEMENT OF THE ACTION AS REQUIRED BY THIS
9 SUBSECTION, THE COURT MAY DIRECT PAYMENT OUT OF THE FUND ON RECEIPT OF A
10 CONSENT TO PAYMENT SIGNED ON BEHALF OF THE REGISTRAR. IF THE CLAIMANT
11 GIVES NOTICE TO THE REGISTRAR AS REQUIRED BY THIS SUBSECTION, THE COURT
12 MAY DIRECT PAYMENT OUT OF THE FUND EITHER ON RECEIPT OF A CONSENT TO
13 PAYMENT SIGNED ON BEHALF OF THE REGISTRAR OR, IN THE ABSENCE OF ANY
14 WRITTEN CONSENT, AFTER THE NOTICE PERIOD REQUIRED BY THIS SUBSECTION. IF
15 THE COURT RECEIVES WRITTEN OBJECTIONS BY THE REGISTRAR, THE COURT MAY NOT
16 DIRECT PAYMENT FROM THE FUND WITHOUT AFFORDING THE REGISTRAR A REASONABLE
17 OPPORTUNITY TO PRESENT AND SUPPORT THE REGISTRAR'S OBJECTIONS.

18 D. THE COURT MAY PROCEED ON AN APPLICATION IN A SUMMARY MANNER AND,
19 ON THE HEARING, THE CLAIMANT IS REQUIRED TO SHOW THAT THE CLAIMANT HAS
20 DONE ALL OF THE FOLLOWING:

- 21 1. GIVEN NOTICE AS REQUIRED BY SUBSECTIONS B AND C OF THIS SECTION.
- 22 2. OBTAINED A JUDGMENT THAT HAS BECOME FINAL, AS PROVIDED IN
23 SUBSECTION C OF THIS SECTION, STATING THE AMOUNT AND THE AMOUNT OWING AT
24 THE DATE OF THE APPLICATION.
- 25 3. PROCEEDED AGAINST ANY EXISTING BOND COVERING THE RESIDENTIAL
26 CONTRACTOR.

27 E. THE COURT MAY MAKE AN ORDER DIRECTED TO THE REGISTRAR REQUIRING
28 PAYMENT FROM THE FUND OF WHATEVER SUM IT FINDS TO BE PAYABLE ON THE CLAIM,
29 IN ACCORDANCE WITH THIS SECTION, IF THE COURT IS SATISFIED ON THE HEARING
30 OF THE TRUTH OF ALL MATTERS REQUIRED TO BE SHOWN BY THE CLAIMANT BY
31 SUBSECTION D OF THIS SECTION. THE RECOVERY LIMITS ESTABLISHED UNDER THIS
32 ARTICLE APPLY TO ALL JUDGMENTS AWARDED BEGINNING SEPTEMBER 1, 2002. IF
33 THE CLAIMANT HAS RECOVERED A PORTION OF THE CLAIMANT'S LOSS FROM SOURCES
34 OTHER THAN THE FUND, THE COURT SHALL DEDUCT THE AMOUNT RECOVERED FROM
35 OTHER SOURCES FROM THE AMOUNT OF ACTUAL DAMAGES SUFFERED PURSUANT TO
36 SECTION 32-1132.01, SUBSECTION A AND DIRECT THE DIFFERENCE, NOT TO EXCEED
37 \$30,000, TO BE PAID FROM THE FUND.

38 F. ON RECEIPT OF A CERTIFIED COPY OF THE ORDER SPECIFIED IN
39 SUBSECTION E OF THIS SECTION, THE REGISTRAR MAY AUTHORIZE PAYMENT FROM THE
40 RESIDENTIAL CONTRACTORS' RECOVERY FUND EVEN IF AN APPEAL HAS BEEN
41 INSTITUTED BUT NOT COMPLETED.

42 32-1133.01. Administrative recovery; statute of limitations

43 A. NOTWITHSTANDING ANY OTHER PROVISION IN THIS CHAPTER, IF A
44 CONTRACTOR LICENSE HAS BEEN REVOKED OR SUSPENDED AS A RESULT OF AN ORDER

1 TO REMEDY A VIOLATION OF THIS CHAPTER, THE REGISTRAR MAY ORDER PAYMENT
2 FROM THE RESIDENTIAL CONTRACTORS' RECOVERY FUND TO REMEDY THE VIOLATION.

3 B. THE REGISTRAR MUST SERVE THE CONTRACTOR WITH A NOTICE SETTING
4 FORTH THE AMOUNT CLAIMED OR TO BE AWARDED.

5 C. IF THE CONTRACTOR CONTESTS THE AMOUNT OR PROPRIETY OF THE
6 PAYMENT, THE CONTRACTOR MUST RESPOND IN WRITING WITHIN TEN DAYS AFTER THE
7 DATE OF SERVICE BY REQUESTING A HEARING TO DETERMINE THE AMOUNT OR
8 PROPRIETY OF THE PAYMENT. THE CONTRACTOR'S FAILURE TO RESPOND IN WRITING
9 WITHIN TEN DAYS AFTER THE DATE OF SERVICE MAY BE DEEMED A WAIVER BY THE
10 CONTRACTOR OF THE RIGHT TO CONTEST THE AMOUNT CLAIMED OR TO BE AWARDED.

11 D. SERVICE OF THE NOTICE REQUIRED BY SUBSECTION B OF THIS SECTION
12 MAY BE MADE BY PERSONAL SERVICE TO THE CONTRACTOR OR BY MAILING A COPY OF
13 THE NOTICE BY CERTIFIED MAIL WITH POSTAGE PREPAID TO THE CONTRACTOR'S
14 LATEST ADDRESS OF RECORD ON FILE IN THE REGISTRAR'S OFFICE.

15 E. IF SERVICE IS MADE BY CERTIFIED MAIL, IT IS EFFECTIVE FIVE DAYS
16 AFTER THE NOTICE IS MAILED. EXCEPT AS PROVIDED IN SECTION 41-1092.08,
17 SUBSECTION H, THE CONTRACTOR OR CLAIMANT MAY SEEK JUDICIAL REVIEW OF THE
18 REGISTRAR'S FINAL AWARD PURSUANT TO TITLE 12, CHAPTER 7, ARTICLE 6.

19 F. A CLAIMANT TO THE RESIDENTIAL CONTRACTORS' RECOVERY FUND
20 PURSUANT TO THIS SECTION MUST SHOW THAT THE CLAIMANT HAS PROCEEDED AGAINST
21 ANY EXISTING BOND COVERING THE RESIDENTIAL CONTRACTOR.

22 G. A CLAIM FOR PAYMENT FROM THE RESIDENTIAL CONTRACTOR'S RECOVERY
23 FUND MUST BE SUBMITTED WITHIN TWO YEARS AFTER ALL PROCEEDINGS, REVIEWS AND
24 APPEALS CONNECTED WITH THE REGISTRAR'S FINAL ORDER TERMINATE.

25 Sec. 18. Section 32-1134, Arizona Revised Statutes, is amended to
26 read:

27 32-1134. Powers and duties of registrar

28 A. The registrar shall:

29 1. Establish assessments and maintain the fund balance at a level
30 sufficient to pay operating costs and anticipated claims using the cash
31 basis of accounting.

32 2. Cause an examination of the fund to be made every three years by
33 an independent certified public accountant.

34 3. File with the department of insurance an annual statement of the
35 condition of the fund.

36 4. Employ accountants and attorneys from monies in the fund, but
37 not to exceed ten thousand dollars in any fiscal year, that are necessary
38 for the performance of the duties prescribed in this section.

39 5. Employ or contract with individuals and procure equipment and
40 operational support, to be paid from or purchased with monies in the fund,
41 but not to exceed in any fiscal year fourteen ~~per cent~~ PERCENT of the
42 total amount deposited in the fund in the prior fiscal year as may be
43 necessary to monitor, process or oppose claims filed by ~~injured persons~~
44 CLAIMANTS, which may result in collection from the recovery fund.

1 B. Notwithstanding section 32-1135, the registrar may expend
2 interest monies from the fund to increase public awareness of the
3 fund. This expenditure ~~shall~~ MAY not exceed ~~fifty thousand dollars~~
4 \$50,000 in any fiscal year.

5 Sec. 19. Section 32-1134.02, Arizona Revised Statutes, is amended
6 to read:

7 32-1134.02. Insufficiency of fund

8 If at any time the monies deposited in the residential contractors'
9 recovery fund are insufficient to satisfy any duly authorized claim or
10 portion thereof, the registrar shall, when sufficient monies have been
11 deposited in the residential contractors' recovery fund, satisfy any
12 unpaid claims or portion of unpaid claims with priority for payment based
13 on EITHER:

14 1. The time of filing a certified copy of the court order with the
15 registrar.

16 2. THE DATE OF THE ADMINISTRATIVE ORDER DIRECTING PAYMENT FROM THE
17 RESIDENTIAL CONTRACTORS' RECOVERY FUND.

18 Sec. 20. Repeal

19 Section 32-1136, Arizona Revised Statutes, is repealed.

20 Sec. 21. Section 32-1137, Arizona Revised Statutes, is amended to
21 read:

22 32-1137. Notice of authorized payment to claimant

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

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

28 2. It is the responsibility of the ~~recipient~~ CLAIMANT to respond to
29 an appeal from the judgment.

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

33 Sec. 22. Section 32-1151.02, Arizona Revised Statutes, is amended
34 to read:

35 32-1151.02. List of unlicensed contractors; website
36 publication

37 A. The registrar shall maintain a list of persons who have been
38 convicted of contracting without a license in violation of section 32-1151
39 or administratively adjudicated to have been contracting without a license
40 after ~~having been~~ BEING issued a civil citation pursuant to section
41 ~~32-1166~~ 32-1166.01. THE LIST SHALL INCLUDE ANY KNOWN RELATED BUSINESS
42 NAMES THAT THE PERSONS DESCRIBED IN THIS SUBSECTION HAVE USED. The list
43 shall be published on the registrar's ~~web site~~ WEBSITE.

1 B. The registrar shall remove a person AND ANY KNOWN RELATED
2 BUSINESS NAMES THAT PERSON USED from the list within ten business days
3 when the person becomes licensed pursuant to this chapter and submits a
4 written request to the registrar requesting the person's name to be
5 removed from the list.

6 C. If a member of the public requests a copy of the list prescribed
7 by subsection A OF THIS SECTION, the registrar shall provide a copy of the
8 list.

9 Sec. 23. Section 32-1152, Arizona Revised Statutes, is amended to
10 read:

11 32-1152. Bonds

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

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

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

24 (a) If the estimated annual volume of construction work of the
25 applicant is ~~ten million dollars~~ \$10,000,000 or more, the applicant ~~shall~~
26 **MUST** furnish a surety bond or cash deposit of not less than ~~fifty thousand~~
27 ~~dollars~~ \$50,000 or more than ~~one hundred thousand dollars~~ \$100,000.

28 (b) If the estimated annual volume of construction work of the
29 applicant is more than ~~five million dollars~~ \$5,000,000 and less than ~~ten~~
30 ~~million dollars~~ \$10,000,000, the applicant shall furnish a surety bond or
31 cash deposit of not less than ~~thirty-five thousand dollars~~ \$35,000 or more
32 than ~~seventy-five thousand dollars~~ \$75,000.

33 (c) If the estimated annual volume of construction work of the
34 applicant is more than ~~one million dollars~~ \$1,000,000 and less than ~~five~~
35 ~~million dollars~~ \$5,000,000, the applicant shall furnish a surety bond or
36 cash deposit of not less than ~~fifteen thousand dollars~~ \$15,000 or more
37 than ~~fifty thousand dollars~~ \$50,000.

38 (d) If the estimated annual volume of construction work of the
39 applicant is more than ~~five hundred thousand dollars~~ \$500,000 and less
40 than ~~one million dollars~~ \$1,000,000, the applicant shall furnish a surety
41 bond or cash deposit of not less than ~~ten thousand dollars~~ \$10,000 or more
42 than ~~twenty-five thousand dollars~~ \$25,000.

1 (e) If the estimated annual volume of construction work of the
2 applicant is more than ~~one hundred fifty thousand dollars~~ \$150,000 and
3 less than ~~five hundred thousand dollars~~ \$500,000, the applicant shall
4 furnish a surety bond or cash deposit of not less than ~~five thousand~~
5 ~~dollars~~ \$5,000 or more than ~~fifteen thousand dollars~~ \$15,000.

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

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

11 (a) If the estimated annual volume of construction work of the
12 applicant is ~~ten million dollars~~ \$10,000,000 or more, the applicant shall
13 furnish a surety bond or cash deposit of not less than ~~thirty-seven~~
14 ~~thousand five hundred dollars~~ \$37,500 or more than ~~fifty thousand dollars~~
15 \$50,000.

16 (b) If the estimated annual volume of construction work of the
17 applicant is more than ~~five million dollars~~ \$5,000,000 and less than ~~ten~~
18 ~~million dollars~~ \$10,000,000, the applicant shall furnish a surety bond or
19 cash deposit of not less than ~~seventeen thousand five hundred dollars~~
20 \$17,500 or more than ~~thirty-seven thousand five hundred dollars~~ \$37,500.

21 (c) If the estimated annual volume of construction work of the
22 applicant is more than ~~one million dollars~~ \$1,000,000 and less than ~~five~~
23 ~~million dollars~~ \$5,000,000, the applicant shall furnish a surety bond or
24 cash deposit of not less than ~~seven thousand five hundred dollars~~ \$7,500
25 or more than ~~twenty-five thousand dollars~~ \$25,000.

26 (d) If the estimated annual volume of construction work of the
27 applicant is more than ~~five hundred thousand dollars~~ \$500,000 and less
28 than ~~one million dollars~~ \$1,000,000, the applicant shall furnish a surety
29 bond or cash deposit of not less than ~~five thousand dollars~~ \$5,000 or more
30 than ~~seventeen thousand five hundred dollars~~ \$17,500.

31 (e) If the estimated annual volume of construction work of the
32 applicant is more than ~~one hundred fifty thousand dollars~~ \$150,000 and
33 less than ~~five hundred thousand dollars~~ \$500,000, the applicant shall
34 furnish a surety bond or cash deposit of not less than ~~two thousand five~~
35 ~~hundred dollars~~ \$2,500 or more than ~~seven thousand five hundred dollars~~
36 \$7,500.

37 (f) If the estimated annual volume of construction work of the
38 applicant is less than ~~one hundred fifty thousand dollars~~ \$150,000, the
39 applicant shall furnish a surety bond or cash deposit of ~~two thousand five~~
40 ~~hundred dollars~~ \$2,500.

41 3. The total amount of the surety bond or cash deposit required of
42 a licensee who holds more than one license under paragraphs 1 and 2 of
43 this subsection ~~shall be~~ IS the sum of the surety bond or cash deposit
44 required for each license based on the estimated annual volume of
45 construction work of the applicant allocated to and performed under each

1 license. The applicant at his option may post a single surety bond or
2 cash deposit that is the sum of the bonds or deposits determined under
3 this subsection for all such licenses.

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

13 5. General residential contractors and subclassifications of
14 general residential contractors shall furnish a surety bond or cash
15 deposit in an amount of not more than ~~fifteen thousand dollars~~ \$15,000 and
16 not less than ~~five thousand dollars~~ \$5,000.

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

26 7. Specialty residential contractors shall furnish a surety bond or
27 cash deposit in an amount of not more than ~~seven thousand five hundred~~
28 ~~dollars~~ \$7,500 and not less than ~~one thousand dollars~~ \$1,000.

29 8. Dual licensed swimming pool contractors and residential swimming
30 pool general contractors shall furnish a surety bond or cash deposit in
31 the same amounts based on the volume of work as determined under paragraph
32 1 of this subsection for a general commercial contractor.

33 C. Dual licensed contractors and residential contractors shall also
34 either:

35 1. Furnish an additional surety bond or cash deposit in the amount
36 of ~~two hundred thousand dollars~~ \$200,000 solely for actual damages
37 suffered by ~~persons injured~~ CLAIMANTS as described in section ~~32-1131~~
38 32-1132. This bond ~~shall be~~ IS subject to the ~~limitations~~ LIMITS on the
39 amounts that may be awarded to individual claimants as established in
40 section 32-1132.

41 2. Participate in the residential contractors' recovery fund and
42 pay the assessment prescribed by section ~~32-1132~~ 32-1126, SUBSECTION G.

1 D. The surety bonds shall be executed by the contractor as
2 principal with a corporation duly authorized to transact surety business
3 in this state. Evidence of a surety bond shall be submitted to the
4 registrar in a form acceptable to the registrar. The contractor in the
5 alternative may establish a cash deposit in the amount of the bond with
6 the state treasurer in accordance with rules adopted by the registrar.
7 Such cash bond monies shall be deposited, pursuant to sections 35-146 and
8 35-147, in the contractors' cash bond fund. The state treasurer shall
9 invest and divest monies in the fund as provided by section 35-313, and
10 monies earned from investment shall be credited to the state general fund.
11 Such cash deposits may be withdrawn, if there are no outstanding claims
12 against them, two years after the termination of the license in connection
13 with which the cash is deposited. The cash deposit may be withdrawn two
14 years after the filing of a commercial surety bond as a replacement to the
15 cash deposit.

16 E. The bonds or deposit required by subsection B of this section
17 ~~shall be~~ ARE for the benefit of and ~~shall be~~ ARE subject to claims by the
18 registrar of contractors for failure to pay any sum required pursuant to
19 this chapter. The bond or deposit required by subsection B, paragraphs 1,
20 2 and 3 of this section is for the benefit of and subject to claims by a
21 licensee under this chapter or a lessee, owner or co-owner of
22 nonresidential real property including, but not limited to, a tenant in
23 common or joint tenant, or their successors in interest, who has a direct
24 contract with the licensee against whose bond or deposit the claim is made
25 and who is damaged by the failure of the licensee to build or improve a
26 structure or appurtenance on that real property at the time the work was
27 performed in a manner not in compliance with the requirements of any
28 building or construction code applicable to the construction work under
29 the laws of this state or any political subdivision, or if no such code
30 was applicable, in accordance with the standards of construction work
31 approved by the registrar. The residential bond or deposit required by
32 subsection B, paragraphs 4 through 8 of this section is for the benefit of
33 and subject to claims by any person furnishing labor, materials or
34 construction equipment on a rental basis used in the direct performance of
35 a construction contract involving a residential structure or by ~~persons~~
36 ~~injured~~ CLAIMANTS as ~~defined~~ DESCRIBED in section ~~32-1131~~ 32-1132. The
37 bond or deposit required by subsection C, paragraph 1 of this section is
38 for the benefit of and is subject to claims only by ~~persons injured~~
39 CLAIMANTS as described in section ~~32-1131~~ 32-1132. The person seeking
40 recovery from the bond or cash deposit shall maintain an action at law
41 against the contractor if claiming against the cash deposit or against the
42 contractor and surety if claiming against the surety bond. If the person
43 seeking recovery is required to give the notice pursuant to section
44 33-992.01, he is entitled to seek recovery only if he has given such
45 notice and has made proof of service. The surety bond or cash deposit

1 ~~shall be~~ IS subject to claims until the full amount thereof is exhausted.
2 The court may award reasonable attorney fees in a judgment against a
3 contractor's surety bond or cash deposit. ~~No~~ A suit may NOT be commenced
4 on the bond or for satisfaction from the cash deposit after the expiration
5 of two years following the commission of the act or delivery of goods or
6 rendering of services on which the suit is based, except that time for
7 purposes of claims for fraud ~~shall be~~ IS measured as provided in section
8 12-543. The surety bond or cash deposit shall be continuous in form and
9 ~~shall be~~ conditioned so that the total aggregate liability of the surety
10 or cash deposit for all claims, including reasonable attorney fees, ~~shall~~
11 ~~be~~ IS limited to the face amount of the surety bond or cash deposit
12 irrespective of the number of years the bond or cash deposit is in
13 force. If the corporate surety desires to make payment without awaiting
14 court or registrar action, the amount of any bond filed in compliance with
15 this chapter shall be reduced to the extent of any payment or payments
16 made by the corporate surety in good faith thereunder. Any such payments
17 shall be based on priority of written claims received by the corporate
18 surety before court or registrar action. If more than one cash deposit
19 exists, the judgment against the contractor shall state which cash deposit
20 ~~shall be~~ IS used to satisfy the judgment. A certified copy of the
21 judgment shall then be filed with the registrar, and such judgment ~~shall~~
22 MUST specify that it may be satisfied from the contractor's cash
23 deposit. Priority for payment ~~shall be~~ IS based on the time of filing
24 with the registrar. On receipt of a certified copy of the judgment or on
25 a final disciplinary order of the registrar, the registrar may authorize
26 payment from the cash deposit of the amount claimed or of whatever lesser
27 amount remains on file. In any action against a cash deposit, the
28 claimant, at the time of filing suit, may notify the registrar in writing
29 of the action against the cash deposit, but ~~shall~~ MAY not name as a
30 defendant in the action the registrar, the treasurer or the state. A
31 CLAIMANT'S failure to ~~so~~ notify the registrar at the time of filing suit
32 may result in the cash deposit being withdrawn by the licensee before
33 judgment pursuant to subsection D of this section.

34 F. When a corporate surety cancels a bond, the surety, not less
35 than thirty days before the effective date of the cancellation, shall give
36 the principal and the registrar a written notice of the cancellation.
37 Notice to the principal shall be by certified mail in a sealed envelope
38 with postage fully prepaid. Proof of notice to the principal shall be
39 made available to the registrar on request. On reduction or depletion of
40 the cash deposit, the registrar shall immediately notify the licensee of
41 said reduction or depletion and that the licensee must replenish the cash
42 deposit or furnish a surety bond on or before thirty days from the date of
43 said reduction or depletion or the contractor's license ~~shall be~~ IS
44 suspended on the thirtieth day without further notice or hearing. Notice
45 to the contractor shall be by certified mail in a sealed envelope with

1 postage fully prepaid thereon, addressed to the contractor's latest
2 address of record in the registrar's office. The contractor's license
3 ~~shall be~~ IS suspended by operation of law on the date the bond is canceled
4 or thirty days from the date of reduction or depletion of the cash deposit
5 unless a replacement bond or cash deposit is on file with the registrar.

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

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

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

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

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

32 Sec. 24. Section 32-1152.01, Arizona Revised Statutes, is amended
33 to read:

34 32-1152.01. Alternatives to cash deposit

35 A. As an alternative to the cash deposit provided for in section
36 32-1152, subsection B, a contractor may substitute any of the following:

37 1. Certificates of deposit assigned to the registrar, issued by
38 banks doing business in this state and insured by the federal deposit
39 insurance corporation.

40 2. Investment certificates or share accounts assigned to the
41 registrar and issued by a savings and loan association doing business in
42 this state and insured by the federal deposit insurance corporation.

43 B. The terms and conditions surrounding each of such types of
44 security ~~shall~~ MAY be prescribed by the registrar.

1 Sec. 25. Section 32-1154, Arizona Revised Statutes, is amended to
2 read:

3 32-1154. Grounds for suspension or revocation of license;
4 continuing jurisdiction; civil penalty

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

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

10 2. Departure from or disregard of:

11 (a) ~~Plans or specifications or any building codes of this state or~~
12 ~~any political subdivision of this state~~ in any material respect that is
13 prejudicial to another without consent of the owner or the owner's duly
14 authorized representative and without the consent of the person entitled
15 to have the particular construction project or operation completed in
16 accordance with such plans and specifications and code.

17 (b) A BUILDING CODE OF THIS STATE OR ANY POLITICAL SUBDIVISION OF
18 THIS STATE IN ANY MATERIAL RESPECT THAT IS PREJUDICIAL TO ANOTHER.

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

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

22 5. Misrepresentation of a material fact by the applicant in
23 obtaining a license.

24 6. The doing of a fraudulent act by the licensee as a contractor
25 resulting in another person being substantially injured. FOR THE PURPOSES
26 OF THIS PARAGRAPH, "FRAUDULENT ACT" MEANS A MATERIAL MISREPRESENTATION
27 THAT A LICENSEE MAKES, THAT IS RELIED ON BY ANOTHER PERSON AND THAT
28 RESULTS IN DAMAGE TO THAT PERSON OR THAT PERSON'S PROPERTY.

29 7. Conviction of a felony.

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

33 9. ATTEMPTING TO EVADE THIS CHAPTER BY:

34 (a) Aiding or abetting a licensed or unlicensed person. ~~to evade~~
35 ~~this chapter, knowingly or recklessly combining~~

36 (b) ACTING or conspiring with a licensed or unlicensed person. ~~—~~

37 (c) Allowing one's license to be used by a licensed or unlicensed
38 person. ~~or~~

39 (d) Acting as agent, partner, associate or otherwise of a licensed
40 or unlicensed person ~~with intent to evade this chapter.~~

41 10. Failure by a licensee or agent or official of a licensee to pay
42 monies in excess of ~~seven hundred fifty dollars~~ \$750 when due for
43 materials or services rendered in connection with the licensee's
44 operations as a contractor ~~when the licensee has the capacity to pay or,~~
45 ~~if~~ UNLESS the licensee PROVES THAT THE LICENSEE lacks the capacity to

1 pay, ~~when the licensee~~ AND has NOT received sufficient monies as payment
2 for the particular construction work project or operation for which the
3 services or materials were rendered or purchased.

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

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

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

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

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

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

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

20 18. Failure to notify the registrar in writing within a period of
21 fifteen days of any disassociation of the person who qualified for the
22 license. The licensee ~~shall have~~ MUST QUALIFY THROUGH ANOTHER PERSON
23 WITHIN sixty days ~~from~~ AFTER the date of disassociation ~~to qualify through~~
24 ~~another person~~.

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

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

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

36 (a) Not performed at the required location.

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

39 22. Failure to take appropriate corrective action to comply with
40 this chapter or with rules adopted pursuant to this chapter without valid
41 justification within a reasonable period of time after receiving a written
42 directive from the registrar. The written directive ~~shall~~ MUST set forth
43 the time within which the contractor is to complete the remedial action.
44 The time permitted for compliance ~~shall~~ MAY not be less than fifteen days
45 from the date of issuance of the directive. A license ~~shall~~ MAY not be

1 revoked or suspended nor ~~shall~~ MAY any other penalty be imposed for a
2 violation of this paragraph until after a hearing has been held.

3 23. Prohibit, threaten to prohibit, retaliate against, threaten to
4 retaliate against or otherwise intimidate any contractor or materialman
5 from serving a preliminary notice pursuant to section 33-992.01.

6 24. For contractors, failure to comply with title 44, chapter 11,
7 article 11.

8 B. The registrar:

9 1. May ~~on the registrar's own motion, and shall~~ INVESTIGATE THE
10 ACTS OF A CONTRACTOR IN THIS STATE ON THE REGISTRAR'S OWN MOTION.

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

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

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

37 3. MAY TEMPORARILY SUSPEND, WITH OR WITHOUT IMPOSITION OF SPECIFIC
38 CONDITIONS IN ADDITION TO INCREASED SURETY BOND OR CASH DEPOSIT
39 REQUIREMENTS, OR PERMANENTLY REVOKE ANY OR ALL LICENSES ISSUED UNDER THIS
40 CHAPTER IF THE HOLDER OF THE LICENSE ISSUED PURSUANT TO THIS CHAPTER IS
41 GUILTY OF OR COMMITS ANY OF THE ACTS OR OMISSIONS SET FORTH IN SUBSECTION
42 A OF THIS SECTION.

1 C. Pursuant to this chapter, the registrar shall temporarily
2 ~~suspend or permanently revoke the license~~ SUSPEND BY OPERATION OF LAW A
3 LICENSE issued to a person under this chapter on notice from the
4 department of revenue that a tax debt related to income taxes, withholding
5 taxes or any tax imposed or administered by title 42, chapter 5 that was
6 incurred in the operation of the licensed business has become final and
7 the person neglects to pay or refuses to pay the tax debt.

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

15 E. The registrar may impose a civil penalty of not to exceed five
16 ~~hundred dollars~~ \$500 on a contractor for each violation of subsection A,
17 paragraph 22 of this section. Civil penalties collected pursuant to this
18 subsection shall be deposited in the residential contractors' recovery
19 fund. The failure by the licensee to pay any civil penalty imposed under
20 this subsection results in the automatic revocation of the license thirty
21 days after the effective date of the order providing for the civil
22 penalty. A person who is or was named on a license of a contractor when
23 an act or omission occurs that results in a civil penalty may not receive
24 a new license under this chapter until the entire civil penalty is paid.

25 F. The registrar shall MAY impose a civil penalty of not to exceed
26 ~~one thousand dollars~~ \$1,000 on a contractor for each violation of
27 subsection A, paragraph 17 of this section. Civil penalties collected
28 pursuant to this subsection shall be deposited in the residential
29 contractors' recovery fund. The failure by the licensee to pay any civil
30 penalty imposed under this subsection results in the automatic permanent
31 revocation of the license thirty days after the effective date of the
32 order providing for the civil penalty. A person who is or was named on a
33 license of a contractor when an act or omission occurs that results in a
34 civil penalty may not receive a new license under this chapter until the
35 entire civil penalty is paid.

36 ~~G. Notwithstanding any other provisions in this chapter, if a~~
37 ~~contractor's license has been revoked or has been suspended as a result of~~
38 ~~an order to remedy a violation of this chapter, the registrar may order~~
39 ~~payment from the residential contractors' recovery fund to remedy the~~
40 ~~violation. The registrar shall serve the contractor with a notice setting~~
41 ~~forth the amount claimed or to be awarded. If the contractor contests the~~
42 ~~amount or propriety of the payment, the contractor shall respond within~~
43 ~~ten days of the date of service by requesting a hearing to determine the~~
44 ~~amount or propriety of the payment. Failure by the contractor to respond~~
45 ~~in writing within ten days of the date of service shall be deemed a waiver~~

1 ~~by the contractor of the right to contest the amount claimed or to be~~
2 ~~awarded. Service may be made by personal service to the contractor or by~~
3 ~~mailing a copy of the notice by registered mail with postage prepaid to~~
4 ~~the contractor's latest address of record on file in the registrar's~~
5 ~~office. If service is made by registered mail, it is effective five days~~
6 ~~after the notice is mailed. Except as provided in section 41-1092.08,~~
7 ~~subsection H, the contractor or injured person may seek judicial review of~~
8 ~~the registrar's final award pursuant to title 12, chapter 7, article 6.~~
9 ~~An applicant to the residential contractors' recovery fund pursuant to~~
10 ~~this subsection must show that the applicant has proceeded against any~~
11 ~~existing bond covering the residential contractor and has not collected on~~
12 ~~the bond in an amount of thirty thousand dollars or more.~~

13 Sec. 26. Section 32-1155, Arizona Revised Statutes, is amended to
14 read:

15 32-1155. Filing of complaint; resolution of complaint;
16 service of notice; failure to answer; prohibited
17 citations

18 A. On the filing of a written complaint with the registrar charging
19 a licensee with the commission, ~~within two years before the date of filing~~
20 ~~the complaint,~~ of an act that is cause for suspension or revocation of a
21 license, including an act that is in violation of title 44, chapter 11,
22 article 11, the registrar after investigation, in its sole discretion, may
23 issue a citation directing the licensee, within ten days after service of
24 the citation on the licensee, to appear by filing with the registrar the
25 licensee's written answer to the citation and complaint showing cause, if
26 any, why the licensee's license should not be suspended or revoked. **THE**
27 **COMPLAINT MUST BE FILED WITHIN THE STATUTE OF LIMITATIONS PRESCRIBED BY**
28 **32-1162.**

29 B. Service of **THE** citation on the licensee ~~shall be~~ **IS** fully
30 effected by personal service or by mailing a true copy thereof, together
31 with a true copy of the complaint, by ~~registered~~ **CERTIFIED** mail in a
32 sealed envelope with postage prepaid and addressed to the licensee at the
33 licensee's latest address of record in the registrar's office. Service of
34 the citation and complaint ~~shall be~~ **IS** complete at the time of personal
35 service or five days after deposit in the mail. ~~The two-year period~~
36 ~~prescribed by this subsection shall commence on the earlier of the close~~
37 ~~of escrow or actual occupancy for new home or other new building~~
38 ~~construction and otherwise shall commence on completion of the specific~~
39 ~~project.~~

40 ~~B.~~ C. Failure of the licensee to answer within ten days after
41 service ~~shall~~ **MAY** be deemed an admission by the licensee of the licensee's
42 commission of the act or acts charged in the complaint, and the registrar
43 may then suspend or revoke the licensee's license. ~~UNLESS THE REGISTRAR~~
44 ~~DETERMINES, IN ITS SOLE DISCRETION, THAT THE FAILURE TO ANSWER WITHIN SUCH~~
45 ~~PERIOD IS ATTRIBUTABLE TO EXCUSABLE NEGLIGENCE ON THE PART OF THE LICENSEE.~~

1 ~~☞~~ D. The registrar ~~shall~~ MAY not issue a citation for failure to
2 perform work in a professional and workmanlike manner or in accordance
3 with any applicable building codes and professional industry standards if
4 either:

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

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

10 ~~☞~~ E. Notwithstanding subsection ~~☞~~ D of this section, the
11 registrar may investigate the complaint without waiting fifteen days.

12 Sec. 27. Repeal

13 Section 32-1155.01, Arizona Revised Statutes, is repealed.

14 Sec. 28. Section 32-1156, Arizona Revised Statutes, is amended to
15 read:

16 32-1156. Hearings

17 A. Title 41, chapter 6, article 10 applies to hearings under this
18 chapter.

19 B. In a hearing or rehearing conducted pursuant to this section a
20 ~~corporation~~ COMPANY may be represented by ~~a corporate~~ AN officer or
21 employee who is not a member of the state bar if BOTH:

22 1. The ~~corporation~~ COMPANY has specifically authorized the officer
23 or employee to represent it.

24 2. The representation is not the officer's or employee's primary
25 duty to the ~~corporation~~ COMPANY but is secondary ~~or incidental~~ to the
26 officer's or employee's duties relating to the management or operation of
27 the ~~corporation~~ COMPANY.

28 Sec. 29. Section 32-1156.01, Arizona Revised Statutes, is amended
29 to read:

30 32-1156.01. Restitution; prohibition

31 A. After a hearing pursuant to this article, an administrative law
32 judge may recommend that a licensee provide restitution to any person who
33 is injured or whose property is damaged by an action of the licensee.

34 B. A RESTITUTION AWARD MADE PURSUANT TO THIS SECTION MAY NOT
35 INCLUDE ATTORNEY FEES.

36 Sec. 30. Section 32-1161, Arizona Revised Statutes, is amended to
37 read:

38 32-1161. Rights of contractor after suspension of license

39 A. After ~~suspension of~~ SUSPENDING the license ~~upon~~ ON any of the
40 grounds set forth in section 32-1154, the registrar shall renew it ~~upon~~ ON
41 proof of compliance by the contractor with provisions of the judgment
42 relating to renewal of the license, or in the absence of a judgment or
43 provisions therein as to renewal, ~~upon~~ ON proper showing that all loss
44 caused by the act or omission for which the license was suspended has been
45 fully satisfied.

1 B. After ~~suspension of~~ SUSPENDING the license pursuant to ~~the~~
2 ~~provisions of~~ section 32-1154, the licensee may perform, without
3 compensation, warranty work or other corrective work.

4 C. After ~~revocation of~~ REVOKING a license ~~upon~~ ON any of the
5 grounds set forth in section 32-1154, the license ~~shall~~ MAY not be renewed
6 or reissued for one year after final determination of revocation and then
7 only on proper showing that all loss caused by the act or omission for
8 which the license was revoked has been fully satisfied. FOR THE PURPOSES
9 OF THIS SUBSECTION, A PROPER SHOWING MAY BE MADE BY DEMONSTRATING, TO THE
10 SATISFACTION OF THE REGISTRAR, THAT THE LICENSEE EXHAUSTED ALL REASONABLE
11 MEANS TO REMEDY THE UNDERLYING LOSS CAUSED BY THE ACT OR OMISSION.

12 Sec. 31. Title 32, chapter 10, article 3, Arizona Revised Statutes,
13 is amended by adding section 32-1162, to read:

14 32-1162. Statute of limitations; remedy violations

15 A. A PERSON MAY FILE A WRITTEN COMPLAINT WITH THE REGISTRAR
16 ALLEGING A LICENSEE HAS COMMITTED A VIOLATION OF THIS CHAPTER PURSUANT TO
17 SECTION 32-1155. THE COMPLAINT MUST BE FILED:

18 1. FOR NEW HOME BUILDS OR OTHER NEW BUILDING CONSTRUCTION, WITHIN
19 TWO YEARS AFTER THE EARLIER OF THE CLOSE OF ESCROW OR ACTUAL OCCUPANCY.

20 2. FOR ALL OTHER PROJECTS, WITHIN TWO YEARS AFTER THE COMPLETION OF
21 THE SPECIFIC PROJECT.

22 B. A LICENSEE'S QUALIFYING PARTY IS RESPONSIBLE FOR ANY VIOLATION
23 OF THIS CHAPTER COMMITTED BY THE LICENSEE DURING THE PERIOD OF TIME THAT
24 THE QUALIFYING PARTY IS NAMED ON THE LICENSE.

25 C. A PERSON NAMED ON A LICENSE IS RESPONSIBLE FOR ANY VIOLATION OF
26 THIS CHAPTER COMMITTED BY THE LICENSEE DURING THE PERIOD OF TIME THAT
27 PERSON WAS NAMED ON THE LICENSE.

28 Sec. 32. Section 32-1165, Arizona Revised Statutes, is amended to
29 read:

30 32-1165. Advertising; violation; classification

31 Except as authorized by section 32-1121, subsection A, ~~paragraph 14,~~
32 ~~subdivision (c),~~ it is a class 1 misdemeanor for any person to advertise
33 that ~~he~~ THE PERSON is able to perform any service or contract for
34 compensation subject to regulation by the registrar under the terms of
35 this chapter unless THE PERSON FIRST OBTAINS a license under the terms of
36 this chapter ~~is first obtained regardless of whether his operations as a~~
37 ~~contractor are otherwise exempt.~~

38 Sec. 33. Repeal

39 Sections 32-1166 and 32-1166.01, Arizona Revised Statutes, are
40 repealed.

1 Sec. 34. Title 32, chapter 10, article 3, Arizona Revised Statutes,
2 is amended by adding new sections 32-1166 and 32-1166.01, to read:

3 32-1166. Cease and desist orders

4 A. THE REGISTRAR MAY ISSUE A CEASE AND DESIST ORDER TO ANY PERSON
5 WHO IS REQUIRED TO BE LICENSED BY THIS CHAPTER BUT WHO IS NOT LICENSED AND
6 WHO ENGAGED IN AN ACT OF CONTRACTING, A PRACTICE OR A TRANSACTION THAT
7 VIOLATES THIS CHAPTER, A RULE ADOPTED BY THE REGISTRAR OR AN ORDER ISSUED
8 BY THE REGISTRAR.

9 B. THE CEASE AND DESIST ORDER MAY REQUIRE THE PERSON TO IMMEDIATELY
10 CEASE AND DESIST FROM ENGAGING IN AN ACT, PRACTICE OR TRANSACTION ON
11 RECEIPT OF THE ORDER.

12 C. SERVICE OF THE CEASE AND DESIST ORDER IS FULLY EFFECTED BY
13 PERSONAL SERVICE OR BY MAILING A TRUE COPY OF THE CEASE AND DESIST ORDER
14 BY CERTIFIED MAIL IN A SEALED ENVELOPE, WITH POSTAGE PREPAID, ADDRESSED TO
15 EITHER:

- 16 1. THE PERSON'S LAST KNOWN BUSINESS ADDRESS.
- 17 2. THE PERSON'S RESIDENTIAL ADDRESS.

18 32-1166.01. Citation: civil penalties

19 A. IN CONJUNCTION WITH THE REGISTRAR'S AUTHORITY TO ISSUE A CEASE
20 AND DESIST ORDER UNDER SECTION 32-1166, SUBSECTION A, THE REGISTRAR MAY
21 ISSUE A CITATION FOR CONTRACTING PRACTICING OR TRANSACTING THAT
22 CONSTITUTES A VIOLATION OF ANY OF THE FOLLOWING:

23 1. THIS CHAPTER.

24 2. A RULE ADOPTED BY THE REGISTRAR.

25 3. AN ORDER ISSUED BY THE REGISTRAR.

26 B. A CITATION ISSUED PURSUANT TO THIS SECTION SHALL:

27 1. BE IN WRITING.

28 2. CLEARLY DESCRIBE THE VIOLATION FOR WHICH THE CITATION WAS
29 ISSUED.

30 3. CONTAIN AN ORDER TO CEASE AND DESIST.

31 4. CONTAIN A CIVIL PENALTY OF AT LEAST \$200 FOR EACH VIOLATION BUT
32 NOT MORE THAN \$2,500 FOR MULTIPLE VIOLATIONS COMMITTED ON THE SAME DAY.

33 C. EACH VIOLATION OF THIS CHAPTER OR A RULE OR ORDER OF THE
34 REGISTRAR BY A PERSON WHO IS REQUIRED TO BE LICENSED BY THIS CHAPTER AND
35 WHO DOES NOT POSSESS THE REQUIRED LICENSE CONSTITUTES A SEPARATE OFFENSE
36 AND THE REGISTRAR MAY IMPOSE A CIVIL PENALTY NOT TO EXCEED \$2,500 FOR EACH
37 VIOLATION EXCEPT THAT THE CIVIL PENALTY MAY NOT EXCEED \$2,500 FOR ALL
38 VIOLATIONS COMMITTED ON THE SAME DAY.

39 D. THE REGISTRAR SHALL ISSUE A CITATION UNDER THIS SECTION WITHIN
40 ONE HUNDRED AND EIGHTY DAYS AFTER ACTUAL DISCOVERY OF THE OFFENSE BY THIS
41 STATE OR THE POLITICAL SUBDIVISION HAVING JURISDICTION. SERVICE OF THE
42 CITATION IS FULLY EFFECTED BY PERSONAL SERVICE OR BY MAILING A TRUE COPY
43 OF THE CITATION BY CERTIFIED MAIL IN A SEALED ENVELOPE WITH POSTAGE
44 PREPAID AND ADDRESSED TO EITHER:

1 1. THE PERSON'S LAST KNOWN BUSINESS ADDRESS.

2 2. THE PERSON'S RESIDENTIAL ADDRESS.

3 E. THE REGISTRAR MAY ISSUE CITATIONS CONTAINING ORDERS TO CEASE AND
4 DESIST AND CIVIL PENALTIES AGAINST PERSONS WHO HAVE NEVER BEEN LICENSED
5 UNDER THIS CHAPTER WHO ARE ACTING IN THE CAPACITY OF OR ENGAGING IN THE
6 BUSINESS OF A CONTRACTOR IN THIS STATE.

7 F. IF THE REGISTRAR ISSUES A CITATION AGAINST A PERSON AND THE
8 PERSON FAILS TO COMPLY WITH THE CEASE AND DESIST ORDER AND CITATION, THE
9 REGISTRAR MAY ASSESS AN ADDITIONAL CIVIL PENALTY OF UP TO \$2,500 FOR EACH
10 DAY THE VIOLATION CONTINUES.

11 G. THE REGISTRAR MAY ADOPT RULES RELATING TO THE CIVIL PENALTY THAT
12 GIVE DUE CONSIDERATION TO THE GRAVITY OF THE VIOLATION AND ANY HISTORY OF
13 PREVIOUS VIOLATIONS.

14 H. THE PENALTIES AUTHORIZED UNDER THIS SECTION ARE SEPARATE FROM,
15 AND IN ADDITION TO, ALL OTHER REMEDIES PROVIDED BY LAW, EITHER CIVIL OR
16 CRIMINAL.

17 I. THE REGISTRAR SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND
18 35-147, ALL MONIES COLLECTED FROM CIVIL PENALTIES UNDER THIS SECTION IN
19 THE STATE GENERAL FUND.

20 Sec. 35. Repeal

21 Sections 32-1166.02 and 32-1167, Arizona Revised Statutes, are
22 repealed.

23 Sec. 36. Section 32-1168, Arizona Revised Statutes, is amended to
24 read:

25 32-1168. Proof of valid license

26 At the request of the registrar, and after ~~the issuance of~~ ISSUING a
27 citation pursuant to section 32-1104, subsection A, paragraph 4, or a
28 cease and desist order pursuant to section 32-1166, ~~subsection A~~, the
29 county, city or authority of the state may cause work on a construction
30 project to cease or be suspended on that project until there is compliance
31 with the licensing requirements of section 32-1151 by those contractors
32 employed on that project.

33 Sec. 37. Section 32-1169, Arizona Revised Statutes, is amended to
34 read:

35 32-1169. Building permits; local proof of valid license;
36 violation

37 A. Each county, city or other political subdivision or authority of
38 this state or any agency, department, board or commission of this state
39 ~~which~~ THAT requires the issuance of a building permit as a condition
40 precedent to the construction, alteration, improvement, demolition or
41 repair of a building, structure or other improvement to real property for
42 which a license is required under this chapter, as part of the application
43 procedures which it ~~utilizes~~ USES, shall require that each applicant for a
44 building permit file a signed statement that the applicant is ~~currently~~
45 PROPERLY licensed TO PERFORM THE WORK DESCRIBED IN THE PERMIT under this

1 chapter with the applicant's license number. If the applicant purports to
2 be exempt from the licensing requirements of this chapter, the statement
3 shall contain the basis of the asserted exemption and the name and license
4 number of any general, mechanical, electrical or plumbing contractor who
5 will be employed on the work. The local issuing authority may require
6 from the applicant a statement signed by the registrar to verify any
7 purported exemption.

8 B. The filing of an application containing false or incorrect
9 information concerning an applicant's contractor's license with the intent
10 to avoid the licensing requirements of this chapter is unsworn
11 falsification pursuant to section 13-2704.

12 Sec. 38. Section 32-1170.02, Arizona Revised Statutes, is amended
13 to read:

14 32-1170.02. Qualification examination

15 A. To qualify as a solar contractor under this article, the
16 applicant shall:

17 1. Submit to the registrar an application on forms prescribed by
18 the registrar, identifying the applicant and the classification of license
19 held or sought by the applicant, and pay the prescribed fee.

20 2. Pass an examination approved and conducted by the registrar that
21 is specific to the solar requirements of the classification of license
22 held or sought by the applicant.

23 3. Meet all other provisions of this chapter relating to obtaining
24 and ~~retaining~~ MAINTAINING an appropriate license.

25 B. The examination shall be given by the registrar at the times and
26 places prescribed by the registrar.

27 C. The license of a successful applicant shall be appropriately
28 marked or supplemented by the registrar to indicate qualification as a
29 solar contractor within the scope of that license.

30 Sec. 39. Transfer and renumber

31 Section 32-1129, 32-1129.01, 32-1129.02, 32-1129.03, 32-1129.04,
32 32-1129.05, 32-1129.06 and 32-1129.07, Arizona Revised Statutes, are
33 transferred and renumbered for placement in title 32, chapter 10, article
34 5, as added by this act, as follows:

| <u>Former Sections</u> | <u>New Sections</u> |
|------------------------|---------------------|
| 35 32-1129 | 32-1181 |
| 36 32-1129.01 | 32-1182 |
| 37 32-1129.02 | 32-1183 |
| 38 32-1129.03 | 32-1184 |
| 39 32-1129.04 | 32-1185 |
| 40 32-1129.05 | 32-1186 |
| 41 32-1129.06 | 32-1187 |
| 42 32-1129.07 | 32-1188 |
| 43 32-1129.07 | 32-1188 |

1 Sec. 40. Heading repeal

2 The article heading of former title 32, chapter 10, article 5,
3 Arizona Revised Statutes, is repealed.

4 Sec. 41. Title 32, chapter 10, Arizona Revised Statutes, is amended
5 by adding a new article 5, to read:

6 ARTICLE 5. PROMPT PAY

7 Sec. 42. Section 32-1181, Arizona Revised Statutes, as transferred
8 and renumbered, is amended to read:

9 32-1181. Definitions; applicability

10 A. In ~~sections 32-1129.01, 32-1129.02, 32-1129.03, 32-1129.04,~~
11 ~~32-1129.05 and 32-1129.07~~ THIS ARTICLE, unless the context otherwise
12 requires:

13 1. "Construction contract" means a written or oral agreement
14 relating to the construction, alteration, repair, maintenance, moving or
15 demolition of any building, structure or improvement or relating to the
16 excavation of or other development or improvement to land.

17 2. "Contractor" means any person, firm, partnership, corporation,
18 association or other organization, or a combination of any of them, that
19 has a direct contract with an owner to perform work under a construction
20 contract.

21 3. "Final completion" means the earliest of the following:

22 (a) When the work, or the work under a portion of a construction
23 contract for which the contract states a separate price, has been
24 completed in accordance with the terms and conditions of the construction
25 contract.

26 (b) The date of final inspection and final written acceptance by
27 the governmental body that issues the building permit for the building,
28 structure or improvement.

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

36 5. "Retention" means a portion of a progress payment otherwise due
37 from the owner to the contractor that is withheld pursuant to the terms
38 and conditions of a construction contract to ensure proper performance of
39 the construction contract.

40 6. "Subcontractor" means any person, firm, partnership,
41 corporation, association or other organization, or a combination of any of
42 them, that has a direct contract with a contractor or another
43 subcontractor to perform a portion of the work under a construction
44 contract.

1 7. "Substantial completion" or "substantially complete" means the
2 earliest of the following events:

3 (a) The stage in the progress of the work on a construction
4 contract when the work, or the work under a portion of a construction
5 contract for which the contract states a separate price, is sufficiently
6 complete in accordance with the terms and conditions of the construction
7 contract so that the owner can occupy and use the work or such portion of
8 the work for its intended purpose. When substantial completion occurs for
9 a portion of a construction contract for which the contract states a
10 separate price, substantial completion occurs only to the work under that
11 portion of the contract.

12 (b) The stage in the progress of the work on a construction
13 contract when the contractor has sufficiently completed the work or the
14 work under a portion of a construction contract for which the contract
15 states a separate price in accordance with the terms and conditions of the
16 construction contract to allow the owner to occupy and use the work or
17 such portion of the work for its intended purpose but the owner is unable
18 to or does not occupy or use the work or such portion of the work for its
19 intended purpose through no fault of the contractor.

20 (c) The date on which the governmental body that issues the
21 building permit, if any, for a building, structure or improvement issues
22 the written acceptance allowing the owner to occupy and use the work under
23 a construction contract.

24 8. "Work" means the labor, materials, equipment and services to be
25 provided by a contractor or subcontractor under a construction contract.

26 B. The definitions in this section do not apply to section 12-552.

27 Sec. 43. Section 32-1182, Arizona Revised Statutes, as transferred
28 and renumbered, is amended to read:

29 32-1182. Progress payments by owner; conditions; interest

30 A. By mutual agreement with a contractor, an owner may make
31 progress payments on construction contracts of less than sixty days. An
32 owner shall make progress payments to a contractor on all other
33 construction contracts. Progress payments shall be made on the basis of a
34 duly certified and approved billing or estimate of the work performed and
35 the materials supplied ~~during the preceding thirty day billing cycle, or~~
36 ~~such other billing cycle as stated in the construction contract. If~~
37 ~~billings or estimates are to.~~ THE BILLING OR ESTIMATE FOR A PROGRESS
38 PAYMENT SHALL be submitted ~~in other than~~ ON A thirty day billing ~~cycles,~~
39 CYCLE UNLESS the construction contract and each page of the plans,
40 including bid plans and construction plans, shall specifically identify
41 ~~such other~~ A DIFFERENT billing cycle in a clear and conspicuous manner as
42 prescribed in subsection B of this section. If any work is performed
43 during ~~the preceding~~ A billing cycle, a contractor shall timely submit a
44 billing or estimate to the owner ~~covering the work performed during that~~
45 ~~billing cycle.~~ Except as provided in subsection C of this section, the

1 owner shall make progress payments to the contractor within seven days
2 after the date the billing or estimate is certified and approved pursuant
3 to subsection D of this section. Except as provided in subsection C of
4 this section, an owner shall release retention to the contractor within
5 seven days after the date the billing or estimate for release of retention
6 is certified and approved pursuant to subsection H of this section.
7 Except as provided in subsection C of this section, an owner shall make
8 final payment to the contractor within seven days after the billing or
9 estimate for final payment is certified and approved pursuant to
10 subsection K of this section.

11 B. A construction contract may provide for a billing cycle other
12 than a thirty day billing cycle if the construction contract specifically
13 sets forth such other billing cycle and either of the following applies:

14 1. The following legend or substantially similar language setting
15 forth the other billing cycle appears in clear and conspicuous type on
16 each page of the plans, including bid plans and construction plans:

17 Notice of Alternate Billing Cycle

18 This contract allows the owner to require the submission
19 of billings or estimates in billing cycles other than thirty
20 days. Billings or estimates for this contract shall be
21 submitted as follows:

22 _____
23 _____
24 _____

25 2. The following legend or substantially similar language setting
26 forth the other billing cycle appears in clear and conspicuous type on
27 each page of the plans, including bid plans and construction plans:

28 Notice of Alternate Billing Cycle

29 This contract allows the owner to require the submission
30 of billings or estimates in billing cycles other than thirty
31 days. A written description of such other billing cycle
32 applicable to the project is available from the owner or the
33 owner's designated agent at (telephone number or address, or
34 both), and the owner or its designated agent shall provide
35 this written description on request.

36 C. An owner may make progress payments, release of retention and
37 final payment later than seven days after the date the billing or estimate
38 is certified and approved if both:

39 1. The construction contract in a clear and conspicuous manner
40 specifically provides for a later payment defined by a specified number of
41 days after certification and approval.

42 2. The following legend or substantially similar language setting
43 forth the specified number of days appears in clear and conspicuous type
44 on each page of the plans, including bid plans and construction plans:

1 2. The following legend or substantially similar language, setting
2 forth the specified number of days, appears in clear and conspicuous type
3 on each page of the plans, including bid plans and construction plans:

4 Notice of Extended Certification and
5 Approval Period Provision

6 This contract allows the owner to certify and approve
7 billings and estimates for progress payments within ____ days
8 after the billings and estimates are received from the
9 contractor, for release of retention within ____ days after
10 the billings and estimates are received from the contractor
11 and for final payment within ____ days after the billings and
12 estimates are received from the contractor.

13 G. After the effective date of a construction contract, an owner
14 and contractor may change the number of specified days after certification
15 and approval for the owner to make payment to the contractor or within
16 which a billing or estimate must be certified and approved. Any
17 contractor or subcontractor that does not provide written consent to the
18 change will continue to be paid as previously agreed.

19 H. On substantial completion of the work, a contractor shall submit
20 a billing or estimate for release of retention. Except as provided in
21 subsection F of this section, the billing or estimate for release of
22 retention shall be deemed certified and approved within fourteen days
23 after the owner receives the billing or estimate, unless before that time
24 the owner or the owner's agent issues a written statement stating in
25 reasonable detail the owner's reasons for not certifying or approving all
26 or a portion of the billing or estimate. The owner is deemed to have
27 received the billing or estimate when the billing or estimate is submitted
28 to any person designated by the owner for receipt or for certification and
29 approval of the billing or estimate. The owner may:

30 1. Decline to certify and approve a billing or estimate for release
31 of retention or a portion of a billing or estimate for release of
32 retention for failure of the contractor to complete a material requirement
33 of the construction contract or to complete portions of the work or for
34 any reason permitted under subsection D of this section.

35 2. Withhold from retention to be released only an amount not to
36 exceed one hundred fifty ~~per cent~~ PERCENT of the direct costs and expenses
37 the owner reasonably expects to incur to protect the owner from loss for
38 which the contractor is responsible and that results from the contractor's
39 failure to complete portions of the work at the time of substantial
40 completion or for any reasons set forth in writing pursuant to this
41 subsection.

42 I. Except as provided in subsections C and H of this section, the
43 owner shall pay the retention to the contractor within seven days after
44 the date the billing or estimate for release of retention is certified and
45 approved. If the owner has declined to certify or approve a billing or

1 estimate for release of retention or a portion of a billing or estimate
2 for release of retention pursuant to subsection H of this section, when
3 any reason as stated in the owner's written statement has been removed,
4 the contractor may submit a supplemental billing or estimate for all or a
5 portion of the withheld amounts of retention pursuant to subsection H of
6 this section. Unless otherwise agreed, the contractor may submit only one
7 billing or estimate during each billing cycle.

8 J. When a contractor substantially completes all work under a
9 portion of a construction contract for which the contract states a
10 separate price, the contractor shall submit a billing or estimate for
11 release of retention on that portion of the construction contract pursuant
12 to subsection H of this section.

13 K. On final completion of the work, a contractor shall submit a
14 billing or estimate for final payment. Except as provided in subsection F
15 of this section, a billing or estimate for final payment shall be deemed
16 certified and approved fourteen days after the owner receives the billing
17 or estimate, unless before that time the owner or owner's agent prepares
18 and issues a written statement stating in reasonable detail the reasons
19 the billing or estimate has not been certified or approved. The owner is
20 deemed to have received the billing or estimate for final payment when the
21 billing or estimate is submitted to any person designated by the owner for
22 receipt of or for certification and approval of the billing or estimate.
23 The owner may:

24 1. Decline to certify and approve a billing or estimate for final
25 payment or a portion of a billing or estimate for final payment for
26 failure of the contractor to complete a requirement of the construction
27 contract or to complete portions of the work or for any reason permitted
28 under subsection D of this section.

29 2. Withhold from final payment only an amount not to exceed one
30 hundred fifty ~~percent~~ PERCENT of the direct costs and expenses the owner
31 reasonably expects to incur to protect the owner from loss for which the
32 contractor is responsible and that results from any reasons set forth in
33 writing pursuant to this subsection.

34 L. Except as provided in subsection C of this section, the owner
35 shall make final payment to the contractor within seven days after the
36 date the billing or estimate for final payment is certified and approved.
37 If the owner has declined to certify or approve a billing or estimate for
38 final payment or a portion of a billing or estimate for final payment
39 pursuant to subsection K of this section, when any reason as stated in the
40 owner's written statement has been removed, the contractor may submit a
41 billing or estimate for all or a portion of the withheld amounts of final
42 payment pursuant to subsection K of this section. Unless otherwise
43 agreed, the contractor may submit only one billing or estimate during each
44 billing cycle.

1 M. Except as provided in subsection C of this section, on projects
2 that require a federal agency's final certification or approval, the owner
3 shall make payment in full on the construction contract within seven days
4 after the federal agency's final certification or approval.

5 N. When a contractor completes all work under a portion of a
6 construction contract for which the contract states a separate price, the
7 contractor may timely submit a billing or estimate for final payment on
8 that portion of the construction contract pursuant to subsection K of this
9 section.

10 O. Payment shall not be required pursuant to this section unless the
11 contractor provides the owner with a billing or estimate in accordance
12 with the terms of the construction contract between the parties.

13 P. A construction contract shall not alter the rights of any
14 contractor, subcontractor or material supplier to receive prompt and
15 timely payments as provided under this article.

16 Q. If an owner or a third party designated by an owner as the person
17 responsible for making progress payments, releasing retention or making
18 final payment on a construction contract does not make a timely payment on
19 amounts due pursuant to this section, the owner shall pay the contractor
20 interest at the rate of one and one-half ~~per cent~~ PERCENT a month or
21 fraction of a month on the unpaid balance, or at a higher rate as the
22 parties to the construction contract agree.

23 R. On the written request of a subcontractor, the owner shall notify
24 the subcontractor within five days after the issuance of a progress
25 payment to the contractor. On the written request of a subcontractor, the
26 owner shall notify the subcontractor within five days after the owner
27 releases retention or makes the final payment to the contractor on the
28 construction contract. A subcontractor's request pursuant to this
29 subsection shall remain in effect for the duration of the subcontractor's
30 work on the project.

31 S. In any action or arbitration brought to collect payments or
32 interest pursuant to this section, the successful party shall be awarded
33 costs and attorney fees in a reasonable amount.

34 T. If the owner and contractor are a single entity, that entity
35 shall pay its subcontractors or material suppliers within fourteen days
36 after the billing or estimate is certified and approved unless the
37 deadlines for certification and approval or for payment have been modified
38 pursuant to subsection C or F of this section.

39 U. Notwithstanding anything to the contrary in this section, an
40 owner may define "retention", "substantial completion" and "final
41 completion" to have meanings different than those stated in section
42 ~~32-1129~~ 32-1181, if:

43 1. The construction contract in a clear and conspicuous manner
44 defines the terms.

1 2. The legend set forth in subsection W of this section or
2 substantially similar language appears in clear and conspicuous type on
3 each page of the plans, including bid plans and construction plans.

4 3. The different meanings of "retention", "substantial completion"
5 and "final completion" are set forth in the plans, including on bid plans
6 and construction plans, and the legend required by paragraph 2 of this
7 subsection designates the sheet number of the plans on which the different
8 meanings of the terms can be found.

9 V. Notwithstanding anything to the contrary in this section, an
10 owner may establish different timing and conditions for when the
11 contractor may submit a billing or estimate for release of retention or
12 for final payment and for when such payments shall be due, if:

13 1. The construction contract in a clear and conspicuous manner
14 establishes different timing for when the contractor may submit a billing
15 or estimate for release of retention or for final payment, or both, and
16 for when such payments shall be due.

17 2. The legend set forth in subsection W of this section or
18 substantially similar language appears in clear and conspicuous type on
19 each page of the plans, including bid plans and construction plans.

20 3. The different timing and conditions for when the contractor may
21 submit a billing or estimate for release of retention or for final payment
22 and for when such payments shall be due are set forth in the plans,
23 including on bid plans and construction plans, and the legend required by
24 paragraph 2 of this subsection designates the sheet number of the plans on
25 which the different timing and conditions can be found.

26 W. The legend for making one or more of the modifications set forth
27 in subsections U and V of this section shall be as follows:

28 Notice of Alternate Arrangements for
29 Release of Retention and Final Payment

30 This contract allows the owner to make alternate
31 arrangements for the occurrence of substantial completion, the
32 release of retention and making of final payment. Such
33 alternate arrangements are disclosed on sheet no. _____ of
34 these plans.

35 Sec. 44. Section 32-1183, Arizona Revised Statutes, as transferred
36 and renumbered, is amended to read:

37 32-1183. Performance and payment by contractor, subcontractor
38 or material supplier; conditions; interest

39 A. Notwithstanding the other provisions of this article,
40 performance by a contractor, subcontractor or material supplier in
41 accordance with the provisions of a construction contract entitles the
42 contractor, subcontractor or material supplier to payment from the party
43 with whom the contractor, subcontractor or material supplier contracts.

44 B. If a subcontractor or material supplier has performed in
45 accordance with the provisions of a construction contract, the contractor

1 shall pay to its subcontractors or material suppliers and each
2 subcontractor shall pay to its subcontractors or material suppliers,
3 within seven days of receipt by the contractor or subcontractor of each
4 progress payment, retention release or final payment, the full amount
5 received for such subcontractor's work and materials supplied based on
6 work completed or materials supplied under the subcontract. Payment shall
7 not be required pursuant to this subsection unless the subcontractor or
8 material supplier provides to the contractor or subcontractor a billing or
9 invoice for the work performed or material supplied in accordance with the
10 terms of the construction contract between the parties. Each
11 subcontractor or material supplier shall provide a waiver of any
12 mechanic's or materialman's lien conditioned on payment for the work
13 completed or material supplied. The contractor or subcontractor may
14 require that such conditional waivers of lien be notarized. Any diversion
15 by the contractor or subcontractor of payments received for work performed
16 pursuant to a contract, or failure to reasonably account for the
17 application or use of such payments, constitutes grounds for disciplinary
18 action by the registrar of contractors. Violations of this section shall
19 be grounds for suspension or revocation of a license or other disciplinary
20 action by the registrar pursuant to section 32-1154, subsections B, C and
21 D. The subcontractor or material supplier may notify the registrar of
22 contractors and the owner in writing of any payment less than the amount
23 or percentage approved for the class or item of work as set forth in this
24 section.

25 C. Nothing in this section prevents the contractor or
26 subcontractor, at the time of application or certification to the owner or
27 contractor, from withholding such application or certification to the
28 owner or contractor for payment to the subcontractor or material supplier
29 for any of the following reasons:

- 30 1. Unsatisfactory job progress.
- 31 2. Defective construction work or materials not remedied.
- 32 3. Disputed work or materials.
- 33 4. Failure to comply with other material provisions of the
34 construction contract.
- 35 5. ~~Third party~~ THIRD-PARTY claims filed or reasonable evidence that
36 a claim will be filed.
- 37 6. Failure of the subcontractor to make timely payments for labor,
38 equipment and materials.
- 39 7. Damage to a contractor or another subcontractor or material
40 supplier.
- 41 8. Reasonable evidence that the subcontract cannot be completed for
42 the unpaid balance of the subcontract sum.
- 43 9. The owner has withheld retention from the contractor, in which
44 case the amount of the retention withholding by the contractor shall not

1 exceed the actual amount of the retention retained by the owner pertaining
2 to the subcontractor's work.

3 D. A contractor or subcontractor shall not withhold retention from
4 a subcontractor in an amount greater than the actual amount of the
5 retention retained by the owner pertaining to the work of the
6 subcontractor.

7 E. If the contractor or subcontractor chooses to withhold the
8 application or certification for all or a portion of a subcontractor's or
9 material supplier's billing or estimates as permitted by subsection C of
10 this section, the contractor or subcontractor must prepare and issue a
11 written statement within fourteen days to the applicable subcontractors or
12 material suppliers stating in reasonable detail the contractor's or
13 subcontractor's reasons for withholding the application or certification
14 from the owner or contractor.

15 F. If the owner issues a written statement pursuant to section
16 ~~32-1129.01~~ 32-1182, subsection D, H or K stating that the owner declines
17 to certify or approve all or a portion of the contractor's billing or
18 estimate and if the amounts to be paid from that billing or estimate by
19 the contractor to any subcontractors or material suppliers are affected by
20 the owner's decision not to certify or approve, the contractor shall send
21 a copy of that written statement within seven days after receipt to any
22 affected subcontractors or material suppliers. If the contractor sends a
23 copy of the owner's written statement to a subcontractor and if the
24 amounts to be paid from that billing or estimate by a subcontractor to any
25 of its subcontractors or material suppliers are affected by the owner's
26 decision not to certify or approve, then the subcontractor shall send a
27 copy of that written statement within seven days after receipt to any of
28 its affected subcontractors or material suppliers.

29 G. If the owner issues a written statement pursuant to section
30 ~~32-1129.01~~ 32-1182, subsection D, H or K stating that the owner declines
31 to certify or approve a billing or estimate or a portion of a billing or
32 estimate for defective construction work or materials not remedied and if
33 the contractor as a result does not receive sufficient payment from the
34 owner to pay subcontractors and material suppliers for work included in
35 the contractor's billing or estimate, the contractor shall nevertheless
36 pay any subcontractor or material supplier whose work was not the basis of
37 the owner's withholding for defective construction work or materials not
38 remedied within twenty-one days after payment would otherwise have been
39 made by the owner under section ~~32-1129.01~~ 32-1182, subsection A. This
40 subsection does not limit a subcontractor's rights to suspend performance
41 under a construction contract or terminate a construction contract under
42 section ~~32-1129.04~~ 32-1185, subsection D.

43 H. If a progress or final payment or release of retention to a
44 subcontractor or material supplier is delayed by more than seven days
45 after receipt of progress or final payment or release of retention by the

1 contractor or subcontractor pursuant to this section, the contractor or
2 subcontractor shall pay its subcontractor or material supplier interest,
3 except for periods of time during which payment is withheld pursuant to
4 subsection C of this section, beginning on the eighth day, at the rate of
5 one and one-half ~~per cent~~ PERCENT per month or a fraction of a month on
6 the unpaid balance or at such higher rate as the parties agree.

7 I. Any licensed contractor, licensed subcontractor or material
8 supplier who files a complaint with the registrar of contractors under
9 this section shall be required to post a surety bond or cash deposit of
10 ~~five hundred dollars~~ \$500 or one-half of the amount due, whichever is
11 less, with the registrar to secure the payment of claims under this
12 section. If the complaint is determined by the registrar to be without
13 merit and frivolous, the registrar shall order the person who filed the
14 complaint to pay one-half of the amount of the required surety bond or
15 cash deposit to the respondent and one-half to the registrar for deposit
16 into the state general fund. If no claim may be made under this section
17 against the surety bond or cash deposit, the surety bond or cash deposit
18 shall be returned to the complainant. The surety bond or cash deposit
19 shall be in the name of the licensee or material supplier who files the
20 complaint and shall be subject to claims by the registrar of contractors
21 and the respondent licensee as provided in this section. The surety bond
22 or cash deposit shall be conditioned on and provide for payment on the
23 presentation of a certified copy of the order of the registrar and a
24 certification by the complainant of nonpayment within thirty days after
25 the order becomes final. The surety bond shall be executed by the
26 complainant as principal with a corporation duly authorized to transact
27 surety business in this state. Evidence of the surety bond shall be
28 submitted to the registrar in a form acceptable to the registrar. The
29 cash deposit shall be deposited, pursuant to sections 35-146 and 35-147,
30 by the registrar in the contractors prompt pay complaint fund and shall be
31 held for the payment of claims.

32 J. In any action or arbitration brought to collect payments or
33 interest pursuant to this section, the successful party shall be awarded
34 costs and attorney fees in a reasonable amount.

35 Sec. 45. Section 32-1185, Arizona Revised Statutes, as transferred
36 and renumbered, is amended to read:

37 32-1185. Construction contracts; suspension of performance;
38 termination

39 A. A contractor may suspend performance under a construction
40 contract or terminate a construction contract for failure by the owner to
41 make timely payment of the amount certified and approved pursuant to
42 section ~~32-1129.01~~ 32-1182. A contractor shall provide written notice to
43 the owner at least seven calendar days before the contractor's intended
44 suspension or termination unless a shorter notice period is prescribed in
45 the construction contract between the owner and contractor. A contractor

1 shall not be deemed in breach of the construction contract for suspending
2 performance or terminating a construction contract pursuant to this
3 subsection. A construction contract shall not extend the time period for
4 a contractor to suspend performance or terminate a construction contract
5 under this subsection.

6 B. A subcontractor may suspend performance under a construction
7 contract or terminate a construction contract if the owner fails to make
8 timely payment of amounts certified and approved pursuant to section
9 ~~32-1129.01~~ 32-1182 for the subcontractor's work and the contractor fails
10 to pay the subcontractor for the certified and approved work. A
11 subcontractor shall provide written notice to the contractor and owner at
12 least three calendar days before the subcontractor's intended suspension
13 or termination unless a shorter notice period is prescribed in the
14 construction contract between the contractor and subcontractor. A
15 subcontractor shall not be deemed in breach of a construction contract for
16 suspending performance or terminating a construction contract pursuant to
17 this subsection. A construction contract shall not extend the time period
18 for a subcontractor to suspend performance or terminate a construction
19 contract under this subsection.

20 C. A subcontractor may suspend performance under a construction
21 contract or terminate a construction contract if the owner makes timely
22 payment of amounts certified and approved pursuant to section ~~32-1129.01~~
23 32-1182 for the subcontractor's work but the contractor fails to pay the
24 subcontractor for the certified and approved work. A subcontractor shall
25 provide written notice to the contractor and owner at least seven calendar
26 days before the subcontractor's intended suspension or termination unless
27 a shorter notice period is prescribed in the construction contract between
28 the contractor and subcontractor. A subcontractor shall not be deemed in
29 breach of a construction contract for suspending performance or
30 terminating a construction contract pursuant to this subsection. A
31 construction contract shall not extend the time period for a subcontractor
32 to suspend performance or terminate a construction contract under this
33 subsection.

34 D. A subcontractor may suspend performance under a construction
35 contract or terminate a construction contract if the owner declines to
36 approve and certify portions of the contractor's billing or estimate
37 pursuant to section ~~32-1129.01~~ 32-1182 for that subcontractor's work but
38 the reasons for that failure by the owner to approve and certify are not
39 the fault of or directly related to the subcontractor's work. A
40 subcontractor shall provide written notice to the contractor and the owner
41 at least seven calendar days before the subcontractor's intended
42 suspension or termination unless a shorter notice period is prescribed in
43 the construction contract between the contractor and subcontractor. A
44 subcontractor shall not be deemed in breach of a construction contract for
45 suspending performance or terminating a construction contract pursuant to

1 this subsection. A construction contract shall not extend the time period
2 for a subcontractor to suspend performance or terminate a construction
3 contract under this subsection.

4 E. A contractor or subcontractor that suspends performance as
5 provided in this section is not required to furnish further labor,
6 materials or services until the contractor or subcontractor is paid the
7 amount that was certified and approved, together with any costs incurred
8 for mobilization resulting from the shutdown or start-up of a project.

9 F. In any action or arbitration brought pursuant to this section,
10 the successful party shall be awarded costs and attorney fees in a
11 reasonable amount.

12 G. Written notice required under this section shall be deemed to
13 have been provided if either of the following occurs:

14 1. The written notice is delivered in person to the individual or a
15 member of the entity or to an officer of the corporation for which it was
16 intended.

17 2. The written notice is delivered at or sent by any means that
18 provides written, ~~third party~~ THIRD-PARTY verification of delivery to the
19 last business address known to the party giving notice.

20 Sec. 46. Section 32-1186, Arizona Revised Statutes, as transferred
21 and renumbered, is amended to read:

22 32-1186. Construction contracts; void provisions

23 A. The following are against this state's public policy and are
24 void and unenforceable:

25 1. A provision, covenant, clause or understanding in, collateral to
26 or affecting a construction contract that makes the contract subject to
27 the laws of another state or that requires any litigation arising from the
28 contract to be conducted in another state.

29 2. A provision, covenant, clause or understanding in, collateral to
30 or affecting a construction contract stating that a party to the contract
31 cannot suspend performance under the contract or terminate the contract if
32 another party to the contract fails to make prompt payments under the
33 contract pursuant to section ~~32-1129~~ 32-1181, ~~32-1129.01~~ 32-1182 or
34 ~~32-1129.02~~ 32-1183.

35 B. Any mediation, arbitration or other dispute resolution
36 proceeding arising from a construction contract for work performed in this
37 state shall be conducted in this state.

38 Sec. 47. Section 32-1187, Arizona Revised Statutes, as transferred
39 and renumbered, is amended to read:

40 32-1187. Applicability to state and political subdivisions

41 Sections ~~32-1129.01~~ 32-1182, ~~32-1129.02~~ 32-1183, ~~32-1129.04~~ 32-1185
42 and ~~32-1129.05~~ 32-1186 do not apply to this state or political
43 subdivisions of this state.

