

REFERENCE TITLE: registrar of contractors

State of Arizona
Senate
Fifty-fourth Legislature
Second Regular Session
2020

SB 1162

Introduced by
Senator Gray

AN ACT

AMENDING SECTIONS 32-1122, 32-1123.01, 32-1127.01, 32-1132, 32-1132.01, 32-1133, 32-1133.01, 32-1134.02, 32-1151.02, 32-1154, 32-1155, 32-1158, 32-1161, 32-1166 AND 32-1166.01, ARIZONA REVISED STATUTES; RELATING TO THE REGISTRAR OF CONTRACTORS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 32-1122, Arizona Revised Statutes, is amended to
3 read:

4 32-1122. Qualifications for license

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

7 1. Classify and qualify applicants for a license.

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

11 3. Conduct investigations the registrar deems necessary.

12 4. Establish written examinations to protect the health and safety
13 of the public.

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

16 1. Submit to the registrar of contractors a verified application on
17 forms that are prescribed by the registrar of contractors and that contain
18 the following information:

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

21 (b) If the applicant is a sole proprietorship, the applicant's name
22 and address.

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

25 (d) If the applicant is a limited liability company, the names and
26 addresses of all of the following, as applicable:

27 (i) If the applicant is a manager-managed limited liability
28 company, all managers.

29 (ii) If the applicant is a member-managed limited liability
30 company, all members.

31 (iii) All owners of twenty-five percent or more of the stock or
32 beneficial interest.

33 (e) If the applicant is a corporation, an association or any other
34 organization, the names and addresses of all of the following:

35 (i) The president, vice president, secretary and treasurer or the
36 names and addresses of the functional equivalent of all of these officers.

37 (ii) The directors.

38 (iii) The owners of twenty-five percent or more of the stock or
39 beneficial interest.

40 (f) The name and address of the qualifying party.

41 (g) If the applicant is a limited liability company or corporation,
42 an attestation that the limited liability company or corporation is in
43 good standing with the corporation commission.

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

4 (i) An attestation that the applicant has complied with the
5 statutes and rules governing workers' compensation insurance. If the
6 applicant is required by law to secure workers' compensation insurance
7 pursuant to ~~section 23-961~~ TITLE 23, CHAPTER 6, the attestation must
8 contain the workers' compensation insurance policy number or be
9 accompanied by proof of self-insurance.

10 (j) If the applicant is a trust, the names and addresses of all
11 trustees.

12 2. Submit the appropriate fee required under this chapter.

13 3. Submit and maintain the appropriate bond required under this
14 chapter.

15 4. Notify the registrar of any change in the information required
16 by this section within thirty days after the change occurs.

17 C. To obtain, renew or maintain a license under this chapter, each
18 person who is named on a license must be of good character and reputation.
19 Lack of good character and reputation may be established by showing that a
20 person engaged in contracting without a license or committed any act that,
21 if committed or done by any licensed contractor, would be grounds for
22 suspension or revocation of a contractor's license or by showing that the
23 person was named on a license that was suspended or revoked in this state
24 or another state.

25 D. To obtain a license under this chapter, a person may not have
26 had a license denied, ~~refused~~ or revoked within one year before the
27 person's application. The registrar may find circumstances behind the
28 denial, ~~refusal~~ or revocation excusable if the applicant's actions did not
29 result in an unremedied hardship or danger or loss to the public. A
30 person who has been convicted of contracting without a license is not
31 eligible to obtain a license under this chapter for one year after the
32 date of the last conviction.

33 E. Before a license is issued, the qualifying party must:

34 1. Have a minimum of four years' practical or management trade
35 experience, at least two of which must have been within the last ten
36 years, dealing specifically with the type of construction, or its
37 equivalent, for which the applicant is applying for a license. Technical
38 training in an accredited college or university or in a manufacturer's
39 accredited training program may be substituted for a portion of such
40 experience, but in no case may credited technical training exceed two
41 years of the required four years' experience. The registrar of
42 contractors may reduce the four years' practical or management experience
43 requirement if in the registrar's opinion it has been conclusively shown
44 by custom and usage in the particular industry or craft involved that the
45 four-year requirement is excessive. The registrar ~~shall~~ MUST waive the

1 work experience documentation and verification if ~~the records reflect that~~
2 the qualifying party is currently or has previously been a qualifying
3 party for a licensee in this state OR ANOTHER STATE in the same OR A
4 COMPARABLE classification and meets all other qualifications.

5 2. EXCEPT AS PROVIDED IN SUBSECTION F OF THIS SECTION, successfully
6 show, by A written TRADE examination taken not more than two years before
7 THE application, AS APPLICABLE, ~~if required, qualification in the kind of~~
8 ~~work for which the applicant proposes to contract, the applicant's general~~
9 ~~knowledge of the building, safety, health and lien laws of the state,~~
10 ~~administrative principles of the contracting business and the rules~~
11 ~~adopted by the registrar of contractors pursuant to this chapter,~~
12 ~~demonstrate knowledge and understanding of construction plans and~~
13 ~~specifications applicable to the particular industry or craft and of the~~
14 ~~standards of construction work and techniques and practices in the~~
15 ~~particular industry or craft and demonstrate a general understanding of~~
16 ~~other related construction trades, in addition to any other matters as may~~
17 ~~be deemed appropriate by the registrar to determine that the qualifying~~
18 ~~party meets the requirements of this chapter.~~ ALL OF THE FOLLOWING:

19 (a) QUALIFICATION IN THE KIND OF WORK FOR WHICH THE QUALIFYING
20 PARTY PROPOSES TO CONTRACT.

21 (b) KNOWLEDGE AND UNDERSTANDING OF CONSTRUCTION PLANS AND
22 SPECIFICATIONS APPLICABLE TO THE PARTICULAR INDUSTRY OR CRAFT.

23 (c) KNOWLEDGE AND UNDERSTANDING OF THE STANDARDS OF CONSTRUCTION
24 WORK AND TECHNIQUES AND PRACTICES IN THE PARTICULAR INDUSTRY OR CRAFT.

25 (d) GENERAL UNDERSTANDING OF OTHER RELATED CONSTRUCTION TRADES.

26 (e) ANY OTHER MATTERS DEEMED APPROPRIATE BY THE REGISTRAR TO
27 DEMONSTRATE THE QUALIFYING PARTY'S KNOWLEDGE OF THE PARTICULAR KIND OF
28 WORK PERFORMED IN THE LICENSE CLASSIFICATION.

29 3. EXCEPT AS PROVIDED IN SUBSECTION G OF THIS SECTION, SUCCESSFULLY
30 SHOW BY A WRITTEN STATUTE AND RULES EXAMINATION TAKEN NOT MORE THAN TWO
31 YEARS BEFORE APPLICATION, THE QUALIFYING PARTY'S GENERAL KNOWLEDGE OF THIS
32 CHAPTER AND RULES ADOPTED BY THE REGISTRAR.

33 F. THE REGISTRAR MUST WAIVE THE WRITTEN TRADE EXAMINATION REQUIRED
34 UNDER SUBSECTION E, PARAGRAPH 2 OF THIS SECTION IF THE QUALIFYING PARTY IS
35 CURRENTLY OR HAS PREVIOUSLY BEEN WITHIN THE PRECEDING FIVE YEARS EITHER A
36 QUALIFYING PARTY FOR A LICENSEE IN THIS STATE OR IN ANOTHER STATE IN THE
37 SAME OR A COMPARABLE CLASSIFICATION AND MEETS ALL OTHER REQUIREMENTS.

38 G. THE REGISTRAR MUST WAIVE THE WRITTEN STATUTE AND RULES
39 EXAMINATION REQUIRED UNDER SUBSECTION E, PARAGRAPH 3 OF THIS SECTION IF
40 THE QUALIFYING PARTY IS CURRENTLY OR HAS PREVIOUSLY BEEN WITHIN THE
41 PRECEDING FIVE YEARS A QUALIFYING PARTY FOR A LICENSEE IN THIS STATE AND
42 MEETS ALL OTHER REQUIREMENTS.

43 ~~F.~~ H. The registrar shall maintain multiple versions of
44 examinations for each type of license that requires an examination. The
45 registrar shall waive the examination ~~requirement~~ REQUIREMENTS if the

1 records reflect that the qualifying party is currently or has previously
2 been **WITHIN THE PRECEDING FIVE YEARS** a qualifying party for a licensee in
3 this state in the same classification ~~within the preceding five years.~~

4 ~~I.~~ I. A license may not be issued to a minor, to any partnership
5 in which one of the partners is a minor or to any corporation in which a
6 corporate officer is a minor.

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

15 Sec. 2. Section 32-1123.01, Arizona Revised Statutes, is amended to
16 read:

17 **32-1123.01. Staggered periods of licensure; biennial renewal**

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

20 B. The registrar shall implement a system for biennial license
21 renewal and provide for proration of license renewal fees for that
22 purpose.

23 C. The registrar may grant an exception to the biennial licensing
24 or biennial renewal requirements of this section and may allow an annual
25 renewal based on a written petition by a contractor ~~claiming that the~~
26 ~~biennial requirements would cause a real and immediate hardship.~~

27 Sec. 3. Section 32-1127.01, Arizona Revised Statutes, is amended to
28 read:

29 **32-1127.01. Qualifying parties; disassociation with license;**
30 **notice; requalification**

31 A. If a ~~person who qualified for a license~~ **QUALIFYING PARTY** ceases
32 to be connected with ~~the~~ A licensee, ~~both~~ the licensee ~~and~~ **OR** the
33 qualifying party ~~shall~~ **MUST** notify the registrar in writing within fifteen
34 days after the disassociation.

35 **B. IF THE REGISTRAR RECEIVES NOTICE FROM A QUALIFYING PARTY**
36 **PURSUANT TO SUBSECTION A OF THIS SECTION, THE REGISTRAR MUST NOTIFY THE**
37 **LICENSEE IN WRITING OF THE DISASSOCIATION. THE REGISTRAR'S NOTICE MUST**
38 **CONTAIN ALL OF THE FOLLOWING:**

39 **1. THE DATE THE REGISTRAR RECEIVED THE NOTICE REQUIRED BY**
40 **SUBSECTION A OF THIS SECTION.**

41 **2. A COPY OF THE NOTICE REQUIRED BY SUBSECTION A OF THIS SECTION.**

42 **3. THE DATE BY WHICH THE LICENSEE MUST REQUALIFY THROUGH ANOTHER**
43 **PERSON TO AVOID LICENSE SUSPENSION.**

44 ~~B.~~ C. A licensee ~~shall~~ **MUST RECEIVE A QUALIFYING PARTY EXEMPTION**
45 **PURSUANT TO SECTION 32-1125, SUBSECTION C OR** requalify through another

1 person within sixty days after the date of ~~a disassociation~~ THE
2 REGISTRAR'S NOTICE REQUIRED UNDER SUBSECTION B OF THIS SECTION.

3 ~~C.~~ D. IF THE REGISTRAR NOTIFIES A LICENSEE PURSUANT TO SUBSECTION
4 B OF THIS SECTION AND if ~~a~~ THE licensee fails to RECEIVE A QUALIFYING
5 PARTY EXEMPTION PURSUANT TO SECTION 32-1125, SUBSECTION C OR TO requalify
6 through another person within sixty days AFTER NOTIFICATION, the license
7 is automatically suspended by operation of law ~~at the end of the period~~
8 until the licensee qualifies through another person.

9 Sec. 4. Section 32-1132, Arizona Revised Statutes, is amended to
10 read:

11 32-1132. Residential contractors' recovery fund; claimants;
12 eligibility; definition

13 A. The residential contractors' recovery fund is established, to be
14 administered by the registrar, for the benefit of a claimant damaged by an
15 act, representation, transaction or conduct of a residential contractor
16 licensed pursuant to this chapter that is in violation of this chapter or
17 the rules adopted pursuant to this chapter.

18 B. Only the following claimants are eligible for an award from the
19 residential contractors' recovery fund:

20 1. An individual who both:

21 (a) Owns residential real property that is damaged by the failure
22 of a residential contractor to adequately build or improve a residential
23 structure or appurtenance.

24 (b) Actually occupies or intends to occupy the residential real
25 property ~~described in subdivision (a) of this paragraph~~ as the
26 individual's primary residence.

27 2. A limited liability company to which all of the following apply:

28 (a) The limited liability company owns the residential real
29 property that is damaged by the failure of a residential contractor to
30 adequately build or improve a residential structure or appurtenance.

31 (b) All of the limited liability company's members actually occupy
32 or intend to occupy the residential real property ~~as described in~~
33 ~~subdivision (a) of this paragraph~~ as their primary residence.

34 (c) A member of the limited liability company has not received
35 monies from the fund in the last two years.

36 3. A trust to which all of the following apply:

37 (a) The trust is a revocable living trust.

38 (b) The trust owns the residential real property that is damaged by
39 the failure of a residential contractor to adequately build or improve a
40 residential structure or appurtenance.

41 (c) All of the trust's trustors actually occupy or intend to occupy
42 the residential real property described in subdivision (b) of this
43 paragraph as their primary residence.

44 (d) A trustor has not received monies from the fund in the last two
45 years.

1 4. A planned community as defined in section 33-1802 or unit
2 owners' association as defined in section 33-1202 if both:

3 (a) The builder or developer transferred control to the planned
4 community as defined in section 33-1802 or unit owners' association as
5 defined in section 33-1202.

6 (b) A licensed residential contractor's failure to adequately build
7 or improve a residential structure or appurtenance caused damage to the
8 common elements within the complex.

9 5. A lessee of residential real property that meets all of the
10 following:

11 (a) Contracts directly with a residential contractor or indirectly
12 with a subcontractor of the residential contractor.

13 (b) Actually occupies or intends to occupy the residential real
14 property ~~described in subdivision (a) of this paragraph~~ as the lessee's
15 primary residence.

16 (c) Is damaged by the licensed residential contractor's failure to
17 adequately build or improve a residential structure or appurtenance.

18 C. In order for a claimant to be eligible for an award from the
19 residential contractors' recovery fund, the contractor whose actions
20 damaged the claimant must have been appropriately licensed at one of the
21 following times:

22 1. The date that the underlying contract was signed.

23 2. The date that the first payment was made.

24 3. The date that the underlying work first commenced.

25 D. For the purposes of this section, "appropriately licensed" means
26 the residential contractor held a valid residential contractor license
27 that was issued pursuant to this chapter and that was not canceled, in
28 inactive status, expired, suspended or revoked.

29 Sec. 5. Section 32-1132.01, Arizona Revised Statutes, is amended to
30 read:

31 32-1132.01. Actual damages; fund; limits; definition

32 A. An award from the residential contractors' recovery fund is
33 limited to residential real properties. The fund may not issue an award
34 covering damages to commercial property.

35 B. An award from the residential contractors' recovery fund may not
36 exceed the actual damages suffered by the claimant as a direct result of a
37 contractor's violation. Actual damages:

38 1. May not exceed an amount necessary to complete or repair a
39 residential structure or appurtenance within residential property lines.

40 2. Must be established by bids supplied by or the value of work
41 performed by a person that is licensed pursuant to this chapter if the
42 person is required to be licensed pursuant to this chapter.

43 C. If the claimant paid a deposit or down payment and no actual
44 work is performed or materials are delivered, the claimant's actual
45 damages are the exact dollar amount of the deposit or down payment plus

1 interest at the rate of ten percent a year from the date the deposit or
2 down payment is made, but may not exceed \$30,000. Interest may not be
3 paid from the fund on any other awards under this chapter unless ordered
4 by a court of competent jurisdiction.

5 D. The maximum ~~individual~~ award from the residential contractors'
6 recovery fund is \$30,000. ~~An individual~~ A claimant may not be awarded
7 more than the maximum ~~individual~~ award.

8 E. Monies in the residential contractors' recovery fund may not be
9 awarded for attorney fees or costs, ~~except in contested cases appealed to~~
10 ~~the superior court.~~

11 F. If the claimant has recovered a portion of the claimant's loss
12 from sources other than the fund, the registrar shall deduct the amount
13 recovered from other sources from the amount of actual damages suffered
14 pursuant to subsection B of this section and direct the difference, not to
15 exceed \$30,000, to be paid from the fund.

16 G. The claimant may not be the spouse of the residential contractor
17 or the personal representative of the spouse of the residential
18 contractor.

19 H. For the purposes of this section, "actual damages" means the
20 reasonable cost of completing the contract and repairing the contractor's
21 defective performance, minus the part of the contract price still unpaid.

22 Sec. 6. Section 32-1133, Arizona Revised Statutes, is amended to
23 read:

24 32-1133. Civil recovery; statute of limitations

25 A. An action for a judgment that may subsequently result in an
26 order for collection from the residential contractors' recovery fund may
27 not be commenced later than two years after the date of the commission of
28 the act by the contractor that is the cause of the injury or from the date
29 of occupancy.

30 B. When a claimant commences an action for a judgment that may
31 result in collection from the fund, the claimant must notify the registrar
32 in writing to this effect within thirty calendar days after the
33 commencement of the action. The registrar at any time may intervene in
34 and defend the action.

35 C. When any claimant recovers a valid judgment against any
36 residential contractor for an act, representation, transaction or conduct
37 that is in violation of this chapter or the rules adopted pursuant to this
38 chapter, the claimant, on twenty days' written notice to the registrar,
39 may apply to the court for an order directing payment out of the fund, of
40 the amount unpaid on the judgment, subject to the limits stated in this
41 article. If the claimant fails to notify the registrar within thirty
42 calendar days after commencement of the action as required by this
43 subsection, the court may direct payment out of the fund on receipt of a
44 consent to payment signed on behalf of the registrar. If the claimant
45 gives notice to the registrar as required by this subsection, the court

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

7 D. The court may proceed on an application in a summary manner and,
8 on the hearing, the claimant is required to show that the claimant has
9 done all of the following:

10 1. Given notice as required by subsections B and C of this section.

11 2. Obtained a judgment that has become final, as provided in
12 subsection C of this section, stating the amount and the amount owing at
13 the date of the application.

14 3. Proceeded against any existing bond covering the residential
15 contractor.

16 E. The court may make an order directed to the registrar requiring
17 payment from the fund of whatever sum it finds to be payable on the claim,
18 in accordance with this section, if the court is satisfied on the hearing
19 of the truth of all matters required to be shown by the claimant by
20 subsection D of this section. ~~The recovery limits established under this~~
21 ~~article apply to all judgments awarded beginning September 1, 2002.~~ If
22 the claimant has recovered a portion of the claimant's loss from sources
23 other than the fund, the court shall deduct the amount recovered from
24 other sources from the amount of actual damages suffered pursuant to
25 section 32-1132.01, subsection A and direct the difference, not to exceed
26 \$30,000, to be paid from the fund.

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

31 Sec. 7. Section 32-1133.01, Arizona Revised Statutes, is amended to
32 read:

33 32-1133.01. Administrative recovery; statute of limitations

34 A. Notwithstanding any other provision in this chapter, if a
35 contractor license has been revoked or suspended as a result of an order
36 to remedy a violation of this chapter, the registrar may order payment
37 from the residential contractors' recovery fund to remedy the violation.

38 B. The registrar must serve the contractor with a notice setting
39 forth the amount claimed or to be awarded.

40 C. If the contractor contests the amount or propriety of the
41 payment, the contractor must respond in writing within ten days after the
42 date of service by requesting a hearing to determine the amount or
43 propriety of the payment. The contractor's failure to respond in writing
44 within ten days after the date of service may be deemed a waiver by the
45 contractor of the right to contest the amount claimed or to be awarded.

1 D. Service of the notice required by subsection B of this section
2 may be made by personal service to the contractor or by mailing a copy of
3 the notice by certified mail with postage prepaid to the contractor's
4 latest address of record on file in the registrar's office.

5 E. If service is made by certified 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 claimant may seek judicial review of the
8 registrar's final award pursuant to title 12, chapter 7, article 6.

9 F. A claimant to the residential contractors' recovery fund
10 pursuant to this section must show that the claimant has proceeded against
11 any existing bond covering the residential contractor.

12 G. A claim for payment from the residential ~~contractor's~~
13 **CONTRACTORS'** recovery fund **PURSUANT TO THIS SECTION** must be submitted
14 within two years after all proceedings, reviews and appeals connected with
15 the registrar's final order terminate.

16 Sec. 8. Section 32-1134.02, Arizona Revised Statutes, is amended to
17 read:

18 32-1134.02. Insufficiency of fund

19 If at any time the monies deposited in the residential contractors'
20 recovery fund are insufficient to satisfy any duly authorized claim or
21 portion thereof, the registrar ~~shall~~, when sufficient monies have been
22 deposited in the residential contractors' recovery fund, ~~satisfy~~ **SATISFIES**
23 any unpaid claims or portion of unpaid claims with priority for payment
24 based on either:

25 1. The time of filing a certified copy of the court order with the
26 registrar.

27 2. The **EFFECTIVE** date of the **FINAL** administrative order directing
28 payment from the residential contractors' recovery fund.

29 Sec. 9. Section 32-1151.02, Arizona Revised Statutes, is amended to
30 read:

31 32-1151.02. List of unlicensed contractors; website
32 publication

33 A. The registrar ~~shall~~ **MUST** maintain a list of persons who have
34 been convicted of contracting without a license in violation of section
35 32-1151 or administratively adjudicated to have been contracting without a
36 license after being issued a civil citation pursuant to section
37 32-1166.01. The list ~~shall~~ **MUST** include any known related business names
38 that the persons described in this subsection have used. The list ~~shall~~
39 **MUST** be published on the registrar's website.

40 B. The registrar ~~shall~~ **MUST** remove a person and any known related
41 business names that person used from the list ~~within ten business days~~
42 when the person **BOTH**:

43 1. Becomes licensed pursuant to this chapter. ~~and submits a written~~
44 ~~request to the registrar requesting the person's name to be removed from~~
45 ~~the list.~~

1 2. REMEDIES ALL LOSS OR DAMAGE CAUSED TO THE PUBLIC BY THE PERSON'S
2 UNLICENSED ACTIVITY.

3 C. If a member of the public requests a copy of the list prescribed
4 by subsection A of this section, the registrar ~~shall~~ MUST provide a copy
5 of the list.

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

8 32-1154. Grounds for suspension or revocation of license;
9 continuing jurisdiction; civil penalty

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

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

15 2. Departure from or disregard of:

16 (a) Plans or specifications in any material respect that is
17 prejudicial to another without consent of the owner or the owner's duly
18 authorized representative and without the consent of the person entitled
19 to have the particular construction project or operation completed in
20 accordance with such plans and specifications ~~and code~~.

21 (b) A building code of this state or any political subdivision of
22 this state in any material respect that is prejudicial to another.

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

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

26 5. Misrepresentation of a material fact by the applicant in
27 obtaining a license.

28 6. The doing of a fraudulent act by the licensee as a contractor
29 resulting in another person being substantially injured. For the purposes
30 of this paragraph, "fraudulent act" means a material misrepresentation
31 that a licensee makes, that is relied on by another person and that
32 results in damage to that person or that person's property.

33 7. Conviction of a felony.

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

37 9. Attempting to evade this chapter by:

38 (a) Aiding or abetting a licensed or unlicensed person.

39 (b) Acting or conspiring with a licensed or unlicensed person.

40 (c) Allowing one's license to be used by a licensed or unlicensed
41 person.

42 (d) Acting as agent, partner, associate or otherwise of a licensed
43 or unlicensed person.

44 10. Failure by a licensee or agent or official of a licensee to pay
45 monies in excess of \$750 when due for materials or services rendered in

1 connection with the licensee's operations as a contractor unless the
2 licensee proves that the licensee lacks the capacity to pay and has not
3 received sufficient monies as payment for the particular construction work
4 project or operation for which the services or materials were rendered or
5 purchased.

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

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

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

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

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

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

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

22 18. Failure to notify the registrar in writing within a period of
23 fifteen days of any disassociation of the person who qualified for the
24 license. The licensee must qualify through another person within sixty
25 days after the date of disassociation.

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

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

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

37 (a) Not performed at the required location.

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

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

1 the date of issuance of the directive. A license may not be revoked or
2 suspended nor may any other penalty be imposed for a violation of this
3 paragraph until after a hearing has been held.

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

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

9 B. The registrar:

10 1. May investigate the acts of a contractor in this state ~~on the~~
11 ~~registrar's own motion.~~

12 2. Shall investigate the acts of a contractor in this state on the
13 written complaint of any owner or contractor that is a party to a
14 construction contract or a person who suffers a material loss or injury as
15 a result of a contractor's failure to perform work in a professional and
16 workmanlike manner or in accordance with any applicable building codes and
17 professional industry standards. For the purposes of this paragraph:

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

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

31 3. May temporarily suspend, with or without imposition of specific
32 conditions in addition to increased surety bond or cash deposit
33 requirements, or permanently revoke any or all licenses issued under this
34 chapter if the holder of the license issued pursuant to this chapter is
35 guilty of or commits any of the acts or omissions set forth in subsection
36 A of this section.

37 C. Pursuant to this chapter, ~~the registrar shall suspend~~ A LICENSE
38 THAT IS ISSUED UNDER THIS CHAPTER IS SUSPENDED by operation of law
39 ~~a license issued to a person under this chapter~~ on notice from the
40 department of revenue that a tax debt related to income taxes, withholding
41 taxes or any tax imposed or administered by title 42, chapter 5 that was
42 incurred in the operation of the licensed business has become final and
43 the person neglects to pay or refuses to pay the tax debt.

44 D. The expiration, cancellation, suspension or revocation of a
45 license by operation of law or by decision and order of the registrar or a

1 court of law or the voluntary surrender of a license by a licensee does
2 not deprive the registrar of jurisdiction to proceed with any
3 investigation of or action or disciplinary proceeding against such a
4 licensee, or to render a decision suspending or revoking such a license,
5 or denying the renewal or right of renewal of such a license.

6 E. The registrar may impose a civil penalty of not to exceed \$500
7 on a contractor for each violation of subsection A, paragraph 22 of this
8 section. Civil penalties collected pursuant to this subsection shall be
9 deposited in the residential contractors' recovery fund. The failure by
10 the licensee to pay any civil penalty imposed under this subsection
11 results in the automatic revocation of the license thirty days after the
12 effective date of the order providing for the civil penalty. A person who
13 is or was named on a license of a contractor when an act or omission
14 occurs that results in a civil penalty may not receive a new license under
15 this chapter until the entire civil penalty is paid.

16 F. The registrar may impose a civil penalty of not to exceed \$1,000
17 on a contractor for each violation of subsection A, paragraph 17 of this
18 section. Civil penalties collected pursuant to this subsection shall be
19 deposited in the residential contractors' recovery fund. The failure by
20 the licensee to pay any civil penalty imposed under this subsection
21 results in the automatic permanent revocation of the license thirty days
22 after the effective date of the order providing for the civil penalty. A
23 person who is or was named on a license of a contractor when an act or
24 omission occurs that results in a civil penalty may not receive a new
25 license under this chapter until the entire civil penalty is paid.

26 Sec. 11. Section 32-1155, Arizona Revised Statutes, is amended to
27 read:

28 32-1155. Filing of complaint; resolution of complaint;
29 service of notice; failure to answer; prohibited
30 citations

31 A. On the filing of a written complaint with the registrar charging
32 a licensee with ~~the commission of~~ COMMITTING an act that is cause for
33 ~~suspension~~ SUSPENDING or ~~revocation of~~ REVOKING a license, including an
34 act that ~~is in violation of~~ VIOLATES title 44, chapter 11, article 11, the
35 registrar after investigation, in its sole discretion, may issue a
36 citation directing the licensee, within ten days after service of the
37 citation on the licensee, to appear by filing with the registrar the
38 licensee's written answer to the citation ~~and complaint~~ showing cause, if
39 any, why the licensee's license should not be suspended or revoked. The
40 complaint must be filed within the statute of limitations prescribed by
41 SECTION 32-1162.

42 B. Service of the citation on the licensee is fully effected by
43 personal service or by mailing a true copy ~~thereof, together~~ OF THE
44 CITATION with a true copy of the complaint, by certified mail in a sealed
45 envelope with postage prepaid and addressed to the licensee at the

1 licensee's latest address of record in the registrar's office. Service of
2 the citation and complaint is complete at the time of personal service or
3 five days after deposit in the mail.

4 C. Failure of the licensee to answer within ten days after service
5 may be deemed an admission by the licensee of the licensee's commission of
6 the act or acts charged in the ~~complaint~~ CITATION, and the registrar may
7 then suspend or revoke the licensee's license unless the registrar
8 determines, in its sole discretion, that the failure to answer within such
9 period is attributable to excusable neglect on the part of the licensee.

10 D. The registrar may not issue a citation for failure to perform
11 work in a professional and workmanlike manner or in accordance with any
12 applicable building codes and professional industry standards if either:

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

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

18 E. Notwithstanding subsection D of this section, the registrar may
19 investigate the complaint without waiting fifteen days.

20 Sec. 12. Section 32-1158, Arizona Revised Statutes, is amended to
21 read:

22 32-1158. Contract requirements; provision of documents and
23 receipt at contract signing

24 A. Any contract in an amount of more than ~~one thousand dollars~~
25 \$1,000 entered into between a contractor and the owner of a property to be
26 improved shall contain in writing at least the following information:

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

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

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

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

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

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

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

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

43 9. That the property owner has the right to file a written
44 complaint with the registrar for an alleged violation of section 32-1154,
45 subsection A. The contract shall contain the registrar's telephone number

1 and website address and shall state that complaints must be made within
2 the applicable time period as set forth in section ~~32-1155~~ 32-1162,
3 subsection A. The information in this paragraph must be prominently
4 displayed in the contract in at least ~~ten-point~~ TEN-POINT bold type, and
5 the contract shall be signed by the property owner and the contractor or
6 the contractor's designated representative. This paragraph does not apply
7 to a person who is subject to and complies with section 12-1365.

8 B. When a contractor and an owner sign a contract, the contractor
9 shall provide the owner with a legible copy of all documents signed and a
10 written and signed receipt for and in the true amount of any cash paid to
11 the contractor by the owner.

12 C. The requirements of this section are not prerequisites to the
13 formation or enforcement of a contract. Failure to comply with the
14 requirements of this section does not constitute a defense by either party
15 to an action for compensation, damages, breach, enforcement or other cause
16 of action based on the contract.

17 Sec. 13. Section 32-1161, Arizona Revised Statutes, is amended to
18 read:

19 32-1161. Rights of contractor after suspension of license

20 A. After suspending the license on any of the grounds set forth in
21 section 32-1154, the registrar shall renew it on proof of compliance by
22 the contractor with provisions of the judgment relating to renewal of the
23 license, or in the absence of a judgment or provisions therein as to
24 renewal, on proper showing that all loss caused by the act or omission for
25 which the license was suspended has been fully satisfied.

26 B. A PERSON NAMED ON A SUSPENDED LICENSE MAY NOT BE NAMED ON
27 ANOTHER LICENSE UNLESS THE PERSON PROVIDES A PROPER SHOWING THAT ALL LOSS
28 CAUSED BY THE ACT OR OMISSION FOR WHICH THE LICENSE IS SUSPENDED HAS BEEN
29 FULLY SATISFIED.

30 ~~B.~~ C. After suspending the license pursuant to section 32-1154,
31 the licensee may perform, without compensation, warranty work or other
32 corrective work.

33 ~~C.~~ D. ~~After revoking a license~~ A PERSON NAMED ON A LICENSE THAT IS
34 REVOKED on any of the grounds set forth in section 32-1154, ~~the license~~
35 may not be ~~renewed or reissued~~ NAMED ON ANOTHER LICENSE for one year after
36 final determination of revocation and then only on A proper showing that
37 all loss caused by the act or omission for which the license was revoked
38 has been fully satisfied.

39 E. For the purposes of this ~~subsection~~ SECTION, a proper showing
40 may be made by demonstrating, to the satisfaction of the registrar, that
41 the licensee exhausted all reasonable means to remedy the underlying loss
42 caused by the act or omission.

1 Sec. 14. Section 32-1166, Arizona Revised Statutes, is amended to
2 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~~ **REQUIRES** the person to
10 immediately cease and desist from engaging in an act, practice or
11 transaction on 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 Sec. 15. Section 32-1166.01, Arizona Revised Statutes, is amended
19 to read:

20 32-1166.01. Citation; requirements; civil penalties

21 A. In conjunction with the registrar's authority to issue a cease
22 and desist order under section 32-1166, subsection A, the registrar may
23 issue a citation for ~~contracting practicing or transacting~~ **ANY ACT,**
24 **PRACTICE OR TRANSACTION** that constitutes a violation of any of the
25 following:

- 26 1. This chapter.
- 27 2. A rule adopted by the registrar.
- 28 3. An order issued by the registrar.
- 29 B. A citation issued pursuant to this section shall:

- 30 1. Be in writing.
- 31 2. Clearly describe the violation for which the citation was
32 issued.

- 33 3. Contain an order to cease and desist.
- 34 4. Contain a civil penalty of at least \$200 for each violation but
35 not more than \$2,500 for multiple violations committed on the same day.

36 C. Each violation of this chapter or a rule or order of the
37 registrar by a person who is required to be licensed by this chapter and
38 who does not possess the required license constitutes a separate offense
39 and the registrar may impose a civil penalty not to exceed \$2,500 for each
40 violation except that the civil penalty may not exceed \$2,500 for all
41 violations committed on the same day.

42 D. The registrar shall issue a citation under this section within
43 one hundred and eighty days after actual discovery of the offense by this
44 state or the political subdivision having jurisdiction. Service of the
45 citation is fully effected by personal service or by mailing a true copy

1 of the citation by certified mail in a sealed envelope with postage
2 prepaid and addressed to either:
3 1. The person's last known business address.
4 2. The person's residential address.
5 E. The registrar may issue citations containing orders to cease and
6 desist and civil penalties against persons who have never been licensed
7 under this chapter AND who are acting in the capacity of or engaging in
8 the business of a contractor in this state.
9 F. If the registrar issues a citation against a person and the
10 person fails to comply with the cease and desist order and citation, the
11 registrar may assess an additional civil penalty of up to \$2,500 for each
12 day the violation continues.
13 G. The registrar may adopt rules relating to the civil penalty that
14 give due consideration to the gravity of the violation and any history of
15 previous violations.
16 H. The penalties authorized under this section are separate from,
17 and in addition to, all other remedies provided by law, either civil or
18 criminal.
19 I. The registrar shall deposit, pursuant to sections 35-146 and
20 35-147, all monies collected from civil penalties under this section in
21 the state general fund.