



Arizona Revised Statutes & Rules

Annotated by the Registrar of Contractors

Effective August 27, 2019

Although effort has been made to ensure the accuracy of this information it is not intended to be used as an official publication of statutes. When necessary, please rely on an official publication of statute.

The mission of the Arizona Registrar of Contractors is to protect the health, safety, and welfare of the public through a regulatory system designed to promote quality construction by Arizona Contractor

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Introduction & Disclaimer

Statutory Text	<p>This booklet is published by the Arizona Registrar of Contractors. It contains the text of statutes from the Arizona Revised Statutes.</p> <p>Throughout this booklet, the statutory text appears in the main column running down the center of the page.</p> <p>The statutory text was taken directly from the Arizona State Legislature’s website: http://www.azleg.gov/.</p>	<p>Arizona Revised Statutes</p> <p>Statutory text is in the main column of this booklet</p> <p>Statutory text comes from the Legislature’s website</p>
Information in the Margins	<p>This booklet also contains notes in the margins. There are two kinds of margin notes:</p> <ol style="list-style-type: none">1. The numbered subsections of the statutes.2. Annotations summarizing the contents of the statute, sentence by sentence.	<p>Two kinds of margin notes:</p> <ol style="list-style-type: none">1. Numbered subsections2. Annotations summarizing the statute
Purpose of Booklet	<p>The Registrar is a state agency. The Arizona Supreme Court has stated:</p> <p>“Because agencies are creatures of statute, the degree to which they can exercise any power depends upon the legislature’s grant of authority to the agency.”</p> <p>Because the Registrar’s power and authority depend on statutes enacted by the Legislature, the Registrar has collected in this booklet the text of the statutes that are central to the substance of the Registrar’s work. The margin notes accompanying the text are meant to make the statutes:</p> <ul style="list-style-type: none">• easy to read,• easy to navigate, and• easy to reference.	<p>“[A]gencies are creatures of statute....” <i>Facilitec, Inc. v. Hibbs</i>, 206 Ariz. 486, 488 (2003).</p> <p>This booklet is intended to make the statutes easy to read, easy to navigate & easy to reference</p>
Important Disclaimer	<p>If you use this booklet, you need to understand the following points:</p> <ol style="list-style-type: none">1. This booklet does <i>not</i> replace any official publication of Arizona state law. For an authoritative statement of the law, you must consult a source other than this booklet.	<p>You must understand that this booklet is:</p> <ol style="list-style-type: none">1. Not an official legal publication

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Arizona Revised Statutes

— Title 32 —

Chapter 10: Contractors

Article 1

Registrar of Contractors

A.R.S. § 32-1101

Definitions

§ 32-1101(A) In this chapter, unless the context otherwise requires:

1. "Advertisement" means any written or oral publication, dissemination, solicitation or circulation that is intended to directly or indirectly induce any person to enter into an agreement for contracting services with a contractor, including business cards and telephone directory display advertisements.
2. "Commercial contractor" is synonymous with the terms "commercial builder", "industrial builder" and "public works builder" and means any person, firm, partnership, corporation, association or other organization, or a combination of any of them, that, for compensation, undertakes to or offers to undertake to, purports to have the capacity to undertake to, submits a bid or responds to a request for qualification or a request for proposals for construction services to, does himself or by or through others, or directly or indirectly supervises others, except within residential property lines, to:
 - (a) Construct, alter, repair, add to, subtract from, improve, move, wreck or demolish any building, highway, road, railroad, excavation or other structure, project, development or improvement, or to do any part thereof, including the erection of scaffolding or any other structure or work in connection with the construction.
 - (b) Connect such structure or improvements to utility service lines and metering devices and the sewer line.
 - (c) Provide mechanical or structural service for any such structure or improvements.

Definitions for Chapter 10:

1. Definition of "advertisement"

2. Definition of "commercial contractor"

(a) Commercial contractor's services

(b) Utility, metering & sewer connections

(c) Mechanical or structural service

3. “Contractor”:

- (a) Is synonymous with the term “builder” and means any person, firm, partnership, corporation, association or other organization, or a combination of any of them, that, for compensation, undertakes to or offers to undertake to, purports to have the capacity to undertake to, submits a bid or responds to a request for qualification or a request for proposals for construction services to, does himself or by or through others, or directly or indirectly supervises others to:
 - (i) Construct, alter, repair, add to, subtract from, improve, move, wreck or demolish any building, highway, road, railroad, excavation or other structure, project, development or improvement, or to do any part thereof, including the erection of scaffolding or any other structure or work in connection with the construction.
 - (ii) Connect such structure or improvements to utility service lines and metering devices and the sewer line.
 - (ii) Provide mechanical or structural service for any such structure or improvements.
- (b) Includes subcontractors, specialty contractors, floor covering contractors, hardscape contractors and consultants who represent that they are able to supervise or manage a construction project for the property owner’s benefit, including hiring and firing specialty contractors, scheduling work on the project and selecting and purchasing construction material.

3. Definition of “contractor”

(a) Contractor’s covered actions

(i) Contractor’s covered services

(ii) Utility, metering & sewer connections

(iii) Mechanical or structural service

(b) Subcontractors & others included in definition of “contractor”

4. “Dual licensed contractor” is synonymous with the term “commercial and residential builder” and means any person, firm, partnership, corporation, association or other organization, or a combination of any of them, that for compensation undertakes to or offers to undertake to, purports to have the capacity to undertake to, submits a bid or responds

4. Definition of “dual licensed contractor”

to a request for qualification or a request for proposals for construction services to, does himself or by or through others, or directly or indirectly supervises others under a single license on commercial or residential property to:

- | | |
|--|--|
| (a) Construct, alter, repair, add to, subtract from, improve, move, wreck or demolish any building, excavation or other structure or improvement, including any appurtenances, or to do any part thereof. | (a) Dual licensed contractor's covered services |
| (b) Connect such structure or improvements to utility service lines and metering devices and the sewer line. | (b) Utility, metering & sewer connections |
| (c) Provide mechanical or structural service for any such structure or improvements. | (c) Mechanical or structural service |
| 5. "License" means an authorization for the person who is listed on the electronic, paper or other records maintained by the registrar to act in the capacity of a contractor. | 5. Definition of "license." See also Arizona Administrative Code ("A.A.C.") R4-9-101(B) for definition of "licensee." |
| 6. "Named on a license" means required to be identified pursuant to Section 32-1122, Subsection B. | 6. Definition of "named on a license" |
| 7. "Person" means a corporation, company, partnership, firm, association, trust, society or natural person. | 7. Definition of "person" |
| 8. "Qualifying party" means a person who is responsible for a licensee's actions and conduct performed under the license and who either: | 8. Definition of "qualifying party" |
| (a) Has an ownership interest in the license. | (a) Ownership |
| (b) Is regularly employed by the license. | (b) Employment |
| 9. "Registrar" means the registrar of contractors. | 9. Definition of "registrar" |
| 10. "Residential contractor": | 10. Definition of "residential contractor" |
| (a) Is synonymous with the term "residential builder" and means any person, firm, partnership, corporation, association or other organization, or a combination of any of them, that for compensation undertakes to or offers to | (a) Residential contractor's covered actions |

undertake to, purports to have the capacity to undertake to, submits a bid or responds to a request for qualification or a request for proposals for construction services to, or does himself or by or through others, within residential property lines:

- (i) Construct, alter, repair, add to, subtract from, improve, move, wreck or demolish any residential structure, such as houses, townhouses, condominiums or cooperative units and any appurtenances on or within residential property lines. (i) Residential contractor's covered services
- (ii) Connect such residential structure to utility service lines, metering devices or sewer lines. (ii) Utility, metering & sewer connections
- (iii) Provide mechanical or structural service for any such residential structure. (iii) Mechanical or structural service
- (b) Does not include an owner making improvements to the owner's property pursuant to section 32-1121, subsection A, paragraph 5. (b) Owner making improvements under A.R.S. § 32-1121(A)(5) not a "residential contractor"

§ 32-1101(B) Only contractors as defined in this section are licensed and regulated by this chapter.

Only "contractors" licensed & regulated by Chapter 10

A.R.S. § 32-1101.01 Local authority

The legislature determines that the licensing of construction contractors is a proper state function.

Licensing of contractors is a proper state function

Cities, including charter cities, towns and counties shall not require licenses of any construction contractors licensed by statute prior to the effective date of this section.

Inapplicable to licenses before section's effective date

A.R.S. § 32-1102 Classification of licenses; contracting business

For the purpose of license classification, the contracting business shall include:

Mandatory license classifications:

- | | |
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| <p>1. General commercial building contracting, which is engaging in the contracting business in connection with any structure built, being built or to be built on commercial property for the support, shelter and enclosure of persons, animals, chattels or movable property of any kind, or superintending the whole or any part thereof, and which includes the management or direct or indirect supervision of any work performed by a contractor but does not include a person who merely furnishes materials or supplies as provided in section 32-1121 without fabricating them into or consuming them in performing the work of the general contractor.</p> | <p>1. General commercial building contracting; per A.R.S. § 32-1121, materialmen & suppliers not included</p> |
| <p>2. General dual licensed contracting, which is engaging in the contracting business in connection with any structure built, being built or to be built on residential or commercial property for the support, shelter and enclosure of persons, animals, chattels or movable property of any kind, or superintending the whole or any part thereof, and which includes the management or direct or indirect supervision of any work performed by a contractor but does not include a person who merely furnishes materials or supplies as provided in section 32-1121 without fabricating them into or consuming them in performing the work of the general contractor.</p> | <p>2. General dual licensed contracting; per A.R.S. § 32-1121, materialmen & suppliers not included</p> |
| <p>3. General engineering contracting, which is engaging in the contracting business other than residential contracting in connection with fixed works requiring specialized engineering knowledge and skills and includes irrigation, drainage, water power, water supply, flood control, inland waterways, harbors, railroads, highways, tunnels, airport runways, sewerage, bridges, earth moving projects, paving and transmission lines.</p> | <p>3. General engineering contracting</p> |
| <p>4. General residential contracting, which is engaging in the contracting business by any general contractor or subcontractor who undertakes to construct, alter, repair, add to, subtract from, improve, move, wreck or demolish any residential structure or appurtenances including swimming pools on or within residential property lines.</p> | <p>4. General residential contracting; swimming-pool contractors included</p> |

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|---|---|
| 5. Specialty commercial contracting, which is engaging in the contracting business in the performance of construction work requiring special skill and involving the use of specialized construction trades or crafts other than residential contracting. | 5. Specialty commercial contracting |
| 6. Specialty dual licensed contracting, which is engaging in the contracting business in the performance of construction work requiring special skill and involving the use of specialized construction trades or crafts in residential and commercial contracting. | 6. Specialty dual licensed contracting |
| 7. Specialty residential contracting, which is engaging in the residential contracting business by the performance of construction work requiring special skill and involving the use of specialized construction trades or crafts within residential property lines. | 7. Specialty residential contracting |

**A.R.S. § 32-1103
Registrar of contractors; salary**

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|---|---|
| The governor shall appoint a registrar of contractors pursuant to section 38-211. | Registrar's appointment by governor |
| The registrar shall serve at the pleasure of the governor. | Service at governor's pleasure |
| The registrar is vested with all functions and duties relating to administration of this chapter. | Vested with functions & duties for administering chapter |
| The registrar shall receive compensation as determined pursuant to section 38-611. | Registrar's compensation |

**A.R.S. § 32-1104
Powers and duties**

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|---------------------|---|--|
| § 32-1104(A) | The registrar, in addition to other duties and rights provided for in this chapter, shall: | Enumeration of Registrar's powers & duties: |
| | 1. Maintain an office in Phoenix and in such other cities and towns in the state as the registrar deems advisable and necessary. | 1. Maintaining offices |
| | 2. Maintain a complete indexed record of all applications and licenses issued, renewed, terminated, cancelled, revoked or suspended under | 2. Maintaining indexed record for 7 years |

this chapter, including timely notation of any judicial disposition on appeal, for a period of not less than seven years.

3. Furnish a certified copy of any license issued or an affidavit that no license exists or that a license has been cancelled or suspended including information as to the status on appeal of such a cancellation or suspension, on receipt of the prescribed fee, and that certified copy or affidavit shall be received in all courts and elsewhere as prima facie evidence of the facts stated therein.

3. Furnishing certified copies of licenses & affidavits regarding license status

The registrar shall also furnish certified copies of license bonds or cash deposit certificates on receipt of the prescribed fee.

Furnishing certified copies of bonds or deposit certificates

Fees charged pursuant to this paragraph are \$10 per hour, except that the minimum fee charged pursuant to this paragraph is \$10.

Fees at \$10 per hour; minimum fee of \$10

4. Employ such deputies, investigators and assistants subject to title 41, chapter 4, article 4, and procure such equipment and records, as are necessary to enforce this chapter.

4. Employment & procurement

With respect to the enforcement of section 32-1164, the registrar or the registrar's investigators are vested with the authority to issue a citation to any violators of this chapter in accordance with section 13-3903.

Authority to issue citations per A.R.S. § 13-3903

When the registrar or the registrar's investigators conduct investigations they are authorized to receive criminal history record information from the department of public safety and other law enforcement agencies.

Authority to receive criminal histories

5. Make rules the registrar deems necessary to effectually carry out the provisions and intent of this chapter.

5. Rule-making authority

Such rules shall include the adoption of minimum standards for good and workmanlike construction.

Adoption of minimum construction standards. See also A.A.C. R4-9-108.

In adopting such rules of minimum standards, the registrar shall be guided by established usage and

Guidance from Arizona construction business

procedure as found in the construction business in this state.

If the rules of minimum standards adopted by the registrar are in any manner inconsistent with a building or other code of this state, a county, city or other political subdivision or local authority of this state, compliance with such code shall constitute good and workmanlike construction for the purposes of this chapter.

Precedence of municipal & county building codes

6. Apply the following to proposed rule changes:

6. Procedure for proposing rule changes:

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

(a) File & mail notice of proposal to qualified trade associations & contractors

(b) Every trade association in this state allied with the contracting business that files a written request that a notice be mailed to it and shows that the association has an interest in the rules of the registrar of contractors shall receive a copy thereof, as set forth in subdivision (a) of this paragraph.

(b) Qualification of trade association for notice

Such filing of a request may be made every two years, and it shall contain information as to the nature of the association and its mailing address.

Biennial request for notice by trade association

Any duly licensed contractor who files a written request shall receive a copy of the proposed rule changes in accordance with this paragraph.

Qualification of licensed contractor for notice

Each such request may be made every two years.

Biennial request

7. Prepare and furnish decals and business management books when deemed advisable by the registrar.	7. Decals & business management books
A reasonable fee may be charged for such decals and business management books.	Reasonable fees for decals & books
8. Refer criminal violations of this chapter to the appropriate law enforcement agency or prosecuting authority.	8. Referral of criminal violations to law enforcement & prosecutors
§ 32-1104(B) The registrar may develop and institute programs to do any of the following:	Authority to develop & institute programs:
1. Educate the public and contractors licensed pursuant to this chapter regarding statutes, rules, policies and operations of the agency.	1. Educational programs
2. Assist in resolving disputes in an informal process before a reportable written complaint is filed.	2. Dispute-resolution programs
The registrar must notify the licensed contractor in an alleged dispute before a written complaint is filed and allow the contractor the opportunity to be present at any inspection regarding the alleged dispute.	Contractor's right to notice & to be present at inspection
The registrar must give the contractor at least five days' notice before the inspection.	5-day notice requirement
Issues in the alleged dispute under this section shall not be limited in number and shall not be considered formal written complaints.	Issues are unlimited & not considered formal complaints
The homeowner reserves the right to deny access to the contractor under this informal complaint process.	Homeowner's right to deny access
The registrar must notify the contractor and the homeowner in writing of the registrar's findings within five days after the date of the inspection.	Notice of findings within 5 days
The registrar may not post any information regarding the informal complaint process as part of a licensee's record on the registrar's website.	Information not posted on Registrar's website

	3. Develop, manage, operate and sponsor construction related programs designed to benefit the public in conjunction with other private and public entities.	3. Construction-related programs
§ 32-1104(C)	The registrar shall publicly post a list of applicants for a contractor license on its website for at least twenty days, commencing on the day designated by the registrar. The registrar shall issue a license if the applicant meets all requirements regardless of the twenty-day posting period. The registrar shall furnish copies of the posting list on written request. A reasonable charge, not to exceed \$2 per month, may be made for compilation, printing and postage for the posting list. The list shall contain the following information: 1. The name and address of the applicant. 2. The names, addresses and official capacity of all persons required to sign the application under section 32-1122.	20-day minimum posting period Registrar authority to issue license regardless of posting period Posting list available on request Maximum \$2 monthly fee associated with posting lists Posting list must contain: 1. Applicant's name and address 2. Names, addresses, and capacity for persons named on the license application
§ 32-1104(D)	The registrar may accept voluntary gifts, grants or matching monies from public agencies or enterprises for the conduct of programs that are authorized by this section or that are consistent with the purpose of this chapter.	Authority to accept gifts, grants, or monies for programs

A.R.S. § 32-1105
Rule making powers for purposes of
classifying and reclassifying contractors

§ 32-1105(A)	The registrar may adopt rules necessary to classify contractors in a manner consistent with established usage and procedure as found in the construction business, and may limit the field and scope of operations of a licensed contractor within any of the branches of the contracting business, as described in this chapter, in which the contractor is classified and qualified to engage.	Authority to adopt rules for classifying contractors per usage in construction business; authority to limit scope of contractor's construction operations. See also A.A.C. R4-9-107
§ 32-1105(B)	The registrar shall establish by rule license classifications for dual licensed contractors.	Duty to establish dual license classifications

A contractor classified as a dual licensed contractor may perform equivalent construction work on both commercial and residential projects under a single license.

Single license for dual licensed contractor

The registrar shall adopt rules necessary to establish the scope of work that may be done under the dual license classifications.

Duty to establish scope of work for dual license classifications. See also A.A.C. R4-9-104

§ 32-1105(C) A licensee may apply for classification and be classified in more than one classification after the licensee meets the qualifications prescribed by the registrar for such additional classification or classifications.

More than one classification permitted for licensee

§ 32-1105(D) This chapter does not prohibit a specialty contractor from taking and executing a contract involving the use of two or more crafts or trades if the performance of the work in the crafts or trades other than those in which the specialty contractor is licensed is incidental and supplemental to the performance of work in the craft for which the specialty contractor is licensed.

Specialty contractors permitted to perform incidental & supplemental work

A.R.S. § 32-1106 Enforcement powers

In any investigation, proceeding or hearing he is empowered to institute, conduct or hold under this chapter, the registrar, a deputy registrar, an assistant, an administrative law judge or an investigator may administer oaths, certify to official acts, issue subpoenas for attendance of witnesses and production of books, papers and records, and exercise the same powers in this regard as conferred upon the corporation commissioners and public officers by the provisions of section 40-244 and section 12-2212.

Authority to administer oaths, certify to official acts, issue subpoenas & exercise same powers conferred in A.R.S. § 40-244 & A.R.S. § 12-2212

All the provisions of such sections are incorporated into this section with the same force and effect as if herein set forth at length, and wherever in such sections the term "commission" or "commissioners" or similar designation occurs, it shall, for the purpose of this reference mean the "registrar of contractors."

Incorporation of A.R.S. § 40-244 & A.R.S. § 12-2212

A.R.S. § 32-1107
Registrar of contractors fund

§ 32-1107(A)	<p>The registrar of contractors fund is established.</p> <p>The registrar of contractors shall administer the fund.</p> <p>The registrar shall deposit, pursuant to sections 35-146 and 35-147, ninety percent of all monies collected under this chapter in the registrar of contractors fund and ten percent of all monies collected under this chapter in the state general fund, except monies collected for the residential contractors' recovery fund and the contractors' cash bond fund and monies received from civil penalties.</p>	<p>Establishment of fund</p> <p>Administration of fund</p> <p>All monies collected by Registrar to be deposited into fund; exception recovery-fund monies, cash bonds & civil penalties</p>
§ 32-1107(B)	<p>The registrar shall use monies in the registrar of contractors fund for carrying out the powers and duties of the registrar and for the purposes of this chapter.</p> <p>Monies deposited in the registrar of contractors fund are subject to section 35-143.01.</p>	<p>Duty to use deposited monies for carrying out powers, duties & chapter's purpose</p> <p>Deposited monies subject to A.R.S. § 35-143.01</p>

Article 2 Licensing

A.R.S. § 32-1121 Persons not required to be licensed; penalties; applicability

§ 32-1121(A)

This chapter does not apply to:

1. An authorized representative of the United States government, this state or any county, incorporated city or town, reclamation district, irrigation district or other municipality or political subdivision of this state.
2. Officers of a court or trustees of an express trust that is not formed for the purpose of conducting business as a contractor, if they are acting within the terms of their office or trust.
3. Public utilities operating under regulation of the corporation commission or construction, repair or operation incidental to discovering or producing petroleum or gas, or drilling, testing, abandoning or otherwise operating a petroleum or gas well, if performed by an owner or lessee.
4. Except as provided in subsection D of this section, any materialman, manufacturer or retailer that informs the purchaser that the installation may also be performed by a licensed contractor whose name and address the purchaser may request and that furnishes finished products, materials or articles of merchandise and that:
 - (a) Does not install or attach such items.
 - (b) Installs or attaches such items if the total value of the sales contract or transaction involving such items and the cost of the installation or attachment of such items to a structure does not exceed \$1,000, including labor, materials and all other items, but excluding any electrical fixture or appliance that meets all of the following:

Chapter 10 inapplicable to:

1. Representatives of governmental entities
2. Certain trustees & court officers
3. Public utilities regulated by corporation commission; petroleum & gas operations
4. Materialmen, manufacturers & retailers who either:
 - (a) Do not install or attach items, or
 - (b) Install or attach items not exceeding \$1,000 if the items:

- | | |
|--|---|
| <ul style="list-style-type: none"> (i) Was designed by the manufacturer. (ii) Is unaltered, unchanged or unmodified by any person. (iii) Can be plugged into a common electrical outlet or that has internal batteries that do not exceed twelve volts in a single, series or parallel configuration. | <ul style="list-style-type: none"> (i) Are designed by manufacturer; (ii) Are not modified; and (iii) Are plugged into a common outlet or that has internal batteries not exceeding 12 volts |
| <p>5. Owners of property who improve such property or who build or improve structures or appurtenances on such property and who do the work themselves, with their own employees or with duly licensed contractors, if the structure, group of structures or appurtenances, including the improvements thereto, are intended for occupancy solely by the owner and are not intended for occupancy by members of the public as the owner's employees or business visitors and the structures or appurtenances are not intended for sale or for rent.</p> <p>In all actions brought under this chapter, except an action against an owner-occupant as defined in section 33-1002, proof of the sale or rent or the offering for sale or rent of any such structure by the owner-builder within one year after completion or issuance of a certificate of occupancy is prima facie evidence that such project was undertaken for the purpose of sale or rent.</p> <p>For the purposes of this paragraph, "sale" or "rent" includes any arrangement by which the owner receives compensation in money, provisions, chattels or labor from the occupancy or the transfer of the property or the structures on the property.</p> | <p>5. Property owners improving or building on their property; restrictions</p> <p>Prima facie evidence of purpose of sale or rent; exception</p> <p>Breadth of terms "sale" & "rent"</p> |
| <p>6. Owners of property who are acting as developers and who build structures or appurtenances to structures on their property for the purpose of sale or rent and who contract for such a project with a general contractor licensed pursuant to this chapter and owners of property who are acting as developers, who improve structures or appurtenances to structures on their property for the purpose of sale or rent and who contract for</p> | <p>6. Property owners acting as developers; restrictions</p> |

such a project with a general contractor or specialty contractors licensed pursuant to this chapter.

To qualify for the exemption under this paragraph, the licensed contractors' names and license numbers must be included in all sales documents.

Contractors' names & license numbers required in sales documents

7. Architects or engineers who are engaging in their professional practice as defined in chapter 1 of this title and who hire or offer to hire the services of a contractor for preconstruction activities relating to investigation and discovery, including:
 - (a) Subsurface utility location and designation services.
 - (b) Potholing.
 - (c) Drilling for any of the following:
 - (i) Soil samples.
 - (ii) Rock samples.
 - (iii) Pavement samples.
 - (d) Locating existing features of a building or structure, including existing electrical, mechanical, plumbing and structural members.

7. Architects & engineers for preconstruction activities including:

(a) Subsurface utilities

(b) Potholes

(c) Drilling for:

(i) Soil samples

(ii) Rock samples

(iii) Pavement samples

(d) Locating building features

8. A person licensed, certified or registered pursuant to title 3, chapter 20 or a person working under the direct supervision of a person certified or qualified pursuant to title 3, chapter 20 to the extent the person is engaged in pest management.
9. Except as provided in subsection D of this section, the sale or installation of finished products, materials or articles of merchandise that are not fabricated into and do not become a permanent fixed part of the structure.

8. Pest management services

9. Sale or installation of items not permanently affixed to a structure

This exemption does not apply if a local building permit is required, if the removal of the finished product, material or article of merchandise causes material damage to the structure or renders the structure unfit for its intended use or if the total price of the finished product, material or article of

**Exemption inapplicable if:
(1) a permit is required,
(2) the removal of the installed item damages the structure, or (3) the total price is more than \$1,000 excluding a fixture or appliance that:**

merchandise is more than \$1,000, including labor but excluding any electrical fixture or appliance that meets all of the following:

- | | |
|---|--|
| (a) Was designed by the manufacturer. | (a) Is designed by manufacturer; |
| (b) Is unaltered, unchanged or unmodified by any person. | (b) Is not modified; and |
| (c) Can be plugged into a common electrical outlet or that has internal batteries that do not exceed twelve volts in a single, series or parallel configuration. | (c) Is plugged into a common outlet or that has internal batteries not exceeding 12 volts |
| 10. Employees of the owners of condominiums, townhouses, cooperative units or apartment complexes of four units or less or the owners' management agent or employees of the management agent repairing or maintaining structures owned by them. | 10. Employees of owners & management agents for condominiums, townhouses, cooperative units & apartment complexes of four units or less |
| 11. Any person who engages in the activities regulated by this chapter, as an employee of an exempt property owner or as an employee with wages as the person's sole compensation. | 11. Employees of exempt property owners & employees receiving wages |
| 12. A surety company or companies that are authorized to transact business in this state and that undertake to complete a contract on which they issued a performance or completion bond, if all construction work is performed by duly licensed contractors. | 12. Sureties using licensed contractors to undertake completion of bonded contract |
| 13. Insurance companies that are authorized to transact business in this state and that undertake to perform repairs resulting from casualty losses pursuant to the provisions of a policy, if all construction work is performed by duly licensed contractors. | 13. Insurance companies using licensed contractors to undertake completion of bonded contract |
| 14. Except as provided in subsection D of this section, any person other than a licensed contractor engaging in any work or operation on one undertaking or project by one or more contracts, for which the aggregate contract price is less than \$1,000, including labor, materials and all other items, but excluding any electrical fixture or appliance that was designed by the manufacturer, that is unaltered, unchanged or unmodified by any | 14. Unlicensed person undertaking work with aggregate contract price of less than \$1,000; restrictions |

person and that can be plugged into a common electrical outlet or that has internal batteries that do not exceed twelve volts in a single, series or parallel configuration.

The work or operations that are exempt under this paragraph must be of a casual or minor nature.

Exemption applicable only to casual or minor work

This exemption does not apply:

Exemption inapplicable if:

- (a) In any case in which the performance of the work requires a local building permit.
- (b) In any case in which the work or construction is only a part of a larger or major operation, whether undertaken by the same or a different contractor, or in which a division of the operation is made in contracts of amounts less than \$1,000, excluding any electrical fixture or appliance that was designed by the manufacturer, that is unaltered, unchanged or unmodified by any person and that can be plugged into a common household outlet or that has internal batteries not exceeding twelve volts in a single, series or parallel configuration.
- (c) To a person who uses any form of advertising to the public in which the person's unlicensed status is not disclosed by including the words "not a licensed contractor" in the advertisement.

(a) Permit is required

(b) Work is merely a part of a larger operation, or an operation is divided into contracts less than \$1,000 in order to evade Chapter 10's requirements

(c) Person fails to advertise with phrase "not a licensed contractor"

- 15. A person who is licensed, certified or registered pursuant to title 41, chapter 37, article 4 and who is not otherwise required to be licensed under this chapter or an employee of such person.
- 16. A person who functions as a gardener by performing lawn, garden, shrub and tree maintenance.
- 17. Alarm agents as defined in section 32-101.
- 18. Cable television, satellite television and telecommunications providers, including data and related services of cable television, satellite television and telecommunications providers

15. Persons licensed by Department Housing & not otherwise required to be licensed by Chapter 10

16. Gardeners

17. Alarm agents

18. Cable television, satellite television, and telecommunications providers if work limited to installing low voltage cable or service

including contractors and subcontractors of cable television, satellite television and telecommunications providers if the work of the contractors and subcontractors is limited to installing low-voltage cable, telephone services, internet services and data service.

Installation does not include digging, trenching, grading, horizontal boring, compacting or filling earthen or other material before the service drop of the commercial or residential structure.

Excludes: (1) digging; (2) trenching; (3) grading; (4) horizontal boring; (5) compacting; or (6) filling material before service drop

§ 32-1121(B) A person who is licensed to perform work in a particular trade pursuant to this chapter is not required to obtain and maintain a separate license for mechanical or structural service work the person performs within the scope of that trade.

Prohibition against requiring a separate license for mechanical or structural service work

§ 32-1121(C) Any person who does not have an exemption from licensure pursuant to subsection A, paragraph 14, subdivision (c) of this section is subject to prosecution for a violation of section 44-1522.

Failure to use phrase “not a licensed contractor” subject to prosecution under Consumer Fraud Act

The attorney general may investigate the act or practice and take appropriate action pursuant to title 44, chapter 10, article 7.

Attorney general’s authority to investigate & take action under Title 44, Ch. 10, Art. 7

§ 32-1121(D) The exemptions from licensure pursuant to subsection A, paragraphs 4, 9 and 14 of this section do not apply to either of the following:

Exemptions for (1) materialmen, (2) installing items not permanently affixed, and (3) work of less than \$1,000 do not apply to:

1. All fire safety and mechanical, electrical and plumbing work that is done in connection with fire safety installation and fire safety maintenance and repair.

1. Fire safety installation & fire safety maintenance and repair

For the purposes of this paragraph, “fire safety installation” means hardwired or interconnected smoke alarms and fire sprinklers and does not include an individual device that is attached by a nail, screw or other fastening device to the frame or foundation of any residential unit.

Definition of “fire safety installation”

For the purposes of this paragraph, fire safety maintenance and repair does not include routine work that is conducted by an employee of an

Exclusion from “fire safety maintenance and repair”

apartment or condominium complex and that is incidental to the fire safety equipment.

2. All work done, including installing, maintaining and repairing devices, appliances or equipment, that involves connecting to any supply of natural gas, propane or other petroleum or gaseous fuel.

2. Connecting to natural gas, propane & other petroleum or gaseous fuel

This paragraph does not impact the effect of section 36-1624.01.

Provision on liquefied petroleum gas containers unaffected

§ 32-1121(E)

A joint venture or other combination of persons, firms, partnerships, corporations, associations or other organizations is not required to obtain a separate contractor's license in its own name if all of the following apply:

Joint ventures do not need a separate license if:

1. At least one member of the joint venture or combination holds a contractor's license in good standing with the registrar.
2. Each member of the joint venture or combination that acts as a contractor holds a license in good standing with the registrar.
3. Each licensed member of the joint venture or combination only performs work within the scope of that member's contractor's license or licenses.

1. One member is appropriately licensed;

2. No unlicensed member performs contracting services; and

3. Licensees work within their respective scopes.

**A.R.S. § 32-1122
Qualifications for license**

§ 32-1122(A)

A contractor's license may be issued only by act of the registrar of contractors.

Registrar's exclusive authority to issue contractors' licenses

The registrar shall:

Registrar's duties:

1. Classify and qualify applicants for a license.
2. If necessary, change the license classification of a licensee in the case of a title reclassification, with or without a bond rider for the purpose of continuing liability on the bond.
3. Conduct investigations the registrar deems necessary.

1. Classification & qualification of applicants

2. Reclassification of licenses to maintain liability on a bond. See also A.A.C. R4-9-107

3. Necessary investigations

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

4. Establishment of written examinations necessary for public health & safety. See also A.A.C. R4-9-106(D).

§ 32-1122(B)

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

Obtaining, maintaining, or renewing licenses:

1. Submit to the registrar of contractors a verified application on forms that are prescribed by the registrar of contractors and that contain the following information:
 - (a) A designation of the classification of license that is sought by the applicant.
 - (b) If the applicant is a sole proprietorship, the applicant's name and address.
 - (c) If the applicant is a partnership, the names and addresses of all partners with a designation of any limited partners.
 - (d) If the applicant is a limited liability company, the names and addresses of all of the following, as applicable:
 - (i) If the applicant is a manager-managed limited liability company, all managers.
 - (ii) If the applicant is a member-managed limited liability company, all members.
 - (iii) All owners of twenty-five percent or more of the stock or beneficial interest.
 - (e) If the applicant is a corporation, an association or any other organization, the names and addresses of all of the following:
 - (i) The president, vice president, secretary and treasurer or the names and addresses of the functional equivalent of all of these officers.
 - (ii) The directors.
 - (iii) The owners of twenty-five percent or more of the stock or beneficial interest.
 - (f) The name and address of the qualifying party.

1. Submission of verified application. See also A.A.C. R4-9-113(A)

- (a) Designation of license classification sought
- (b) Name & address of a sole proprietor
- (c) Names & addresses of partners; designation of limited partners
- (d) For LLCs: names and addresses of:
 - (i) Managers of manager-managed LLCs
 - (ii) Members of member-managed LLCs
 - (iii) All owners of 25% of more
- (e) For corporations or other business organizations:
 - (i) Corporate officers;
 - (ii) Directors;
 - (iii) All owners of 25% or more
- (f) Qualifying party's name & address

- (g) If the applicant is a limited liability company or corporation, an attestation that the corporation is in good standing with the corporation commission. **(g) Attestation of good standing with Arizona Corporation Commission**
- (h) The address or location of the applicant's place of business and the mailing address if it is different from the applicant's place of business. **(h) Location of place of business & mailing address**
- (i) An attestation that the applicant has complied with the statutes and rules governing workers' compensation insurance. If the applicant is required by law to secure workers' compensation insurance pursuant to section 23-916, the attestation must contain the worker's compensation insurance policy number or be accompanied by proof of self-insurance. **(i) Attestation of compliance with workers' compensation rules & statutes**
- (j) If the applicant is a trust, the names and addresses of all trustees. **(j) Trusts**

- 2. Submit the appropriate fee required under this chapter. **2. Submission of fee**
- 3. Submit and maintain the appropriate bond required under this chapter. **3. Submission and maintenance of bond**
- 4. Notify the registrar of any change in the information required by this section within thirty days after the change occurs. **4. Duty to notify Registrar of changes within 30 days**

§ 32-1122(C) To obtain, renew, or maintain a license under this chapter, each person who is named on a license must be of good character and reputation.

Requirement of good character & reputation

Lack of good character and reputation may be established by showing that a person engaged in contracting without a license or committed any act that, if committed or done by any licensed contractor, would be grounds for suspension or revocation of a contractor's license or by showing that the person was named on a license that was suspended or revoked in this state or another state.

Establishment of lack of good character & reputation by showing: (1) contracting without a license; (2) commission of act constituting grounds for discipline of a licensed contractor; or (3) a person was named on a suspended or revoked license

§ 32-1122(D) To obtain a license under this chapter, a person may not have had a license denied, refused or revoked within one year before the person's application.

Having a license refused or revoked within 1 year of application is grounds for denial.

The registrar may find circumstances behind the denial, refusal or revocation excusable if the applicant's actions did not result in an unremedied hardship or danger or loss to the public.

Registrar's authority to excuse those actions & circumstances if no unremedied hardship, danger, or loss to public

A person who has been convicted of contracting without a license is not eligible to obtain a license under this chapter for one year after the date of the last conviction.

Conviction for contracting without a license is mandatory 1-year bar against licensure

§ 32-1122(E)

Before a license is issued, the qualifying party must:

Qualifying party's requirements:

1. Have had a minimum of four years' practical or management trade experience, at least two of which must have been within the last ten years, dealing specifically with the type of construction, or its equivalent, for which the applicant is applying for a license.

1. **Practical or management trade experience of 4 years; 2 of those years within the last 10 years and in same type of construction as license**

Technical training in an accredited college or university or in a manufacturer's accredited training program may be substituted for a portion of such experience, but in no case may credited technical training exceed two years of the required four years' experience.

Up to 2 years of accredited technical training may count toward the experience requirement

The registrar of contractors may reduce the four years' practical or management experience requirement if in the registrar's opinion it has been conclusively shown by custom and usage in the particular industry or craft involved that the four-year requirement is excessive.

Registrar's authority to reduce required experience if custom & usage in a particular industry or trade shows 4 years to be excessive

The registrar shall waive the work experience documentation and verification if the records reflect that the qualifying party is currently or has previously been a qualifying party for a licensee in this state in the same classification and meets all other qualifications.

Registrar's authority to waive work-experience documentation & verification, if prior QP experience in Arizona in same classification.

2. Successfully show, by written examination taken not more than two years before application, if required, qualification in the kind of work for which the applicant proposes to contract, the applicant's general knowledge of the building, safety, health and lien laws of the state, administrative principles of the contracting business and the rules adopted by the registrar of contractors pursuant to this chapter, demonstrate knowledge and understanding of construction plans and specifications applicable to the particular industry or craft and of the standards of construction work and techniques and practices in the particular industry or craft and demonstrate a general understanding of other related construction trades, in addition to any other matters as may be deemed appropriate by the registrar to determine that the qualifying party meets the requirements of this chapter.

2. Showing qualification by written examination, if required, within 2 years of application; statutorily proscribed contents of written examination; Registrar's authority to add material to written examination. See also A.A.C. R4-9-106(E).

§ 32-1122(F) The registrar shall maintain multiple versions of examinations for each type of license that requires an examination.

Registrar's duty to maintain multiple versions of examination

The registrar shall waive the examination requirement if the records reflect that the qualifying party is currently or has previously been a qualifying party for a licensee in this state in the same classification within the preceding five years.

Registrar's duty to waive exam requirement if prior QP experience in Arizona in same classification within preceding 5 years. See also A.A.C. R4-9-106(E).

§ 32-1122(G) A license may not be issued to a minor, to any partnership in which one of the partners is a minor or to any corporation in which a corporate officer is a minor.

Prohibition against issuing contractor's license to a minor

§ 32-1122(H) Before receiving, renewing and holding a license pursuant to this chapter, the registrar may require a license applicant or licensee to submit to the registrar a full set of fingerprints and the fees required in section 41-1750.

Registrar's authority to require fingerprints & fees under § 41-1750

The registrar shall submit the fingerprints and fees to the department of public safety for the purpose of obtaining a state and federal criminal records check pursuant to section 41-1750 and Public Law 92-544.

Submission of fingerprints to the Department of Public Safety for state & federal criminal-records check

The department of public safety may exchange this fingerprint data with the federal bureau of investigation.

Authority of DPS to share fingerprint data with FBI

A.R.S. § 32-1123
Unlicensed contractors; contract bidding;
license denial; exemptions; warning

§ 32-1123(A) Except as provided in subsection D of this section, if an entity that is not licensed or not properly licensed pursuant to this chapter bids on a contract for a project with an aggregate worth of more than \$1,000, the registrar may not issue the entity a license for one year after the bid date.

Except as provided in § 32-1123(D), Registrar prohibited for 1 year from issuing license to entity that bids on project of more than \$1,000

For the purposes of this subsection, aggregate worth does not include any electrical fixture or appliance that meets all of the following:

1. Was designed by the manufacturer.
2. Is unaltered, unchanged or unmodified by any person.
3. Can be plugged into a common electrical outlet.
4. Does not involve the connection to a supply of natural gas, propane or other petroleum or gaseous fuel.

1. Are designed by manufacturer;
2. Are not modified; and
3. Are plugged into a common outlet
4. Not connected to gas/propane supply.

§ 32-1123(B) This section does not apply to an entity that bids on a contract for either of the following:

§ 32-1123 inapplicable to:

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

1. Arizona Department of Transportation projects
2. Federal Acquisition Regulation projects

§ 32-1123(C) This section does not affect the licensing exemptions prescribed in section 32-1121.

Exemptions in § 32-1121 unaffected by § 32-1123

§ 32-1123(D) The registrar shall issue an entity a written warning relating to unlicensed activity if the registrar has not previously issued the entity a warning letter and if the entity bids on a contract for a project pursuant to subsection A of this section and the project has an aggregate worth of more than \$1,000 but less than \$20,000 excluding any electrical fixture or appliance that meets all of the following:

For entities subject to § 32-1123(A), Registrar's duty to issue entity a written warning if such a warning not previously issued & if project is less than \$20,000

1. Was designed by the manufacturer.
2. Is unaltered, unchanged or unmodified by any person.
3. Can be plugged into a common electrical outlet.
4. Does not involve the connection to a supply of natural gas, propane or other petroleum or gaseous fuel.

1. Are designed by manufacturer;
2. Are not modified; and
3. Are plugged into a common outlet
4. Not connected to gas/propane supply.

A.R.S. § 32-1123.01

Staggered periods of licensure; biennial renewal

§ 32-1123.01(A) The registrar shall maintain a system of staggered licensure to distribute the work of licensure throughout the twelve months of the year.

Registrar's duty to maintain system of staggered licensure to distribute licensure work throughout 12 months

§ 32-1123.01(B) The registrar shall implement a system for biennial license renewal and provide for proration of license renewal fees for that purpose.

Registrar's duty to implement system for biennial license renewal

§ 32-1123.01(C) The registrar may grant an exception to the biennial licensing or biennial renewal requirements of this section and may allow an annual renewal based on a written petition by a contractor claiming that the biennial requirements would cause a real and immediate hardship.

Registrar's authority to grant exceptions & to permit renewals annually, based on contractor's real & immediate hardship

A.R.S. § 32-1124

Issuance and display of license; suspension

§ 32-1124(A) On receipt by the registrar of the fee required by this chapter and an application furnishing complete information as required by the registrar, the registrar shall notify the applicant within sixty days after the date of the filing of a complete application of the action taken on the application, and if the registrar determines that the applicant is qualified to hold a license in accordance with this chapter, the registrar shall issue a license to the applicant permitting the applicant to engage in business as a contractor under the terms of this chapter.

Registrar's duty to notify applicant of action taken within 60 days of receiving fee and application; Registrar's duty to issue license if Registrar determines applicant qualified

§ 32-1124(B)	<p>Licenses issued under this chapter and any renewals is signed by the registrar or the registrar’s designated representative and by the licensee.</p> <p>The license shall be nontransferable, and satisfactory evidence of possession shall be exhibited by the licensee on demand.</p> <p>The license number appearing on any licenses held by the licensee must be preceded by the acronym “ROC” and shall be posted in a conspicuous place on premises where any work is being performed, shall be placed on all written bids submitted by the licensee and shall be placed on all broadcast, published, internet or billboard advertising, letterheads and other documents used by the licensee to correspond with the licensee’s customers or potential customers in the conduct of business regulated by this chapter.</p> <p>A violation of this subsection relating to posting and placement of license numbers shall be, at the discretion of the registrar, grounds for disciplinary action pursuant to section 32-1154, subsection A, paragraph 12, but not grounds for preventing the award of a contract, voiding an awarded contract, or any other claim or defense against the licensee.</p> <p>For the purposes of this subsection, advertising does not include a trade association directory listing that is distributed solely to the members of the association and not to the general public.</p>	<p>Signature of licenses & renewals by Registrar (or designee) and by licensee</p> <p>License nontransferable; evidence of possession on demand. See also A.A.C. R4-9-109.</p> <p>Acronym “ROC” must precede license number; duty to post license number in conspicuous place on job site; duty to place license number on written bids, in advertising & in any documents for corresponding with contractor’s customers or potential customers</p> <p>Violation of § 32-1124(B) constitutes grounds for disciplinary action at Registrar’s discretion, but not grounds for preventing contract award, voiding contract, or any claim or defense against licensee</p> <p>For § 32-1124, trade-association directory distributed solely to association members not considered “advertising”</p>
§ 32-1124(C)	<p>If an application for a license is denied for any reason provided in this chapter, the application fee paid by the applicant is forfeited and shall be deposited pursuant to section 32-1107.</p> <p>A reapplication for a license shall be accompanied by the fee fixed by this chapter.</p>	<p>Forfeiture of application fee if application is denied; deposit of forfeited fee under § 32-1107</p> <p>Reapplication for license requires fee</p>
§ 32-1124(D)	<p>On issuance or renewal of a license, the registrar, at the request of a licensee, shall issue a single license certificate showing all contracting licenses held by the licensee that are currently in good standing and their dates of expiration.</p>	<p>Registrar’s duty to issue a single license certificate showing all licenses & expiration dates, if requested by licensee</p>

§ 32-1124(E) The registrar may establish procedures to allow a licensee to establish a common expiration or renewal date for all licenses issued to the licensee and may provide for proration of license fees for that purpose.

Registrar's authority to establish procedures for common expiration or renewal dates for multiple licenses, with proration of license fees

§ 32-1124(F) The registrar may suspend by operation of law a license issued under this chapter if any of the following occurs:

Registrar's duty to suspend a license by operation of law if:

1. The licensed entity is dissolved.

The dissolution of the licensed entity includes the death of a sole owner, a change to the partnership by either adding or removing a partner, the revocation or dissolution of corporate authority or the dissolution of a limited liability company or limited liability partnership.

1. **Dissolution of licensed entity**

Dissolution includes: sole owner's death; change in partnership; corporate authority's revocation or dissolution; dissolution of LLC or LLP

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

2. **Licensed entity lacks authority to do business in Arizona**

3. The license is obtained or renewed with an insufficient funds check.

3. **Insufficient-funds check used to obtain or renew a license**

The license remains suspended until the registrar receives sufficient funds as payment for the license fees and assessments.

License remains suspended until Registrar receives sufficient funds

A.R.S. § 32-1124.01 Confidentiality of licensee's or license applicant's personal identifying information; exception

§ 32-1124.01(A) Notwithstanding any other law and except as provided in subsection C of this section, the registrar may not release to or make available for inspection by any person any of the following:

Registrar prohibited from releasing the following information:

1. A licensee's or license applicant's residential address or residential telephone number, unless the registrar determines that disclosure serves the interests of justice and is in the public interest.

1. **Residential address or residential telephone number;**

2. A licensee's or license applicant's e-mail address, other than to a court or a governmental agency that will use the e-mail address for a legitimate court or governmental purpose.

2. **E-mail address; and**

3. A licensee's or license applicant's social security number, other than to a court or a governmental agency that will use the social security number for a legitimate governmental purpose.

3. Social Security Number

§ 32-1124.01(B) The residential address, e-mail address and residential telephone number of a licensee whose license is placed on inactive status are confidential unless the registrar determines that disclosure of this information serves the interests of justice and is in the public interest.

Inactive licenses' identifying information is confidential

§ 32-1124.01(C) Notwithstanding subsections A and B of this section, the registrar may disclose the residential address or residential telephone number of a licensee or license applicant if the residential address or residential telephone number is designated as the business address or business telephone number.

Business address and business telephone may be disclosed

A.R.S. § 32-1125 Renewal of license; qualifying party

§ 32-1125(A) Except as provided in section 32-4301, a license issued under this chapter is suspended on the next business day following its renewal date by operation of law.

License suspended by operation of law on the business day after renewal date. *But see* military members under § 32-4301

An application for renewal of any current contracting license addressed to the registrar, with a valid bond or cash deposit on file with the registrar, accompanied by the required fee and received by the registrar or deposited in the United States mail postage prepaid on or before the renewal date authorizes the licensee to operate as a contractor until actual issuance of the renewal license.

Renewal application received by Registrar or deposited in mail on or before renewal date authorizes contractor to operate

The registrar may refuse to renew a license if a licensee or person has committed or been found guilty of any act listed in section 32-1154.

Registrar's authority to refuse renewal on grounds listed in § 32-1154

§ 32-1125(B) A license that has been suspended by operation of law for failure to renew may be reactivated and renewed within one year of its suspension by filing the required application and paying the application fee in the amount provided for renewal in this chapter in addition to a \$50 fee.

Within 1 year of suspension: reactivation & renewal of suspended license, with payment of application fee and \$50

When a license has been suspended for more than one year for failure to renew, a new application for a license must be made and a new license issued in accordance with this chapter.

After 1 or more years of suspension for failure to renew: application for new license required

§ 32-1125(C) A licensee may apply in writing to the registrar for exemption from a qualifying party.

Licensee permitted to apply for qualifying-party exemption

The licensee must show to the satisfaction of the registrar that during the past five years the licensee:

Satisfactory showing that within past 5 years:

1. Held a valid and active license and could legally contract under this chapter for the entire five-year period.
2. Did not transfer fifty percent or more of its stock or beneficial interest.
3. Did not commit a violation of section 32-1154, subsection A that has not been remedied.

1. License valid and active for entire 5-year period

2. No transfer of 50% or more of ownership

3. No unresolved violations

§ 32-1125(D) The registrar shall approve or deny the application within thirty days after its receipt.

Approval or denial within 30 days

If the application is not approved, the licensee, within thirty days, may request a hearing to be held pursuant to section 32-1156.

If application not approved, licensee's right to appeal within 30 days under § 32-1156

If the application is approved, the exemption takes effect immediately.

Exemption immediately effective on application's approval

§ 32-1125(E) A licensee that is exempt from the requirement for a qualifying party pursuant to subsection C of this section may be required by the registrar after a hearing to obtain a qualifying party within sixty days on a finding that:

Registrar's authority to remove the exemption and to require a qualifying party, on finding after a hearing:

1. A transfer of ownership of fifty percent or more of the stock, if applicable, or beneficial interest, in the licensee has occurred.
2. A violation of section 32-1154 has occurred.

1. Transfer of 50% or more of ownership

2. Violation of § 32-1154

A.R.S. § 32-1125.01 Inactive license

§ 32-1125.01(A) A contractor may request the registrar, on forms prescribed by the registrar, to inactivate the contractor's

Contractor's right to request in writing the inactivation of a current license for 5 years

current license for a period not to exceed five years at one time by giving written notice to the registrar.

The registrar, in the absence of any disciplinary proceeding or disciplinary suspension and on payment of reasonable fees determined by the registrar, may issue to the contractor an inactive license certificate.

Absent a disciplinary proceeding or a suspension, Registrar's authority to issue an inactive-license certificate, subject to payment of reasonable fees

The inactive license certificate may consist of an endorsement on the contractor's license stating that the license is inactive.

Permission for the inactive-license certificate to consist of endorsement on license

The registrar may not refund any of the license renewal fee a contractor paid before requesting inactive status.

Prohibition against Registrar refunding a license-renewal fee after an inactivation request

§ 32-1125.01(B)

A contractor's license that is not suspended or revoked and that is inactive may be reactivated as an active license on payment of the current renewal fee and thirty days' written notice to the registrar.

Reactivation of license on (1) payment of renewal fee & (2) 30 days' written notice

An examination may not be required to reactivate an inactive license.

Prohibition against examination as condition of reactivation

If the license is not reactivated within five years, a new application for licensing must be made unless the contractor requests, on forms prescribed by the registrar, to inactivate the license for an additional period not to exceed five years.

After 5 years of license being inactive, a new license application required; exception: contractor requests additional inactive period of 5 years or less

A contractor may not inactivate the license more than twice.

Limitation: only 2 inactivations

§ 32-1125.01(C)

The holder of an inactive license may not practice as a contractor until the license is reactivated as an active license.

Prohibition against contracting until license reactivated

§ 32-1125.01(D)

The inactive status of a contractor's license does not prevent the registrar from taking any disciplinary action against a licensed contractor for any of the grounds stated in this chapter.

Inactive status not a bar to disciplinary action

A.R.S. § 32-1126 Fees

§ 32-1126(A)

The license fees prescribed by this chapter are as follows:

License fee amounts. See also R4-9-130:

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| <p>1. Application and license fees for an original biennial license:</p> <p>(a) For general residential contracting and subclassifications of general residential contracting, not more than \$500.</p> <p>(b) For general commercial contracting and subclassifications of general commercial contracting, not more than \$1,500.</p> <p>(c) For general dual licensed contracting, not more than \$2,000.</p> <p>(d) For specialty residential contracting, not more than \$350.</p> <p>(e) For specialty commercial contracting, not more than \$1,000.</p> <p>(f) For specialty dual licensed contracting, not more than \$1,350.</p> <p>2. Biennial license renewal fee:</p> <p>(a) For general residential contracting and subclassifications of general residential contracting, not more than \$320.</p> <p>(b) For general commercial contracting and subclassifications of general commercial contracting, not more than \$1,000.</p> <p>(c) For general dual licensed contracting, not more than \$1,320.</p> <p>(d) For specialty residential contracting, not more than \$270.</p> <p>(e) For specialty commercial contracting, not more than \$900.</p> <p>(f) For specialty dual licensed contracting, not more than \$1,170.</p> | <p>1. Original biennial license:</p> <p>(a) General residential contracting & subclassifications: \$500 or less</p> <p>(b) General commercial contracting & subclassifications: \$1,500 or less</p> <p>(c) General dual licensed contracting: \$2,000 or less</p> <p>(d) Specialty residential contracting: \$350 or less</p> <p>(e) Specialty commercial contracting: \$1,000 or less</p> <p>(f) Specialty dual licensed contracting: \$1,350 or less</p> <p>2. Biennial license renewal:</p> <p>(a) General residential contracting & subclassifications: \$320 or less</p> <p>(b) General commercial contracting & subclassification: \$1,000 or less</p> <p>(c) General dual licensed contracting: \$1,320 or less</p> <p>(d) Specialty residential contracting: \$270 or less</p> <p>(e) Specialty commercial contracting: \$900 or less</p> <p>(f) Specialty dual licensed contracting: \$1,170 or less</p> |
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§ 32-1126(B) The fee for an annual license renewal granted pursuant to section 32-1123.01 is one-half of the biennial license renewal fee.

Renewal fee under § 32-1123.01 equals one-half the biennial license renewal fee

§ 32-1126(C)	The registrar may establish reasonable fees for services performed by the registrar relating to reexaminations, processing of applications, changes of qualifying party and approval of name changes on licenses.	Registrar's authority to establish reasonable fees for services relating to: reexaminations, application processing, and changing qualifying party or names on a license
§ 32-1126(D)	The penalty for failure to apply for renewal of a license within the time prescribed by this chapter is \$50.	\$50 penalty for failure to renew
§ 32-1126(E)	The registrar may establish a separate fee for examination.	Registrar's authority to establish an examination fee
§ 32-1126(F)	The registrar may contract with private testing services to establish and administer such examinations and may authorize the payment of the examination fee to the private testing service.	Registrar's authority to contract with private testing services & to authorize payment of a testing fee to those private testing services
§ 32-1126(G)	Except as provided in section 32-1152, subsection C, a person applying for a contractor license or for renewal of a contractor license to engage in residential contracting shall pay an assessment of not more than six hundred dollars during the biennial license period for deposit in the residential contractors' recovery fund established by section 32-1132.	Assessment of \$600 every 2 years
	If the registrar does not issue the license, the assessment shall be returned to the applicant.	Return of assessment if the license is not issued

A.R.S. § 32-1127
Qualifying party; responsibility

§ 32-1127(A)	While engaged as the qualifying party for a licensee, the qualifying party may not take other employment that would conflict with his duties as qualifying party or conflict with his ability to adequately supervise the work performed by the licensee.	Prohibition against qualifying party taking any employment conflicting with qualifying-party duties or ability to adequately supervise licensee's work
	Such person may act in the capacity of the qualifying party for one additional licensee if one of the following conditions exists:	Permission for licensee's qualifying party to act as qualifying party for additional licensee, as long as:
	1. There is a common ownership of at least twenty-five per cent of each licensed entity for which the person acts in a qualifying capacity.	1. Common ownership of at least 25% between the licensed entities
	2. One licensee is a subsidiary of another licensee for which the same person acts in a qualifying capacity.	2. One licensee is subsidiary of the other licensee

“Subsidiary” as used in this paragraph means a corporation of which at least twenty-five percent is owned by the other licensee.

Definition of
“subsidiary”

§ 32-1127(B) While engaged as a qualifying party for a licensee, the qualifying party is responsible for any violation of this chapter by the licensee.

Qualifying party responsible for violations of this chapter

A.R.S. § 32-1127.01

Qualifying parties; disassociation with license; requalification

§ 32-1127.01(A) If a person who qualified for a license ceases to be connected with the licensee, both the licensee and the qualifying party shall notify the registrar in writing within fifteen days after the disassociation.

If a qualifying party ceases to be connected with a license for any reason, both the licensee & the qualifying party must notify Registrar of the disassociation within 15 days

§ 32-1127.01(B) A licensee shall requalify through another person within sixty days after the date of a disassociation.

Within 60 days of the disassociation, the licensee must have a new qualifying party

§ 32-1127.01(C) If a licensee fails to requalify through another person within sixty days, the license is automatically suspended by operation of law at the end of the period until the licensee qualifies through another person.

Without a new qualifying party, the license is automatically suspended by operation of law after 60 days

A.R.S. § 32-1128

Asbestos educational pamphlet

§ 32-1128(A) The director of occupational safety and health within the industrial commission with the assistance of the registrar of contractors and the director of the department of environmental quality shall prepare an educational pamphlet relating to asbestos to help contractors identify asbestos in the workplace and to inform them of state and federal asbestos rules and of the health hazards associated with asbestos contact.

Duty of Director of Occupational Safety & Health, with Registrar's assistance, to prepare asbestos educational pamphlet

§ 32-1128(B) The registrar shall distribute asbestos educational pamphlets with each contractor's license or license renewal.

Registrar's duty to distribute asbestos educational pamphlet with each license or renewal

Article 2.1

Residential Contractors' Recovery Fund

A.R.S. § 32-1131

Definitions

In this article, unless the context otherwise requires:

1. "Assessment" means the contribution by a contractor to the residential contractors' recovery fund.
2. "Fund" means the residential contractors' recovery fund.
3. "Residential contractor" means a contractor as defined in section 32-1101 who is licensed to perform work on residential property pursuant to this chapter and who engages in residential contracting.

Definitions for Article 2.1:

1. Definition of "assessment"
2. Definition of "fund"
3. Definition of "residential contractor"

A.R.S. § 32-1132

Residential contractors' recovery fund; claimants; eligibility; definition

§ 32-1132(A) The residential contractors' recovery fund is established, to be administered by the registrar, for the benefit of a claimant damaged by an act, representation, transaction or conduct of a residential contractor licensed pursuant to this chapter that is in violation of this chapter or the rules adopted pursuant to this chapter.

Establishment of recovery fund for claimants damaged by licensed residential contractors

§ 32-1132(B) Only the following claimants are eligible for an award from the residential contractors' recovery fund:

Eligible claimants:

1. An individual who both:
 - (a) Owns residential real property that is damaged by the failure of a residential contractor to adequately build or improve a residential structure or appurtenance.
 - (b) Actually occupies or intends to occupy the residential real property described in

1. Individuals who:

(a) Own real property that is damaged by licensed residential contractor; and

(b) Occupies/intends to occupy the property as a primary residence

subdivision (a) of this paragraph as the individual's primary residence.

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| <p>2. A limited liability company to which all of the following apply:</p> <ul style="list-style-type: none">(a) The limited liability company owns the residential real property that is damaged by the failure of a residential contractor to adequately build or improve a residential structure or appurtenance.(b) All of the limited liability company's members actually occupy or intend to occupy the residential real property as described in subdivision (a) of this paragraph as their primary residence.(c) A member of the limited liability company has not received monies from the fund in the last two years. | <p>2. LLCs if:</p> <ul style="list-style-type: none">(a) LLC owns real property that is damaged by licensed residential contractor;(b) All members actually occupy or intend to occupy as a primary residence; and(c) No member received payout within 2 years. |
| <p>3. A trust to which all of the following apply:</p> <ul style="list-style-type: none">(a) The trust is a revocable living trust.(b) The trust owns the residential real property that is damaged by the failure of a residential contractor to adequately build or improve a residential structure or appurtenance.(c) All of the trust's trustors actually occupy or intend to occupy the residential real property described in subdivision (b) of this paragraph as their primary residence.(d) A trustor has not received monies from the fund in the last two years. | <p>3. Trusts if:</p> <ul style="list-style-type: none">(a) Revocable;(b) Trust owns real property damaged by licensed residential contractor;(c) All trustors actually occupy or intend to occupy property as a primary residence; and(d) No trustor received payout within 2 years. |
| <p>4. A planned community as defined in section 33-1802 or unit owners' association as defined in section 33-1202 if both:</p> <ul style="list-style-type: none">(a) The builder or developer transferred control to the planned community a defined in section 33-1802 or unit owners' association as defined in section 33-1202. | <p>4. Planned communities and UOAs if:</p> <ul style="list-style-type: none">(a) Builder/developer transferred control; and |

(b) A licensed residential contractor’s failure to adequately build or improve a residential structure or appurtenance caused damage to the common elements within the complex. **(b) Damage to common elements.**

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

3. Lessees if:

(a) Contracts directly with a residential contractor or indirectly with a subcontractor of the residential contractor. **(a) Contracts directly with general contractor or indirectly with subcontractor**

(b) Actually occupies or intends to occupy the residential real property described in subdivision (a) of this paragraph as the lessee’s primary residence. **(b) Actually occupies or intend to occupy property as a primary residence; and**

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

§ 32-1132(C) In order for a claimant to be eligible for an award from the residential contractors’ recovery fund, the contractor whose actions damaged the claimant must have been appropriately licensed at one of the following times:

Contractor must be appropriately licensed at:

1. The date that the underlying contract was signed. **1. Date contract is signed;**
2. The date that the first payment was made. **2. Date first payment is made; or**
3. The date that the underlying work first commenced. **3. Date work first started.**

§ 32-1132(D) For the purposes of this section, “Appropriately licensed” means the residential contractor held a valid residential contractor license that was issued pursuant to this chapter and that was not canceled, in inactive status, expired, suspended, or revoked.

Definition of “appropriately licensed”

A.R.S. § 32-1132.01

Actual damages; fund; limitations; definition

§ 32-1132.01(A) An award from the residential contractors’ recovery fund is limited to residential real properties.

Fund limited to residential real properties

The fund may not issue an award covering damages to commercial property.

Prohibition against awards for commercial properties

§ 32-1132.01(B)	An award from the residential contractors' recovery fund may not exceed the actual damages suffered by the claimant as a direct result of a contractor's violation. Actual damages:	Actual damages limitation on awards from recovery fund
	1. May not exceed an amount necessary to complete or repair a residential structure or appurtenance within residential property lines.	1. May not exceed amount needed to complete or repair
	2. Must be established by bids supplied by or the value of the work performed by a person that is licensed pursuant to this chapter if the person is required to be licensed pursuant to this chapter.	2. No bids or work supplied by unlicensed entities
§ 32-1132.01(C)	If the claimant paid a deposit or down payment and no actual work is performed or materials are delivered, the claimant's actual damages are the exact dollar amount of the deposit or down payment plus interest at the rate of ten percent a year from the date the deposit or down payment is made, but may not exceed \$30,000. Interest may not be paid from the fund on other awards under this chapter unless ordered by a court of competent jurisdiction.	Deposit & down payment cases Interest paid only by order of court
§ 32-1132.01(D)	The maximum individual award from the residential contractors' recovery fund is \$30,000. An individual claimant may not be awarded more than the maximum individual award.	\$30,000 maximum award Limitation on maximum individual award
§ 32-1132.01(E)	Monies in the residential contractors' recovery fund may not be awarded for attorney fees or costs, except in contested cases appealed to the superior court.	Limitation on attorney fees & costs
§ 32-1132.01(F)	If the claimant has recovered a portion of the claimant's loss from sources other than the fund, the registrar shall deduct the amount recovered from other sources from the amount of actual damages suffered pursuant to subsection B of this section and direct the difference, not to exceed \$30,000, to be paid from the fund.	Recovery from other sources deducted from actual damages
§ 32-1132.01(G)	The claimant may not be the spouse of the residential contractor or the personal representative of the spouse of the residential contractor.	Spouses and their personal representatives are ineligible

§ 32-1132.01(H) For purposes of this section, “actual damages” means the reasonable cost of completing the contract and repairing the contractor’s defective performance, minus the part of the contract price still unpaid.

Definition of “actual damages”

A.R.S. § 32-1133 Civil recovery; statute of limitations

§ 32-1133(A) An action for a judgment that may subsequently result in an order for collection from the residential contractors’ recovery fund may not be commenced later than two years after the date of the commission of the act by the contractor that is the cause of the injury or from the date of occupancy.

Two-year statute of limitations

§ 32-1133(B) When a claimant commences an action for judgment that may result in collection from the fund, the claimant must notify the registrar in writing to this effect within thirty calendar days after the commencement of the action.

Notice to Registrar required at commencement of civil action

The registrar at any time may intervene and defend the action.

Registrar’s right to intervene

§ 32-1133(C) When any claimant recovers a valid judgment against any residential contractor for an act, representation, transaction or conduct that is in violation of this chapter or the rules adopted pursuant to this chapter, the claimant, on twenty days’ written notice to the registrar, may apply to the court for an order directing payment out of the fund, of the amount unpaid on the judgment, subject to the limits stated in this article.

Civil application for payment from the recovery fund.

If the claimant fails to notify the registrar within thirty calendar days after commencement of the action as required by this subsection, the court may direct payment out of the fund on receipt of a consent to payment signed on behalf of the registrar.

Registrar may consent to payout despite not receiving notice

If the claimant gives notice to the registrar as required by this subsection, the court may direct payment out of the fund either on receipt of a consent to payment signed on behalf of the registrar or, in the absence of any written consent, after the notice period required by this subsection.

Order for payment permitted after notice

If the court receives written objections by the registrar, the court may not direct payment from the fund without affording the registrar a reasonable opportunity to present and support the registrar's objections.

Registrar's right to present & support written objections

§ 32-1133(D)

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

Summary proceeding on the application; claimant required to show:

1. Given notice as required by subsections B and C of this section.
2. Obtained a judgment that has become final, as provided in subsection C of this section, stating the amount and the amount owing at the date of the application.
3. Proceeded against any existing bond covering the residential contractor.

1. Statutory notice was provided

2. Final judgment was obtained

3. Proceeded against the bond

§ 32-1133(E)

The court may make an order directed to the registrar requiring payment from the fund of whatever sum it finds to be payable on the claim, in accordance with this section, if the court is satisfied on the hearing of the truth of all matters required to be shown by the claimant by subsection D of this section.

Court's authority to order payment after hearing

The recovery limits established under this article apply to all judgments awarded beginning September 1, 2002.

Recovery limits applicable after sept. 1, 2002

If the claimant has recovered a portion of the claimant's loss from sources other than the fund, the court shall deduct the amount recovered from other sources from the amount of actual damages suffered pursuant to section 32-1132.01, subsection A and direct the difference, not to exceed \$30,000, to be paid from the fund.

Any portion of the loss recovered from other sources must be deducted before determining payment from the fund

§ 32-1133(F)

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

Registrar's right to authorize payment even with pending appeal

A.R.S. § 32-1133.01
Administrative recovery; statute of
limitations

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| § 32-1133.01(A) | Notwithstanding any other provision in this chapter, if a contractor license has been revoked or suspended as a result of an order to remedy a violation of this chapter, the registrar may order payment from the residential contractors' recovery fund to remedy the violation. | Registrar's authority to order payment from the recovery fund to remedy a contractor's violation of this chapter |
| § 32-1133.01(B) | The registrar must serve the contractor with a notice setting forth the amount claimed or to be awarded. | Registrar's duty to provide contractor with notice of amount claimed or to be awarded. |
| § 32-1133.01(C) | If the contractor contests the amount or propriety of the payment, the contractor must respond in writing within ten days after the date of service by requesting a hearing to determine the amount or propriety of the payment.

The contractor's failure to respond in writing within ten days after the date of service may be deemed a waiver by the contractor of the right to contest the amount claimed or to be awarded. | Registrar's authority to order payment from the recovery fund to remedy a contractor's violation of this chapter

Contractor's right to contest the payment; requirement to respond within 10 days of notice |
| § 32-1133.01(D) | Service of the notice required by subsection B of this section may be made by personal service to the contractor or by mailing a copy of the notice by certified mail with postage prepaid to the contractor's latest address of record on file in the registrar's office. | Authorized means for service of notice |
| § 32-1133.01(E) | If service is made by certified mail, it is effective five days after the notice is mailed.

Except as provided in section 41-1092.08, subsection H, the contractor or claimant may seek judicial review of the registrar's final award pursuant to title 12, chapter 7, article 6. | Effective date of service

Right to seek judicial review of Registrar's final award |
| § 32-1133.01(F) | A claimant to the residential contractors' recovery fund pursuant to this section must show that the claimant has proceeded against any existing bond covering the residential contractor. | Claimant's duty to proceed against bond |
| § 32-1133.01(G) | A claim for payment from the residential contractors' recovery fund must be submitted within two years after all proceedings, reviews and appeals connected with the registrar's final order terminate. | Registrar's authority to order payment from the recovery fund to remedy a contractor's violation of this chapter |

A.R.S. § 32-1134 Powers and duties of registrar

§ 32-1134(A)

The registrar shall:

1. Establish assessments and maintain the fund balance at a level sufficient to pay operating costs and anticipated claims using the cash basis of accounting.
2. Cause an examination of the fund to be made every three years by an independent certified public accountant.
3. File with the department of insurance an annual statement of the condition of the fund.
4. Employ accountants and attorneys from monies in the fund, but not to exceed ten thousand dollars in any fiscal year, that are necessary for the performance of the duties prescribed in this section.
5. Employ or contract with individuals and procure equipment and operational support, to be paid from or purchased with monies in the fund, but not to exceed in any fiscal year fourteen percent of the total amount deposited in the fund in the prior fiscal year as may be necessary to monitor, process or oppose claims filed by claimants which may result in collection from the recovery fund.

Registrar's duties:

1. **Establish assessments & maintain the recovery fund's balance at sufficient level**
2. **Use an independent CPA to examine the recovery fund every 3 years**
3. **File an annual statement with the Department of Insurance**
4. **Up to \$10,000 a year: employ any necessary accountants & attorneys**
5. **Up to 14% of the amount deposited in the recovery fund in the prior fiscal year: pay for personnel, equipment & operational support to process or oppose claims**

§ 32-1134(B)

Notwithstanding section 32-1135, the registrar may expend interest monies from the fund to increase public awareness of the fund. This expenditure may not exceed \$50,000 in any fiscal year.

Registrar's authority to increase public awareness by spending up to \$50,000 of interest monies

A.R.S. § 32-1134.02 Insufficiency of fund

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

Priority of unpaid claims based on:

1. The time of filing a certified copy of the court order with the registrar.
2. The date of the administrative order directing payment from the residential contractors' recovery fund.

1. Time of filing certified copy of court order; or
2. Effective date of final administrative order

A.R.S. § 32-1135

Deposit of assessments

The assessments received by the registrar for deposit in the fund shall be held in trust for carrying out the purposes of the fund.

Assessments to be held in trust

On notice from the registrar, the state treasurer shall invest and divest monies in the fund as provided by section 35-313, and monies earned from investment shall be credited to the fund.

Investment & divestment of monies in the recovery fund

A.R.S. § 32-1137

Notice of authorized payment to claimant

On authorization of payment from the residential contractors' recovery fund, the registrar shall notify the claimant that:

When payment authorized, Registrar's duty to notify claimant that:

1. The amount authorized for payment is subject to repayment by the claimant if the judgment of the court is finally reversed.
2. It is the responsibility of the claimant to respond to an appeal from the judgment.
3. On appeal from the judgment, postponement of acceptance by the claimant of the amount authorized for payment does not operate as a waiver of any rights of the claimant.

1. Payment is subject to repayment if the judgment is reversed
2. Claimant is responsible for responding to an appeal
3. Postponement of acceptance is not a waiver of the claimant's rights

A.R.S. § 32-1138

Subrogation

The state has the right of subrogation to the extent of payments made from the residential contractors' recovery fund including the right to collect from a bond, cash payment or alternative to cash payment made pursuant to section 32-1152 or 32-1152.01.

State's right of subrogation

The registrar and the attorney general shall promptly enforce all subrogation claims.

Registrar's & Attorney General's duty of prompt enforcement

A.R.S. § 32-1139
Liability of fund for each residential contractor's license; suspension of license; repayment

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| § 32-1139(A) | The liability of the fund shall not exceed two hundred thousand dollars for any one residential contractor's license.

If claims against the fund on behalf of any one residential contractor's license exceed two hundred thousand dollars, the claims shall be paid based on a pro rata share of the common liability, and the registrar or a court entering an order for payment after the sum of two hundred thousand dollars has been paid from the fund shall modify the order indicating that no further recovery from the fund shall be allowed. | Limit of \$200,000 per license

Pro rata shares of the common liability in cases exceeding \$200,000 |
| § 32-1139(B) | If any amount is paid from the fund in settlement of a claim arising from the act, representation, transaction or conduct of a residential contractor, the license of the contractor shall be automatically suspended by operation of law until the amount paid from the fund is repaid in full, plus interest at the rate of ten per cent a year.

Any person who is or was, at the time of the act or omission, named on a license that has been suspended because of a payment from the recovery fund is not eligible to receive a new license or retain another existing license that also shall be suspended by operation of law, nor shall any suspended license be reactivated, until the amount paid from the fund is repaid as provided in this subsection. | On payment from the recovery fund, a license is automatically suspended by operation of law; full repayment with 10% interest

Other licenses suspended because of a person named on the automatically suspended license |
| § 32-1139(C) | After receiving an award from the fund pursuant to this article a person is deemed to have assigned to the registrar the person's rights for recovery against the responsible residential contractor licensed pursuant to this chapter to the extent of the person's award from the fund. | Statutory assignment of rights to Registrar for recovery against the responsible residential contractor |

A.R.S. § 32-1140
Disciplinary action against contractor

This article does not limit the authority of the registrar to take disciplinary action against any licensed contractor for a violation of this chapter, or of the rules and regulations of the registrar, nor does the repayment in full of all obligations to the fund by any contractor nullify or modify the effect of any other disciplinary proceeding brought pursuant to this chapter or the rules and regulations.

Registrar's authority to discipline a licensee is unaffected by recovery-fund statutes or repayments

Article 3 Regulation

A.R.S. § 32-1151 Engaging in contracting without license prohibited

It is unlawful for any person, firm, partnership, corporation, association or other organization, or a combination of any of them, to engage in the business of, submit a bid or respond to a request for qualification or a request for proposals for construction services as, act or offer to act in the capacity of or purport to have the capacity of a contractor without having a contractor's license in good standing in the name of the person, firm, partnership, corporation, association or other organization as provided in this chapter, unless the person, firm, partnership, corporation, association or other organization is exempt as provided in this chapter.

Prohibition against contracting without a contractor's license in good standing, unless exemption applies

Evidence of securing a permit from a governmental agency or the employment of a person on a construction project shall be accepted in any court as prima facie evidence of existence of a contract.

Prima facie evidence of a contract: (1) securing a permit or (2) employing a person on a construction project

A.R.S. § 32-1151.01 Change in ownership; notice to registrar

A corporation, association or other organization that is a licensed contractor shall immediately notify the registrar of any transfer of ownership of twenty-five percent or more of the stock or beneficial interest in the company.

Duty to immediately notify Registrar when 25% or more of ownership is transferred

A.R.S. § 32-1151.02 List of unlicensed contractors; web site publication

§ 32-1151.02(A)

The registrar shall maintain a list of persons who have been convicted of contracting without a license in violation of section 32-1151 or administratively adjudicated to have been contracting without a license after being issued a civil citation pursuant to section 32-1166.01.

Registrar's duty to maintain a list of persons convicted of (or administratively adjudicated to have been) contracting without a license

The list shall include any known related business names that the persons described in this subsection have used.

DBAs included

The list shall be published on the registrar's website.

Publication of list on website

§ 32-1151.02(B) The registrar shall remove a person and any known related business names that person used from the list within ten business days when the person becomes licensed pursuant to this chapter and submits a written request to the registrar requesting the person's name to be removed from the list.

Registrar's duty to remove person from the list (1) after licensure and (2) on written request

§ 32-1151.02(C) If a member of the public requests a copy of the list prescribed by subsection A of this section, the registrar shall provide a copy of the list.

Registrar's duty to provide a copy of the list on request

A.R.S. § 32-1152 Bonds

§ 32-1152(A) Before granting an original contractor's license, the registrar shall require of the applicant a surety bond in a form acceptable to the registrar or a cash deposit as provided in this section.

Registrar's duty to require a surety bond or cash deposit. See also A.A.C. R4-9-112.

No contractor's license may be renewed unless the applicant's surety bond or cash deposit is in full force and effect.

No license renewal unless surety bond or cash deposit is in full force & effect

§ 32-1152(B) The bonds, or the cash deposit as provided in this section, shall be in the name of the licensee in amounts fixed by the registrar with the following schedules after giving due consideration to the volume of work and the classification contemplated by the applicant:

Amounts of bonds and cash deposits fixed by Registrar after duly considering volume of work & license classification, in accordance with the following:

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

1. Amounts for general commercial building contractor & subclassifications of general commercial contractors:

(a) If the estimated annual volume of construction work of the applicant is \$10,000,000 or more, the applicant must furnish a surety bond or cash deposit of not less than \$50,000 or more than \$100,000.

(a) If estimated annual volume is \$10 million or more: bond or deposit of \$50,000 to \$100,000

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| <p>(b) If the estimated annual volume of construction work of the applicant is more than \$5,000,000 and less than \$10,000,000, the applicant shall furnish a surety bond or cash deposit of not less than \$35,000 or more than \$75,000.</p> | <p>(b) If estimated annual volume is between \$5 million and \$10 million: bond or deposit of \$35,000 to \$75,000</p> |
| <p>(c) If the estimated annual volume of construction work of the applicant is more than \$1,000,000 and less than \$5,000,000, the applicant shall furnish a surety bond or cash deposit of not less than \$15,000 or more than \$50,000.</p> | <p>(c) If estimated annual volume is between \$1 million and \$5 million: bond or deposit of \$15,000 to \$50,000</p> |
| <p>(d) If the estimated annual volume of construction work of the applicant is more than \$500,000 and less than \$1,000,000, the applicant shall furnish a surety bond or cash deposit of not less than \$10,000 or more than \$25,000.</p> | <p>(d) If estimated annual volume is between \$500,000 and \$1 million: bond or deposit of \$10,000 to \$25,000</p> |
| <p>(e) If the estimated annual volume of construction work of the applicant is more than \$150,000 and less than \$500,000, the applicant shall furnish a surety bond or cash deposit of not less \$5,000 or more than \$15,000.</p> | <p>(e) If estimated annual volume is between \$150,000 and \$500,000: bond or deposit of \$5,000 to \$15,000</p> |
| <p>(f) If the estimated annual volume of construction work of the applicant is less than one hundred fifty thousand dollars, the applicant shall furnish a surety bond or cash deposit of five thousand dollars.</p> | <p>(f) If estimated annual volume is less than \$150,000: bond or deposit of \$5,000</p> |
| <p>2. Specialty commercial contractors shall furnish a surety bond or cash deposit in an amount that is determined as follows:</p> | <p>2. Amounts for specialty commercial contractors:</p> |
| <p>(a) If the estimated annual volume of construction work of the applicant is \$10,000,000 or more, the applicant shall furnish a surety bond or cash deposit of not less than \$37,500 or more than \$50,000.</p> | <p>(a) If estimated annual volume is \$10 million or more: bond or deposit of \$37,500 to \$50,000</p> |
| <p>(b) If the estimated annual volume of construction work of the applicant is more than \$5,000,000 and less than \$10,000,000, the applicant shall furnish a surety bond or cash deposit of not less than \$17,500 or more than \$37,500.</p> | <p>(b) If estimated annual volume is between \$5 million and \$10 million: bond or deposit of \$17,500 to \$37,500</p> |

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| <p>(c) If the estimated annual volume of construction work of the applicant is more than \$1,000,000 and less than \$5,000,000, the applicant shall furnish a surety bond or cash deposit of not less than \$7,500 or more than \$25,000.</p> | <p>(c) If estimated annual volume is between \$1 million and \$5 million: bond or deposit of \$7,500 to \$25,000</p> |
| <p>(d) If the estimated annual volume of construction work of the applicant is more than \$500,000 and less than \$1,000,000, the applicant shall furnish a surety bond or cash deposit of not less \$5,000 or more than \$17,500.</p> | <p>(d) If estimated annual volume is between \$500,000 and \$1 million: bond or deposit of \$5,000 to \$17,500</p> |
| <p>(e) If the estimated annual volume of construction work of the applicant is more than \$150,000 and less than \$500,000, the applicant shall furnish a surety bond or cash deposit of not less than \$2,500 or more than \$7,500.</p> | <p>(e) If estimated annual volume is between \$150,000 and \$500,000: bond or deposit of \$2,500 to \$7,500</p> |
| <p>(f) If the estimated annual volume of construction work of the applicant is less than \$150,000, the applicant shall furnish a surety bond or cash deposit of \$2,500.</p> | <p>(f) If estimated annual volume is less than \$150,000: bond or deposit of \$2,500</p> |
3. The total amount of the surety bond or cash deposit required of a licensee who holds more than one license under paragraphs 1 and 2 of this subsection is the sum of the surety bond or cash deposit required for each license based on the estimated annual volume of construction work of the applicant allocated to and performed under each license.
3. If licensee holds multiple licenses, the total amount of bond or cash deposit is the sum of the separate amounts based on estimated annual volume
- The applicant at his option may post a single surety bond or cash deposit that is the sum of the bonds or deposits determined under this subsection for all such licenses.
- Applicant may post a single bond or deposit
4. General dual licensed contractors and subclassifications of general dual licensed contractors shall furnish a single surety bond or cash deposit with amounts for each classification of license that are determined based on the volume of commercial work as determined under paragraph 1 of this subsection and the volume of residential work as determined under paragraph 5 of this subsection.
4. General dual licensed contractors & subclassifications furnish a single bond or cash deposit based on amounts from ¶ 1 and ¶ 5 of this subsection

Liability under the bond or cash deposit is limited to the amount established for each commercial or residential license and is subject to the limits and requirements set forth in subsection E of this section.

Subject to limitations of § 32-1152(E), liability is limited to amount established for each commercial or residential license

5. General residential contractors and subclassifications of general residential contractors shall furnish a surety bond or cash deposit in an amount of not more than \$15,000 and not less than \$5,000.
6. Specialty dual licensed contractors shall furnish a single surety bond or cash deposit with amounts for each classification of license that are determined based on the volume of commercial work as determined under paragraph 2 of this subsection and the volume of residential work as determined under paragraph 7 of this subsection.

5. General residential contractors & subclassifications furnish bond or deposit of \$5,000 to \$15,000

6. Specialty dual licensed contractors furnish a single bond or cash deposit based on amounts from ¶ 2 and ¶ 7 of this subsection

Liability under the bond or cash deposit is limited to the amount established for each commercial or residential license and is subject to the limits and requirements set forth in subsection E of this section.

Subject to limitations of § 32-1152(E), liability is limited to amount established for each commercial or residential license

7. Specialty residential contractors shall furnish a surety bond or cash deposit in an amount of not more than \$7,500 and not less than \$1,000.
8. Dual licensed swimming pool contractors and residential swimming pool general contractors shall furnish a surety bond or cash deposit in the same amounts based on the volume of work as determined under paragraph 1 of this subsection for a general commercial contractor.

7. Specialty residential contractors furnish bond or deposit of \$1,000 to \$7,500

8. Swimming pool contractors furnish a single bond or cash deposit based on amounts from ¶ 1 of this subsection

§ 32-1152(C) Dual licensed contractors and residential contractors shall also either:

Dual licensed contractors & residential contractors must either:

1. Furnish an additional surety bond or cash deposit in the amount of \$200,000 solely for actual damages suffered by claimants as described in section 32-1132.

1. Furnish additional bond or deposit of \$200,000 for claimants as described in § 32-1132

This bond is subject to the limits on the amounts that may be awarded to individual claimants as established in section 32-1132.

Additional bond is subject to limitations established in § 32-1132

2. Participate in the residential contractors' recovery fund and pay the assessment prescribed by section 32-1126, subsection G.

2. Participate in recovery fund & pay assessment prescribed by § 32-1126(G)

§ 32-1152(D)

The surety bonds shall be executed by the contractor as principal with a corporation duly authorized to transact surety business in this state.

With an authorized surety business, contractor executes a surety bond as the principal

Evidence of a surety bond shall be submitted to the registrar in a form acceptable to the registrar.

Evidence of bond submitted to Registrar in acceptable form

The contractor in the alternative may establish a cash deposit in the amount of the bond with the state treasurer in accordance with rules adopted by the registrar.

Alternative to bond: cash deposit with Treasurer in accordance with Registrar's rules

Such cash bond monies shall be deposited, pursuant to sections 35-146 and 35-147, in the contractors' cash bond fund.

Cash bond monies deposited in contractors' cash bond fund

The state treasurer shall invest and divest monies in the fund as provided by section 35-313, and monies earned from investment shall be credited to the state general fund.

Investment and divestment of cash bond monies by Treasurer; earnings credited to state general fund

Such cash deposits may be withdrawn, if there are no outstanding claims against them, two years after the termination of the license in connection with which the cash is deposited.

Absent outstanding claims, and 2 years after a license's termination, withdrawal of a cash deposit permitted

The cash deposit may be withdrawn two years after the filing of a commercial surety bond as a replacement to the cash deposit.

Withdrawal of a cash deposit permitted 2 years after filing a commercial surety bond as a replacement

§ 32-1152(E)

The bonds or deposit required by subsection B of this section are for the benefit of and are subject to claims by the registrar of contractors for failure to pay any sum required pursuant to this chapter.

In cases involving failure to pay any sum required by Chapter 10: bonds & deposits under § 32-1152(B) are subject to Registrar's claims

The bond or deposit required by subsection B, paragraphs 1, 2 and 3 of this section is for the benefit of and subject to claims by a licensee under this chapter or a lessee, owner or co-owner of nonresidential real property including, but not limited to, a tenant in common or joint tenant, or their successors in interest, who has a direct contract with the licensee against whose bond or deposit the claim is made and who is damaged by the failure of the licensee to build or improve a structure or appurtenance on that real property at the time the work was performed in a manner not in compliance with the requirements of any building or construction code applicable to the construction work under the laws of this state or any political subdivision, or if no such code was applicable, in accordance with the standards of construction work approved by the registrar.

In cases of poor workmanship: bonds & deposits under §§ 32-1152(B)(1) – (3) are subject to claims from a licensee, a lessee, an owner, or co-owner of nonresidential real property, having a direct contract with the licensee against whose bond or deposit the claim is made

The residential bond or deposit required by subsection B, paragraphs 4 through 8 of this section is for the benefit of and subject to claims by any person furnishing labor, materials or construction equipment on a rental basis used in the direct performance of a construction contract involving a residential structure or by claimants as described in section 32-1132.

In cases involving the direct performance of a construction contract on a residential structure: bonds & deposits under §§ 32-1152(B)(4) through (8) are subject to claims from “claimants” or persons furnishing labor, materials, or construction equipment on a rental basis

The bond or deposit required by subsection C, paragraph 1 of this section is for the benefit of and is subject to claims only by claimants as described in section 32-1132.

Bonds or deposits under § 32-1152(C)(1) for sole benefit of “claimants”

The person seeking recovery from the bond or cash deposit shall maintain an action at law against the contractor if claiming against the cash deposit or against the contractor and surety if claiming against the surety bond.

Recovery from bond or deposit through action at law

If the person seeking recovery is required to give the notice pursuant to section 33-992.01, he is entitled to seek recovery only if he has given such notice and has made proof of service.

Recovery contingent on notice required by § 33-992.01

The surety bond or cash deposit is subject to claims until the full amount thereof is exhausted.

Bond or deposit is subject to claims until exhaustion

The court may award reasonable attorney fees in a judgment against a contractor’s surety bond or cash deposit.

Court’s authority to award attorney fees

A suit may not be commenced on the bond or for satisfaction from the cash deposit after the expiration of two years following the commission of the act or delivery of goods or rendering of services on which the suit is based, except that time for purposes of claims for fraud is measured as provided in section 12-543.

2-year statute of limitations; exception for fraud claims

The surety bond or cash deposit shall be continuous in form and conditioned so that the total aggregate liability of the surety or cash deposit for all claims, including reasonable attorney fees, is limited to the face amount of the surety bond or cash deposit irrespective of the number of years the bond or cash deposit is in force.

Bond or deposit continuous in form; total aggregate liability is limited to the face amount

If the corporate surety desires to make payment without awaiting court or registrar action, the amount of any bond filed in compliance with this chapter shall be reduced to the extent of any payment or payments made by the corporate surety in good faith thereunder.

If surety pays before a court or the Registrar acts, the bond amount is reduced by the amount of the good-faith payment

Any such payments shall be based on priority of written claims received by the corporate surety before court or registrar action.

Payments must be based on priority of written claims

If more than one cash deposit exists, the judgment against the contractor shall state which cash deposit is used to satisfy the judgment.

Judgment must identify a specific cash deposit

A certified copy of the judgment shall then be filed with the registrar, and such judgment must specify that it may be satisfied from the contractor's cash deposit.

Filing with Registrar a certified judgment for satisfaction from the cash deposit

Priority for payment is based on the time of filing with the registrar.

Priority of payment based on time of filing

On receipt of a certified copy of the judgment or on a final disciplinary order of the registrar, the registrar may authorize payment from the cash deposit of the amount claimed or of whatever lesser amount remains on file.

On certified judgment or final disciplinary order, Registrar's authority to issue payment from cash deposit

In any action against a cash deposit, the claimant, at the time of filing suit, may notify the registrar in writing of the action against the cash deposit, but may not name as a defendant in the action the registrar, the treasurer or the state.

Prohibition against naming Registrar, Treasurer, or State of Arizona in action against cash deposit

A claimant's failure to notify the registrar at the time of filing suit may result in the cash deposit being withdrawn by the licensee before judgment pursuant to subsection D of this section.

Possible withdrawal of cash deposit under § 32-1152(D) because of failure to notify Registrar of suit

§ 32-1152(F)

When a corporate surety cancels a bond, the surety, not less than thirty days before the effective date of the cancellation, shall give the principal and the registrar a written notice of the cancellation.

Mandatory 30-day notice from surety to Registrar & contractor before cancellation of bond

Notice to the principal shall be by certified mail in a sealed envelope with postage fully prepaid.

30-day notice by certified mail

Proof of notice to the principal shall be made available to the registrar on request.

Registrar's right to demand proof of 30-day notice

On reduction or depletion of the cash deposit, the registrar shall immediately notify the licensee of said reduction or depletion and that the licensee must replenish the cash deposit or furnish a surety bond on or before thirty days from the date of said reduction or depletion or the contractor's license is suspended on the thirtieth day without further notice or hearing.

Registrar's duty to immediately notify licensee when bond or deposit is reduced or depleted and authority to suspend the license 30 days after without further notice or hearing

Notice to the contractor shall be by certified mail in a sealed envelope with postage fully prepaid thereon, addressed to the contractor's latest address of record in the registrar's office.

Notice to licensee by certified mail

The contractor's license is suspended by operation of law on the date the bond is canceled or thirty days from the date of reduction or depletion of the cash deposit unless a replacement bond or cash deposit is on file with the registrar.

30 days after bond or deposit is reduced or depleted, license is suspended by operation of law

§ 32-1152(G)

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

No personal liability for Registrar or Treasurer for good-faith performance of duties

§ 32-1152(H)

In the following instances the registrar, after a hearing, may require, as a condition precedent to issuance, renewal, continuation or removal of suspension of a license, a surety bond or cash deposit in an amount and duration to be fixed by the registrar based on the

Registrar's authority to require increase of bond or deposit up to 10 times the amount required by § 32-1152(B) when:

seriousness of the violations, which may not be more than ten times the amount required by subsection B of this section:

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| <ol style="list-style-type: none">1. When a license of either the applicant or the qualifying party has been suspended or revoked or a surety bond or cash deposit requirement has been increased under section 32-1154 previously as the result of disciplinary action for a violation of this chapter. | <ol style="list-style-type: none">1. Applicant's or qualifying party's license is suspended or revoked, or bond or deposit was previously increased, due to disciplinary action |
| <ol style="list-style-type: none">2. When either the applicant or qualifying party was an officer, member, partner or qualifying party for a licensee at any time during which cause for disciplinary action occurred resulting in suspension or revocation of such licensee's license and such applicant or qualifying party had knowledge of or participated in the act or omission that was the cause of such disciplinary action for a violation of this chapter. | <ol style="list-style-type: none">2. Applicant or qualifying party was associated with a suspended or revoked license (1) at the time of the underlying cause for disciplinary action and (2) had knowledge of, or participated in, the cause for disciplinary action |
| <ol style="list-style-type: none">3. The bonds required by this subsection are in addition to any other bond or cash deposit required by this chapter or any other bond required of a contractor by an owner or any other contracting party on any contract undertaken by him pursuant to the authority of such license. | <ol style="list-style-type: none">3. Bonds required by § 32-1152(H) are in addition to any other bonds required |

A.R.S. § 32-1152.01 **Alternatives to cash deposit**

§ 32-1152.01(A)

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

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| <ol style="list-style-type: none">1. Certificates of deposit assigned to the registrar, issued by banks doing business in this state and insured by the federal deposit insurance corporation. | <p>Alternatives to a cash deposit:</p> <ol style="list-style-type: none">1. Certificate of deposit assigned to Registrar |
| <ol style="list-style-type: none">2. Investment certificates or share accounts assigned to the registrar and issued by a savings and loan association doing business in this state and insured by the federal deposit insurance corporation. | <ol style="list-style-type: none">2. Investment certificate or share account assigned to Registrar |

§ 32-1152.01(B) The terms and conditions surrounding each of such types of security may be prescribed by the registrar.

Registrar's authority to prescribe terms and conditions of these securities

A.R.S. § 32-1153
Proof of license as prerequisite to civil action

No contractor as defined in section 32-1101 shall act as agent or commence or maintain any action in any court of the state for collection of compensation for the performance of any act for which a license is required by this chapter without alleging and proving that the contracting party whose contract gives rise to the claim was a duly licensed contractor when the contract sued upon was entered into and when the alleged cause of action arose.

In a legal action to collect compensation for a contract that requires a license, the contractor has a duty to prove it was duly licensed when entering the contract and when the cause of action arose

A.R.S. § 32-1154
Grounds for suspension or revocation of license; continuing jurisdiction; civil penalty

§ 32-1154(A) The holder of a license or any person named on a license pursuant to this chapter may not commit any of the following acts or omissions:

License holders and persons named on a license cannot commit the following acts or omissions:

1. Abandonment of a contract or refusal to perform after submitting a bid on work without legal excuse for the abandonment or refusal.
2. Departure from or disregard of:
 - (a) Plans or specifications in any material respect that is prejudicial to another without consent of the owner or the owner's duly authorized representative and without the consent of the person entitled to have the particular construction project or operation completed in accordance with such plans and specifications and code.
 - (b) A building code of this state or any political subdivision of this state in any material respect that is prejudicial to another.
3. Violation of any rule adopted by the registrar.

1. **Abandoning a contract or refusing to perform a bid without legal excuse**
2. **Disregarding or departing from:**
 - (a) **Plans/specs without written consent**
 - (b) **Building codes**
3. **Violating any rule of the Registrar**

4. Failure to comply with the statutes or rules governing social security, workers' compensation or unemployment insurance.
5. Misrepresentation of a material fact by the applicant in obtaining a license.
6. The doing of a fraudulent act by the licensee as a contractor resulting in another person being substantially injured.

For the purposes of this paragraph, "fraudulent act" means a material misrepresentation that a licensee makes, that is relied on by another person and that results in damage to that person or that person's property.

7. Conviction of a felony.
8. Failure in a material respect by the licensee to complete a construction project or operation for the price stated in the contract, or in any modification of the contract.
9. Attempting to evade this chapter by:
 - (a) Aiding or abetting a licensed or unlicensed person.
 - (b) Acting or conspiring with a licensed or unlicensed person.
 - (c) Allowing one's license to be used by a licensed or unlicensed person.
 - (d) Acting as agent, partner, associate or otherwise of a licensed or unlicensed person.
10. Failure by a licensee or agent or official of a licensee to pay monies in excess of \$750 when due for materials or services rendered in connection with the licensee's operations as a contractor unless the licensee proves that the licensee lacks the capacity to pay, and has not received sufficient monies as payment for the particular construction work project or operation for which the services or materials were rendered or purchased.

4. Failing to comply with the law governing social security, workers' compensation, or unemployment insurance
5. Misrepresenting a material fact in obtaining a license
6. As a contractor, doing a fraudulent act that results in a person's substantial injury

Definition of "fraudulent act"

7. Being convicted of a felony
8. Failing, in a material respect, to complete a project or operation for the price stated in the contract or a modification
9. Attempting to evade Title 32, Chapter 10 by:
 - (a) Aiding or abetting any person
 - (b) Acting or conspiring with any person
 - (c) allowing one's license to be used by any person
 - (d) Acting as an associate of another person
10. Failing to pay, when due, more than \$750 for materials or services rendered for a licensee's operations as a contractor, when the licensee has capacity to pay or when the licensee has received payment for the project or operation

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| 11. Failure of a contractor to comply with any safety or labor laws or codes of the federal government, state or political subdivisions of this state. | 11. Failing to comply with any safety or labor laws |
| 12. Failure in any material respect to comply with this chapter. | 12. Failing to comply in a material respect with Chapter 10 |
| 13. Knowingly entering into a contract with a contractor for work to be performed for which a license is required with a person not duly licensed in the required classification. | 13. Knowingly contracting with a person not duly licensed |
| 14. Acting in the capacity of a contractor under any license issued under this chapter in a name other than as set forth on the license. | 14. Acting as a contractor in a name other than the one on the license. See also A.A.C. R4-9-109. |
| 15. False, misleading or deceptive advertising whereby any member of the public was misled and injured. | 15. Advertising in a way that misleads or injures the public |
| 16. Knowingly contracting beyond the scope of the license or licenses of the licensee. | 16. Knowingly contracting beyond a licensee's scope |
| 17. Contracting or offering to contract or submitting a bid while the license is under suspension or while the license is on inactive status. | 17. Contracting, offering to contract, or bidding while a license is suspended or inactive |
| 18. Failure to notify the registrar in writing within a period of fifteen days of any disassociation of the person who qualified for the license.

The license must qualify through another person within sixty days after the date of disassociation. | 18. Failing to notify Registrar in writing within 15 days of the qualifying party's disassociation

Licensee must qualifying party within 60 days |
| 19. Subsequent discovery of facts that if known at the time of issuance of a license or the renewal of a license would have been grounds to deny the issuance or renewal of a license. | 19. After the issuance or renewal of a license, having facts discovered that would have been grounds denying either the license or its renewal |
| 20. Having a person named on the license who is or was named on any other license in this state or in another state that is under suspension or revocation for any act or omission that occurs while the person is or was named on the license unless the prior revocation was based solely on a violation of this paragraph. | 20. Having a person named on a license who is also named on a suspended or revoked license (in Arizona or another state) at the time of the cause of disciplinary action; exception: revocations based solely on § 32-1154(A)(20) |

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| <p>21. Continuing a new single family residential construction project with actual knowledge that a pretreatment wood-destroying pests or organisms application was either:</p> <p>(a) Not performed at the required location.</p> <p>(b) Performed in a manner inconsistent with label requirements, state law or rules.</p> | <p>21. Actual knowledge that a pretreatment application for wood-destroying pests was either:</p> <p>(a) Not performed at a required location</p> <p>(b) Not performed in a required manner</p> |
| <p>22. Failure to take appropriate corrective action to comply with this chapter or with rules adopted pursuant to this chapter without valid justification within a reasonable period of time after receiving a written directive from the registrar.</p> <p>The written directive must set forth the time within which the contractor is to complete the remedial action.</p> <p>The time permitted for compliance may not be less than fifteen days from the date of issuance of the directive.</p> <p>A license may not be revoked or suspended nor may any other penalty be imposed for a violation of this paragraph until after a hearing has been held.</p> | <p>22. After receiving Registrar's written directive, failing to take in a reasonable time corrective action to comply with Chapter 10 or the Registrar's rules, without valid justification</p> <p>Requirement to provide a timeframe for completing remedial action</p> <p>Written directive must provide contractor at least 15 days for compliance</p> <p>Hearing must be held before the license is disciplined or a penalty imposed for violating § 32-1154(A)(22)</p> |
| <p>23. Prohibit, threaten to prohibit, retaliate, threaten to retaliate or otherwise intimidate any contractor or materialman from serving a preliminary notice pursuant to section 33-992.01.</p> | <p>23. Prohibiting, retaliating, threatening, or intimidating a contractor or materialman from serving a preliminary 20-day notice</p> |
| <p>24. For contractors as defined in section 32-1101, failure to comply with title 44, chapter 11, article 11.</p> | <p>24. Failing to comply with Solar Energy Devices Act</p> |

§ 32-1154(B) The registrar:

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| <p>1. May investigate the acts of a contractor in this state on the registrar's own motion.</p> <p>2. Shall investigate the acts of a contractor in this state on the written complaint of any owner or contractor that is a party to a construction contract or a person who suffers a material loss or injury as a result of a contractor's failure to perform work in a professional and workmanlike manner or in</p> | <p>1. Registrar's authority to investigate the acts of any contractor in Arizona.</p> <p>2. Registrar's duty to investigate the acts of any contractor in Arizona on written complaint of certain persons</p> |
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accordance with any applicable building codes and professional industry standards.

For the purposes of this paragraph:

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

(a) Definition of "construction contract"

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

(b) Definition of "owner"

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

3. Registrar's authority to temporarily suspend or permanently revoke licenses for violations of 32-1154(A)

§ 32-1154(C)

Pursuant to this chapter, the registrar shall suspend by operation of law a license issued to a person under this chapter on notice from the department of revenue that a tax debt related to income taxes, withholding taxes or any tax imposed or administered by title 42, chapter 5 that was incurred in the operation of the licensed business has become final and the person neglects to pay or refuses to pay the tax debt.

Suspension by operation of law for unpaid tax debts

§ 32-1154(D)	<p>The expiration, cancellation, suspension or revocation of a license by operation of law or by decision and order of the registrar or a court of law or the voluntary surrender of a license by a licensee does not deprive the registrar of jurisdiction to proceed with any investigation of or action or disciplinary proceeding against such a licensee, or to render a decision suspending or revoking such a license, or denying the renewal or right of renewal of such a license.</p>	<p>Duration of the Registrar's jurisdiction even after expiration, cancellation, suspension, revocation, or voluntary surrender of license</p>
§ 32-1154(E)	<p>The registrar may impose a civil penalty of not to exceed \$500 on a contractor for each violation of subsection A, paragraph 22 of this section.</p> <p>Civil penalties collected pursuant to this subsection shall be deposited in the residential contractors' recovery fund.</p> <p>The failure by the licensee to pay any civil penalty imposed under this subsection results in the automatic revocation of the license thirty days after the effective date of the order providing for the civil penalty.</p> <p>A person who is or was named on a license of a contractor when an act or omission occurs that results in a civil penalty may not receive a new license under this chapter until the entire civil penalty is paid.</p>	<p>Registrar's authority to impose a civil penalty of \$500 or less for each violation of § 32-1154(A)(22)</p> <p>Civil penalties collected under § 32-1154(E) deposited in recovery fund</p> <p>Automatic revocation of license for failure to pay a § 32-1154(E) civil penalty within 30 days</p> <p>No future license issued to anyone associated with penalized contractor until payment of civil penalty is tendered</p>
§ 32-1154(F)	<p>The registrar may impose a civil penalty of not to exceed \$1,000 on a contractor for each violation of subsection A, paragraph 17 of this section.</p> <p>Civil penalties collected pursuant to this subsection shall be deposited in the residential contractors' recovery fund.</p> <p>The failure by the licensee to pay any civil penalty imposed under this subsection results in the automatic permanent revocation of the license thirty days after the effective date of the order providing for the civil penalty.</p> <p>A person who is or was named on a license of a contractor when an act or omission occurs that results in a civil penalty may not receive a new license under this chapter until the entire civil penalty is paid.</p>	<p>Registrar's authority to impose a civil penalty of \$1,000 or less for each violation of § 32-1154(A)(17)</p> <p>Civil penalties collected under § 32-1154(F) deposited in recovery fund</p> <p>Automatic revocation of license for failure to pay a § 32-1154(F) civil penalty within 30 days</p> <p>No future license issued to anyone associated with penalized contractor until payment of civil penalty is tendered</p>

A.R.S. § 32-1155
Filing of complaint; resolution of complaint;
service of notice; failure to answer;
prohibited citations

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| § 32-1155(A) | <p>On the filing of a written complaint with the registrar charging a licensee with the commission of an act that is cause for suspension or revocation of a license, including an act that is in violation of title 44, chapter 11, article 11, the registrar after investigation, in its sole discretion, may issue a citation directing the licensee, within ten days after service of the citation on the licensee, to appear by filing with the registrar the licensee's written answer to the citation and complaint showing cause, if any, why the licensee's license should not be suspended or revoked.</p> <p>The complaint must be filed within the statute of limitations prescribed by 32-1162.</p> | <p>Registrar's sole discretion to issue a citation for a cause for discipline; contractor's duty to appear by filing a written answer within 10 days of citation's service</p> <p>Statute of limitations</p> |
| § 32-1155(B) | <p>Service of the citation on the licensee is fully effected by personal service or by mailing a true copy thereof, together with a true copy of the complaint, by certified mail in a sealed envelope with postage prepaid and addressed to the licensee at the licensee's latest address of record in the registrar's office.</p> <p>Service of the citation and complaint is complete at the time of personal service or five days after deposit in the mail.</p> | <p>Service of citation by personal service or by registered mail</p> <p>Service of citation completed at personal service or 5 days after deposit in mail</p> |
| § 32-1155(C) | <p>Failure of the licensee to answer within ten days after service may be deemed an admission by the licensee of the licensee's commission of the act or acts charged in the complaint, and the registrar may then suspend or revoke the licensee's license unless the Registrar determines, in its sole discretion, that the failure to answer within such period is attributable to excusable neglect on the part of the licensee.</p> | <p>Contractor's admission resulting from a failure to answer within 10 days after service; Registrar's authority to suspend or revoke contractor's license</p> |
| § 32-1155(D) | <p>The registrar may not issue a citation for failure to perform work in a professional and workmanlike manner or in accordance with any applicable building codes and professional industry standards if either:</p> | <p>Prohibition against Registrar's issuance of a citation in workmanship cases when:</p> |

1. The contractor is not provided an opportunity to inspect the work within fifteen days after receiving a written notice from the registrar.
2. The contractor's work has been subject to neglect, modification or abnormal use.

1. Contractor not provided opportunity to inspect work within 15 days of written notice from Registrar
2. Work is subject to neglect, modification, or abnormal use

§ 32-1155(E) Notwithstanding subsection D of this section, the registrar may investigate the complaint without waiting fifteen days.

Registrar's authority to investigate before 15 days elapse

A.R.S. § 32-1156 Hearings

§ 32-1156(A) Title 41, chapter 6, article 10 applies to hearings under this chapter.

Chapter 10's hearings are governed by Title 41, Ch. 6, Art. 10

§ 32-1156(B) In a hearing or rehearing conducted pursuant to this section a company may be represented by an officer or employee who is not a member of the state bar if both:

Permission for companies to be represented by employees or officers who are not members of state bar if:

1. The company has specifically authorized the officer or employee to represent it.
2. The representation is not the officer's or employee's primary duty to the company but is secondary to the officer's or employee's duties relating to the management or operation of the company.

1. Officer or employee is specifically authorized to represent company
2. Representation is not officer or employee's primary duty

A.R.S. § 32-1156.01 Restitution; prohibition

§ 32-1156(A) After a hearing pursuant to this article, an administrative law judge may recommend that a licensee provide restitution to any person who is injured or whose property is damaged by an action of the licensee.

Administrative law judge's authority to recommend restitution

§ 32-1156(B) A restitution award made pursuant to this section may not include attorney fees.

A.R.S. § 32-1157 Appeals; costs; transcript

§ 32-1157(A) Except as provided in section 41-1092.08, subsection H, a final decision of the registrar may be appealed to the superior court pursuant to title 12, chapter 7, article 6.

Registrar's final decisions appealable under Title 12, Ch. 7, Art. 6

§ 32-1157(B)	<p>The party who is appealing may request in writing and shall receive from the registrar a certified copy of all documents and evidence in the administrative record.</p> <p>The party shall pay the registrar for the cost of producing the administrative record.</p> <p>Within thirty days after receipt of the request and payment, the registrar shall certify the administrative record and file it with the clerk of the superior court in the county in which the appeal is pending.</p>	<p>Appealing party may request certified copy of all documents and evidence from Registrar</p> <p>Party must pay cost of producing the record</p> <p>Registrar's duty to certify and file the record with superior court within 30 days</p>
§ 32-1157(C)	<p>By order of the court or by stipulation of the parties to the action, the record may be shortened or supplemented.</p>	<p>Record shortened or supplemented by order or by stipulation</p>
§ 32-1157(D)	<p>If the appeal is from an action instituted by the registrar and the court determines that the appellant is the successful party in the appeal, the appealing party is entitled to recover from the registrar any monies paid by the appealing party for transcriptions or for copies of documents provided by the registrar.</p>	<p>If appellant is successful party: appellant is entitled to recover monies paid for transcriptions or copies</p>

A.R.S. § 32-1158
Minimum elements of a contract

§ 32-1158(A)	<p>Any contract in an amount of more than one thousand dollars entered into between a contractor and the owner of a property to be improved shall contain in writing at least the following information:</p> <ol style="list-style-type: none"> 1. The name of the contractor and the contractor's business address and license number. 2. The name and mailing address of the owner and the jobsite address or legal description. 3. The date the parties entered into the contract. 4. The estimated date of completion of all work to be performed under the contract. 5. A description of the work to be performed under the contract. 6. The total dollar amount to be paid to the contractor by the owner for all work to be performed under the contract, including all applicable taxes. 	<p>Contracts for more than \$1,000, must contain in writing:</p> <ol style="list-style-type: none"> 1. Contractor's name, address, and license number 2. Owner's name & mailing address; jobsite's address or legal description 3. Date of contract 4. Estimated completion date 5. Description of work 6. Total amount to be paid, including all applicable taxes
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7. The dollar amount of any advance deposit paid or scheduled to be paid to the contractor by the owner.
8. The dollar amount of any progress payment and the stage of construction at which the contractor will be entitled to collect progress payments during the course of construction under the contract.
9. That the property owner has the right to file a written complaint with the registrar for an alleged violation of section 32-1154, subsection A.

7. Amount of advance deposit paid or scheduled
8. Amount of any progress payments & stages when those payments due
9. Notice of property owner's right to file a written complaint with Registrar

The contract shall contain the registrar's telephone number and website address and shall state that complaints must be made within the applicable time period as set forth in section 32-1155, subsection A.

Contract must contain Registrar's telephone number & website address and state that complaints must be filed within time period of § 32-1155(A)

The information in this paragraph must be prominently displayed in the contract in at least ten point bold type, and the contract shall be signed by the property owner and the contractor or the contractor's designated representative.

Information required by § 32-1158(A)(9) must be in bold and at least 10-point type; contract must be signed by owner & by contractor (or contractor's representative)

This paragraph does not apply to a person who is subject to and complies with section 12-1365.

When Act applies: ¶ 9 not applicable

§ 32-1158(B) When a contractor and an owner sign a contract, the contractor shall provide the owner with a legible copy of all documents signed and a written and signed receipt for and in the true amount of any cash paid to the contractor by the owner.

Contractor's duty to provide legible copies of (1) signed documents and (2) signed receipts for any cash

§ 32-1158(C) The requirements of this section are not prerequisites to the formation or enforcement of a contract.

Requirements of § 32-1158 are not prerequisites to a contract's formation or enforcement

Failure to comply with the requirements of this section does not constitute a defense by either party to an action for compensation, damages, breach, enforcement or other cause of action based on the contract.

Failure to comply with requirements of § 32-1158 is not a defense for actions based on the contract

A.R.S. § 32-1158.01

Swimming pool; spa; construction contracts

§ 32-1158.01(A) In addition to the requirements of section 32-1158, a licensed contractor who enters into a contract for the construction or installation of a residential in-ground swimming pool or spa with a purchaser who resides in

Additional requirements for contracts for residential in-ground pools or spas:

the residence or who intends to reside in the residence after the completion of the contract shall include at least the following provisions:

1. A provision providing the purchaser the opportunity to request standard contractor's payment and performance bonds in a form approved by the registrar, securing the completion of the work and payment for services and materials.

The cost of the payment and performance bond shall be paid by the purchaser of the swimming pool or spa and the contractor shall not charge a surcharge or a service charge.

2. The following payment provisions:

- (a) A down payment payable on the execution of the contract of not more than fifteen percent of the original contract price.
- (b) After the completion of the excavation work on the swimming pool or spa, a payment of not more than twenty-five percent of the amount of the original contract price plus any written change orders approved by the purchaser.
- (c) After the installation of steel, plumbing and pneumatically applied concrete materials or the installation of a prefabricated swimming pool or spa, a payment of not more than twenty-five percent of the amount of the original contract price plus any written change orders approved by the purchaser.
- (d) After the installation of decking materials, a payment of not more than twenty-five percent of the amount of the original contract price plus any written change orders approved by the purchaser.
- (e) Before the application of the finishing interior materials or completion of all work on a prefabricated pool or spa, payment of all remaining sums due on the original contract plus any written change orders approved by the purchaser.

1. Purchaser's right to request payment & performance bonds

Purchaser pays cost of payment & performance bonds; surcharge or service charge by contractor not permitted

2. Payment provisions:

- (a) **Maximum down payment: 15% of original**
- (b) **After excavation: a maximum payment of 25% of original price, plus written change orders approved by purchaser**
- (c) **After steel, plumbing, and concrete: a maximum payment of 25% of original price, plus written change orders approved by purchaser**
- (d) **After decking: a maximum payment of 25% of original price, plus written change orders approved by purchaser**
- (e) **Before finishing interior materials or completion: payment of remaining sums due, plus written change orders approved by purchaser**

3. A provision that gives notice to the purchaser, in a form that is approved by the registrar and that is in at least ten point type, of the purchaser's right to receive written material that advises the purchaser of the provisions of this section and of the procedures provided for by the registrar for the resolution of claims and disputes with licensed contractors.
4. A provision in a form that is approved by the registrar and that is in at least ten point type, advising the purchaser of the purchaser's rights under title 44, chapter 15.

3. In a form approved by Registrar & in 10-point type: notice of purchaser's right to receive written material advising purchaser of A.R.S. § 32-1158.01 and Registrar's procedures for resolving claims & disputes

4. In a form approved by Registrar & in 10-point type: notice of purchaser's rights under Title 44, Ch. 15

§ 32-1158.01(B) If a purchaser requires the contractor to furnish a payment and performance bond securing the performance of the contract, the contract provisions required by subsection A, paragraph 2 of this section may be changed in any manner agreed to by the parties to the contract.

If payment & performance bond furnished: parties may change payment provisions in § 32-1158.01(A)(2)

§ 32-1158.01(C) Any changes, additions or deletions to the work specified in the original contract shall be included in a written change order.

Changes, additions, or deletions in original contract must be by written change order

§ 32-1158.01(D) A contractor's failure to comply with this section is a violation of section 32-1154, subsection A.

Failure to comply with § 32-1158.01 violates § 32-1154(A)

A.R.S. § 32-1158.02 Residential construction contracts

§ 32-1158.02(A) For residential repair or replacement of damage resulting directly from a catastrophic storm in a specific area that is designated by an insurer, in addition to the requirements of section 32-1158, a licensed contractor who enters into a contract for the repair or replacement of a residential roof or other repair or replacement within the scope of the regulation of this chapter with a purchaser who resides in the residence or who intends to reside in the residence after the completion of the contract shall include at least the following provisions:

Additional requirements for contracts for residential repair or replacement of catastrophic-storm damage:

1. A statement in at least ten-point bold type in substantially the following form: "you may cancel this contract at any time within seventy-two hours after you have been notified that your insurer has

1. Notice of right to cancel within 72 hours of insurer's denial of claim

denied your claim to pay for the goods and services to be provided under this contract.”

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| 2. A statement in at least ten-point bold type in substantially the following form: “you may cancel this contract at any time, for any reason, within four business days after signing this contract.” | 2. Notice of right to cancel within 4 business days of signature for any reason |
| 3. A copy of a repair estimate that contains the following disclosures: | 3. Copy of a repair estimate containing: |
| (a) A precise description and location of all damage claimed on the repair estimate. | (a) Description & location of damages |
| (b) For roofing repair or replacement, a detailed description of the work to be done including the square footage of the repair area or the replacement area. | (b) For roof work: a detailed description & square footage |
| (c) If the damaged areas are not included in the repair estimate, a specification of those areas and any reason for their exclusion from the repair estimate. | (c) Specification of any damages excluded from repair estimate; reason for exclusion |
| (d) Whether or not the property was inspected before the preparation of the estimate and the nature of that inspection, specifically whether the roof was physically accessed. | (d) Statement regarding pre-estimate inspection & whether roof was physically accessed |
| (e) That a contractor has made no assurances that the claimed loss will be covered by an insurance policy. | (e) No assurances were made that an insurance policy will cover a claimed loss |
| (f) That the policyholder is responsible for payment for any work performed if the insurer should deny payment or coverage for any part of the loss. | (f) Notice that policyholder must pay for work not paid for by insurer |

§ 32-1158.02(B) A residential owner of a property or casualty insurance policy has the right to cancel the contract described in subsection A of this section within seventy-two hours after the insured owner has been notified by the insurer that the claim has been denied.

Within 72 hours after insurer’s denial, residential owner of insurance policy has right to cancel contract

§ 32-1158.02(C) In addition to the right prescribed in subsection B of this section, the insured owner of a residence has the right to cancel the contract described in subsection A of this

In addition to right in § 32-1158.02(B): within 4 business days of signature, an insured residential owner has right to cancel contract for any reason

section for any reason within four business days after signing the contract.

A cancellation shall be evidenced by the insured owner giving written notice of cancellation to the contractor's address stated in the contract.

Cancellation must be evidenced by written notice to the address stated in contract

Notice of cancellation does not need to be in a particular form except that the notice must indicate in writing the intent of the insured owner not to be bound by the contract.

Cancellation notice need only indicate in writing an intent not to be bound by the contract

§ 32-1158.02(D) Within ten days after a contract has been canceled pursuant to this section, the contractor must tender to the insured owner any payments made by the insured owner and any note or other evidence of indebtedness except that if the contractor has performed any emergency services, the contractor is entitled to receive reasonable compensation for the services if the insured owner has received a detailed description and itemization of the charges for those services.

Within 10 days of cancellation, contractor must return to owner any payments & evidence of debt; exception: contractor entitled to reasonable compensation for emergency services on owner's receipt of detailed description of services with itemization of charges

§ 32-1158.02(E) The down payment section on the execution of a contract entered into pursuant to this section shall not require more than fifty per cent of the total contract.

Prohibition against the down payment exceeding 50% of total contract

§ 32-1158.02(F) Any changes, additions or deletions to the work order specified in the original contract shall be included in a written change order that is signed by the homeowner.

Changes, additions, or deletions in original contract must be by written change order signed by owner

§ 32-1158.02(G) A contractor shall immediately notify and disclose in writing to the residential owner of a property or casualty insurance policy any cancellation of the contractor's workers' compensation coverage.

Immediate written notice to owner of cancellation of contractor's workers' compensation coverage

§ 32-1158.02(H) A contractor's failure to comply with this section is grounds for license suspension or revocation pursuant to section 32-1154.

Failure to comply with § 32-1158.02 is grounds for discipline under § 32-1154

§ 32-1158.02(I) An individual or contractor who prepares a repair estimate for post-storm repair or replacement services as described in subsection A of this section in anticipation of making an insurance claim must disclose the following information to the insured owner:

When providing post-storm repair or replacement estimates, duty to disclose the following:

1. A precise description and location of all damage claimed or included on the repair estimate.

1. Description & location of damages

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| 2. Documentation to support the damage claimed on the estimate, including photographs, digital images or another medium. | 2. Documentation (including photos or images) supporting damages |
| 3. A detailed description and itemization of any emergency repairs already completed by the contractor. | 3. Detailed description & itemization of any repairs already completed |
| 4. If damaged areas are not included in the repair estimate, a specification of those areas and any reason for their exclusion from the repair estimate. | 4. Specification of any damages excluded from repair estimate; reason for exclusion |
| 5. A provision stating whether or not the property was inspected before the preparation of the estimate, if the contract is a contract for repair or replacement of a roof, and whether the roof was physically accessed. | 5. Statement regarding pre-estimate inspection & whether roof was physically accessed |
| 6. A provision stating that the contractor has made no assurances that the claimed loss will be covered by an insurance policy. | 6. No assurances were made that an insurance policy will cover a claimed loss |

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| § 32-1158.02(J) | If an insured owner submits a claim with the insurer for residential repair or replacement pursuant to this section, the contractor may not begin work on the repair or replacement until the insurer approves or denies the claim except if the work is necessary to prevent further loss. | Contractor prohibited from beginning work until insurer approves or denies claim; exception: work necessary to prevent further loss |
| § 32-1158.02(K) | A person who is not licensed pursuant to this chapter and who is not exempt from licensure pursuant to this chapter may not bring a private cause of action to recover monies from a homeowner for any residential repair or replacement that the person does pursuant to this section. | Unlicensed person prohibited from bringing suit to recover monies from homeowner |
| § 32-1158.02(L) | Except as otherwise provided in this subsection, a contractor providing post-storm repair or replacement contracting services shall not act on behalf of an insured owner in negotiating for the settlement of a claim for loss or damage under any policy of insurance covering the insured owner's residence and shall not make any assurance that the proposed repair or replacement contracting services will be covered by an insurance policy. | Prohibition against contractor acting on owner's behalf to negotiate settlement of claim or loss; prohibition against contractor making assurances of insurance-policy coverage |

The contractor may communicate with an insurer to assist in any claim disputes, including actual damages incurred, if both of the following apply:

1. The insured owner gives the contractor permission.
2. The contractor is not compensated for the communication.

Contractor permitted to communicate with insurer in claim dispute if:

- 1. Owner gives permission**
- 2. Contractor not compensated for communication**

§ 32-1158.02(M)

With a policyholder's written consent, an insurer providing coverage for a post-storm residential repair or replacement may issue its check in the name of both the policyholder and the contractor with the contractor's license number issued pursuant to this chapter noted on the check.

With policyholder's written consent, insurer is permitted to issue check in name of policyholder & contractor with license number

§ 32-1158.02(N)

This section shall not limit the following individuals from contacting and negotiating with the insured owner:

1. A government official engaged in the performance of official duties.
2. An attorney engaged in the performance of professional duties.
3. Licensed insurers and licensed insurance producers while engaged in the performance of their duties in connection with insurance transactions.
4. Any salaried office employee performing exclusively clerical or administrative duties and who is not compensated in any manner for securing contracts related to post-storm residential repair or replacement contracting.
5. Photographers, estimators, appraisers or engineers employed exclusively for the purpose of furnishing technical assistance.
6. A private investigator who is licensed pursuant to chapter 24 of this title.
7. A full-time salaried employee of a property owner or property management company who is retained by a property owner, who has not been hired for the purpose of handling a specific claim resulting from a fire or casualty loss and who acts at the sole discretion of the property owner or management

§ 32-1158.02 does not prohibit the following persons from negotiating with insured owner:

- 1. Government officials performing official duties**
- 2. Attorneys performing professional duties**
- 3. Licensed insurers & insurance producers performing duties for insurance transactions**
- 4. Salaried office employees performing exclusively clerical or administrative duties (if they are not compensated for post-storm contracts)**
- 5. Experts employed exclusively to furnish technical assistance**
- 6. Private investigators licensed under Title 32, Ch. 24**
- 7. Full-time salaried employees of property owners or property management companies (if employees are not hired for specific claim & if they are acting at employer's sole discretion)**

company regarding a claim related to the owner's property.

A.R.S. § 32-1159
Indemnity agreements in construction and architect-engineer contracts void; definitions

§ 32-1159(A)	A covenant, clause or understanding in, collateral to or affecting a construction contract or architect-engineer professional service contract that purports to indemnify, to hold harmless or to defend the promisee from or against liability for loss or damage resulting from the sole negligence of the promisee or the promisee's agents, employees or indemnitee is against the public policy of this state and is void.	Contrary to public policy & void: agreements to indemnify, hold harmless, or defend a promisee for sole negligence of promisee or promisee's agents
§ 32-1159(B)	Notwithstanding subsection A, a contractor who is responsible for the performance of a construction contract may fully indemnify a person for whose account the construction contract is not being performed and who, as an accommodation, enters into an agreement with the contractor that permits the contractor to enter on or adjacent to its property to perform the construction contract for others.	§ 32-1159(A) notwithstanding, a contractor may indemnify a third party who is contractually accommodating the contractor's entrance on, or adjacent to, the third party's property
§ 32-1159(C)	This section applies to all contracts entered into between private parties. This section does not apply to: 1. Agreements to which this state or a political subdivision of this state is a party, including intergovernmental agreements and agreements governed by sections 34-226 and 41-2586. 2. Agreements entered into by agricultural improvement districts under title 48, chapter 17.	§ 32-1159 is applicable to all contracts entered by private parties § 32-1159 is inapplicable to: 1. Agreements in which the state or a political subdivision is a party 2. Agreements entered into by agricultural improvement districts
§ 32-1159(D)	In this section: 1. "Architect-engineer professional service contract" means a written or oral agreement relating to the design, design-build, construction administration, study, evaluation or other professional services furnished in connection with any actual or proposed	Definitions for § 32-1159(D): 1. Definition of "architect-engineer professional service contract"

construction, alteration, repair, maintenance, moving, demolition or excavation of any structure, street or roadway, appurtenance or other development or improvement to land.

2. "Construction contract" means a written or oral agreement relating to the construction, alteration, repair, maintenance, moving, demolition or excavation or other development or improvement to land.

2. Definition of "construction contract"

A.R.S. § 32-1160

Claim for termite damages; notice and offer of settlement; applicability; definition

§ 32-1160(A)

At least thirty days before filing suit against a contractor for money damages resulting from termites, a claimant shall give written notice to that contractor at that contractor's last known address, specifying in reasonable detail the facts that are the subject of the complaint.

Claimant's duty to give contractor written notice at least 30 days before filing suit for termite damage

Within ten days after the date the contractor receives the notice, the contractor may request an opportunity to inspect the premises and may make a written offer to the claimant that may include an agreement by the contractor to inspect, treat, repair or have repaired at the contractor's expense any area damaged by the termites and shall describe in reasonable detail the kind of repairs or treatment offered.

Contractor's right to request inspection & make offer to claimant within 10 days after receipt of notice

If accepted, the repairs or treatment shall be made within forty-five days after the date the contractor receives written notice of acceptance of the offer of compromise, unless completion is delayed by the claimant or by other events beyond the control of the contractor.

Contractor's duty to repair or treat termite damage within 45 days of written acceptance of offer; exception: completion delayed by claimant or events beyond contractor's control

Failure to provide a written notice or refusal to allow a contractor to inspect the premises for termite damage and provide a retreatment program shall create a rebuttable presumption that the damages could have been mitigated.

Rebuttable presumption regarding mitigation created by claimant's failure to provide written notice or refusal to allow inspection

§ 32-1160(B)

The notice prescribed by subsection A is not required if the claimant must file suit at an earlier date to prevent expiration of the statute of limitations or if the complaint is asserted as a counterclaim.

§ 32-1160(A) notice is not required if suit is filed to prevent statute of limitations or if complaint is asserted as counterclaim

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| § 32-1160(C) | This section does not create an implied warranty or extend any limitation period. | No implied warranty created, nor any limitation period extended, by § 32-1160 |
| | This section applies only to a claim for money damages to a residence or an appurtenance to a residence resulting from termites and for which suit is filed after the effective date of this section. | § 32-1160 is applicable only to (1) a claim for money damages for a residence or residential appurtenance resulting from termites (2) filed after effective date of statute |
| § 32-1160(D) | For purposes of this section “contractor” means a person or entity, including any subsidiaries, parents, partners or affiliates, that contracts with a claimant for the construction or sale of a new residence constructed by that person or entity, or for an alteration of or addition to an existing residence, repair of a new or existing residence, or construction, sale, alteration, addition or repair of an appurtenance to a new or existing residence. | Definition of “contractor” for § 32-1160(D) |

A.R.S. § 32-1161
Rights of contractor after suspension of license

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| § 32-1161(A) | After suspending the license on any of the grounds set forth in section 32-1154, the registrar shall renew it on proof of compliance by the contractor with provisions of the judgment relating to renewal of the license, or in the absence of a judgment or provisions therein as to renewal, on proper showing that all loss caused by the act or omission for which the license was suspended has been fully satisfied. | Registrar’s duty to renew suspended license (1) on proof of contractor’s compliance with judgment’s provisions or (2) on a proper showing of a full satisfaction of all loss caused by the underlying act or omission |
| § 32-1161(B) | After suspending the license pursuant to section 32-1154 the licensee may perform, without compensation, warranty work or other corrective work. | Despite suspension of license, contractor’s right to perform warranty or corrective work without compensation |
| § 32-1161(C) | After revoking a license on any of the grounds set forth in section 32-1154, the license may not be renewed or reissued for one year after final determination of revocation and then only on proper showing that all loss caused by the act or omission for which the license was revoked has been fully satisfied. | Following revocation of license: prohibition against license being renewed or reissued for 1 year & then only on a proper showing of a full satisfaction of all loss caused by the underlying act or omission |
| | For the purposes of this subsection, a proper showing may be made by demonstrating, to the satisfaction of the registrar, that the licensee exhausted all reasonable means to remedy the underlying loss caused by the act or omission. | “Proper showing” made by exhausting all reasonable means of remedying the violation |

A.R.S. § 32-1162
Statute of limitations; remedy violations

§ 32-1162(A) A person may file a written complaint with the registrar alleging a licensee has committed a violation of this chapter pursuant to section 32-1155. The complaint must be filed:

Right to file a complaint with the Registrar

1. For new home builds or other new building construction, within two years after the earlier of the close of escrow or actual occupancy.

1. Statute of limitations for new builds

2. For all other projects, within two years after the completion of the specific project.

2. Statute of limitations for all other projects

§ 32-1162(B) A licensee's qualifying party is responsible for any violation of this chapter committed by the licensee during the period of time that the qualifying party is named on the license.

Qualifying party responsible for violations committed by licensee while named on the license

§ 32-1162(C) A person named on a license is responsible for any violation of this chapter committed by the licensee during the period of time that person was named on the license.

Persons are responsible for violations committed by licensee while named on the license

A.R.S. § 32-1163
Effect of chapter upon federal aid contracts

If any provision or condition contained in this chapter conflicts with any provision of federal law, or a rule or regulation made under federal law pertaining to federal aid contracts, such provision in conflict with the federal law, rule or regulation shall not apply on federal aid contracts to the extent such conflict exists, but all provisions of this chapter with which there is no such conflict, shall apply to federal aid contracts.

Generally, provisions of Chapter 10 apply to federal aid contracts; exception: Chapter 10 is inapplicable when it conflicts with either a federal law or a rule pertaining to federal aid contracts

A.R.S. § 32-1164
Violation; classification; probation; conditions

§ 32-1164(A) Commission by a contractor of any of the following acts is a class 1 misdemeanor:

Designation of the following acts as class 1 misdemeanors:

1. Any act specified in section 32-1154, subsection A, paragraph 6 or 9.

1. Acts specified in § 32-1154(A)(6) or § 32-1154(A)(9)

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

2. Acting as a contractor without a license

§ 32-1164(B)

For the first offense under subsection A of this section, a contractor shall be fined not less than one thousand dollars.

Minimum fine of \$1,000 for first offense

For the second or any subsequent offense under subsection A of this section, a contractor shall be fined not less than two thousand dollars.

Minimum fine of \$2,000 for subsequent offenses

§ 32-1164(C)

If a person is convicted of a misdemeanor pursuant to subsection A of this section and the court sentences the person to a term of probation, the court shall order that as conditions of probation the person do all of the following:

Mandatory conditions of probation following misdemeanor conviction:

1. Pay in full all transaction privilege tax or use tax amounts that are due under title 42, chapter 5, article 2 or 4 and that arise from the acts or omissions constituting the offense.
2. Pay in full all transaction privilege or use tax amounts that are due to the county in which the offense occurred and that arise from the acts or omissions constituting the offense.
3. Pay in full all transaction privilege or use tax amounts that are owed to the local municipal government, city or town in which the offense occurred and that arise from the acts or omissions constituting the offense.

1. Payment of transaction privilege taxes & use taxes due under Title 42, Ch. 5, Art. 2

2. Payment of transaction privilege taxes & use taxes due to county

3. Payment of transaction privilege taxes & use taxes owed to municipality, city, or town

A.R.S. § 32-1165 Advertising; violation; classification

Except as authorized by section 32-1121, subsection A, it is a class 1 misdemeanor for any person to advertise that the person is able to perform any service or contract for compensation subject to regulation by the registrar under the terms of this chapter unless the person first obtains a license under the terms of this chapter.

Designation of advertising for unlicensed services as a class 1 misdemeanor; exception: advertising authorized under § 32-1121(A)

A.R.S. § 32-1166

Cease and desist orders

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| § 32-1166(A) | The registrar may issue a cease and desist order to any person who is required to be licensed by this chapter but who is not licensed and who engages in an act of contracting, a practice or a transaction that violates this chapter, a rule adopted by the registrar or an order issued by the registrar. | Registrar's authority to issue cease & desist orders to anyone not currently licensed who violates Chapter 10, the Registrar's rules, or the Registrar's order |
| § 32-1166(B) | The cease and desist order may require the person to immediately cease and desist from engaging in an act, practice or transaction on receipt of the order. | Act, practice, or transaction must cease upon receipt of order |
| § 32-1166(C) | Service of the cease and desist order is fully effected by personal service or by mailing a true copy of the cease and desist order by certified mail in a sealed envelope, with postage prepaid, addressed to either:

<ol style="list-style-type: none">1. The person's last known business address.2. The person's residential address. | Service effected by personal service or mailing to:

<ol style="list-style-type: none">1. Business address; or2. Residential address |

A.R.S. § 32-1166.01

Citation; civil penalties

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| § 32-1166.01(A) | In conjunction with the registrar's authority to issue a cease and desist order under section 32-1166, subsection A, the registrar may issue a citation for contracting, practicing or transacting that constitutes a violation of any of the following:

<ol style="list-style-type: none">1. This chapter.2. A rule adopted by the registrar.3. An order issued by the registrar. | Registrar's authority to issue citations for violating a Registrar:

<ol style="list-style-type: none">1. Chapter;2. Rule; or3. Order |
| § 32-1166.01(B) | A citation issued pursuant to this section shall:

<ol style="list-style-type: none">1. Be in writing.2. Clearly describe the violation for which the citation was issued.3. Contain an order to cease and desist. | Citation requirements

<ol style="list-style-type: none">1. Written;2. Describe the alleged violations;3. Contain cease and desist order; and |

4. Contain a civil penalty of at least \$200 for each violation but not more than \$2,500 for multiple violations committed on the same day.

4. Contain a civil penalty

§ 32-1166.01(C) Each violation of this chapter or a rule or order of the registrar by a person who is required to be licensed by this chapter and who does not possess the required license constitutes a separate offense and the registrar may impose a civil penalty not to exceed \$2,500 for each violation except that the civil penalty may not exceed \$2,500 for all violations committed on the same day.

For persons not duly licensed, each violation is a separate offense; Registrar's authority to impose civil penalties up to \$2,500 per day

§ 32-1166.01(D) The registrar shall issue a citation under this section within one hundred and eighty days after actual discovery of the offense by this state or the political subdivision having jurisdiction.

Registrar's duty to issue citations under § 32-1166.01 within 180 days of actual discovery of offense

Service of the citation is fully effected by personal service or by mailing a true copy of the citation by certified mail in a sealed envelope with postage prepaid and addressed to either:

Service effected by personal service or mailing to:

1. The person's last known business address.
2. The person's residential address.

1. Business address; or

2. Residential address

§ 32-1166.01(E) The registrar may issue citations containing orders to cease and desist and civil penalties against persons who have never been licensed under this chapter who are acting in the capacity of or engaging in the business of a contractor in this state.

Licensure not a prerequisite to citation under 32-1166.01

§ 32-1166.01(F) If the registrar issues a citation against a person and the person fails to comply with the cease and desist order and citation, the registrar may assess an additional civil penalty of up to \$2,500 for each day the violation continues.

Registrar's authority to assess additional civil penalties up to \$2,500 per day if violation continues after a citation is issued

§ 32-1166.01(G) The registrar may adopt rules relating to the civil penalty that give due consideration to the gravity of the violation and any history of previous violations.

Registrar's duty to adopt rules regarding civil penalties that consider (1) a violation's gravity and (2) any previous violations. See also A.A.C. R4-9-131.

§ 32-1166.01(H) The penalties authorized under this section are separate from, and in addition to, all other remedies provided by law, either civil or criminal.

Penalties separate and in addition to other civil/criminal remedies

§ 32-1166.01(I)

The registrar shall deposit, pursuant to sections 35-146 and 35-147, all monies collected from civil penalties under this section in the state general fund.

Monies from civil penalties deposited in state general fund

**A.R.S. § 32-1166.06
Filing registrar’s orders**

After the exhaustion of administrative review procedures pursuant to title 41, chapter 6, article 10, and if judicial review has not been sought under title 12, chapter 7, article 6, a certified copy of any registrar’s order requiring the payment of civil penalties may be filed in the office of the clerk of the superior court in any county of this state.

Permission to file with clerk of superior court a certified copy of Registrar’s order requiring civil-penalty payment, after exhaustion of administrative review procedures under Title 41, and absent judicial review under Title 12

The clerk shall handle the registrar’s order in the same manner as a superior court judgment.

Clerk’s duty to handle Registrar’s order in same manner as superior court judgment

A registrar’s order that is filed in the office of the clerk of the superior court has the same effect as a superior court judgment and may be recorded, enforced or satisfied in a similar manner.

Registrar’s order filed with clerk has same effect as judgment & may be recorded, enforced, or satisfied as judgment

A person who files a registrar’s order under this section is not required to pay a filing fee.

No fee required for filing Registrar’s order

**A.R.S. § 32-1166.07
Waiver of civil penalty**

Notwithstanding any other law, the registrar may waive all, except two hundred dollars, of the civil penalty if the person against whom the civil penalty is assessed completes all of the requirements for, and is issued, a contractor’s license.

Registrar’s authority to waive civil penalties down to \$200 if the penalized person obtains a license

Any loss or damage to the public caused by the violator’s activities shall be remedied before issuance of the license.

Before a license is issued, any loss or damage must be remedied

**A.R.S. § 32-1168
Proof of valid license**

At the request of the registrar, and after issuing a citation pursuant to section 32-1104, subsection A, paragraph 4, or a cease and desist order pursuant to section 32-1166, the county, city or authority of the state may cause work on a construction project to cease or be suspended on that project until there is compliance with the licensing

After a citation is issued under § 32-1104(A)(4), and at the Registrar’s request: a county, city, or state authority may stop construction until there is compliance with § 32-1151

requirements of section 32-1151 by those contractors employed on that project.

A.R.S. § 32-1169
Building permits; local proof of valid license; violation

§ 32-1169(A) Each county, city or other political subdivision or authority of this state or any agency, department, board or commission of this state that requires the issuance of a building permit as a condition precedent to the construction, alteration, improvement, demolition or repair of a building, structure or other improvement to real property for which a license is required under this chapter, as part of the application procedures which it uses, shall require that each applicant for a building permit file a signed statement that the applicant is properly licensed to perform the work described in the permit under this chapter with the applicant's license number.

If the applicant purports to be exempt from the licensing requirements of this chapter, the statement shall contain the basis of the asserted exemption and the name and license number of any general, mechanical, electrical or plumbing contractor who will be employed on the work.

The local issuing authority may require from the applicant a statement signed by the registrar to verify any purported exemption.

§ 32-1169(B) The filing of an application containing false or incorrect information concerning an applicant's contractor's license with the intent to avoid the licensing requirements of this chapter is unsworn falsification pursuant to section 13-2704.

Any county, city, state, or political subdivision that requires the issuance of a building permit must require in its permit application: (1) a signed statement that the applicant is licensed under Ch. 10 and (2) the applicant's license number

If the permit applicant claims exemption from Ch. 10, the applicant's statement must contain: (1) the basis of the exemption and (2) the name and license number of any general, mechanical, electrical, or plumbing contractor employed

The authority issuing the permit may require the applicant to obtain the Registrar's verification of the exemption

Filing a permit application falsified with respect to a contractor's license, with the intent to evade Ch. 10, is unsworn falsification under § 13-2704

Article 4

Qualification of Solar Contractors

A.R.S. § 32-1170

Definitions

In this article, unless the context otherwise requires:

1. "Solar contractor" means a contractor, as defined in section 32-1101, who installs, alters or repairs solar devices.
2. "Solar device" means a device for the use and application of solar energy incidental to:
 - (a) Boilers, steamfitting and process piping.
 - (b) Plumbing.
 - (c) Air conditioning or comfort heating and cooling systems.
 - (d) Hot water systems for residences and swimming pools.
 - (e) Solar daylighting by a device as defined in section 44-1761.

Definitions for Article 4:

1. Definition of "solar contractor"

2. Definition of "solar device"

A.R.S. § 32-1170.01

Installation, alteration or repair of solar device without qualification as solar contractor prohibited

After June 30, 1980, it is unlawful for a contractor to install, alter or repair a solar device without qualifying as a solar contractor pursuant to this article.

Requirement to qualify as a solar contractor

A.R.S. § 32-1170.02

Qualification examination

§ 32-1170.02(A)

To qualify as a solar contractor under this article, the applicant shall:

1. Submit to the registrar an application on forms prescribed by the registrar, identifying the applicant

Requirements for applicant to qualify as a solar contractor:

1. Submit application forms & pay fee

and the classification of license held or sought by the applicant, and pay the prescribed fee.

2. Pass an examination approved and conducted by the registrar that is specific to the solar requirements of the classification of license held or sought by the applicant.
3. Meet all other provisions of this chapter relating to obtaining and maintaining an appropriate license.

2. Pass an examination relating to the solar requirements of the license classification

3. Meet all other statutory licensing provisions

§ 32-1170.02(B)

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

Registrar determines time & place of examination

§ 32-1170.02(C)

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

License marked or supplemented to indicate solar-contractor qualification within scope of classification

Article 5

Prompt Pay

A.R.S. § 32-1181

Definitions; applicability

§ 32-1181(A) In this article, unless the context otherwise requires:

1. "Construction contract" means a written or oral agreement relating to the construction, alteration, repair, maintenance, moving or demolition of any building, structure or improvement or relating to the excavation of or other development or improvement to land.
2. "Contractor" means any person, firm, partnership, corporation, association or other organization, or a combination of any of them, that has a direct contract with an owner to perform work under a construction contract.
3. "Final completion" means the earliest of the following:
 - (a) When the work, or the work under a portion of a construction contract for which the contract states a separate price, has been completed in accordance with the terms and conditions of the construction contract.
 - (b) The date of final inspection and final written acceptance by the governmental body that issues the building permit for the building, structure or improvement.
4. "Owner" means any person, firm, partnership, corporation, association or other organization, or a combination of any of them, that causes a building, structure or improvement to be constructed, altered, repaired, maintained, moved or demolished or that causes land to be excavated or otherwise developed or improved, whether the interest or estate of the person is in fee, as vendee under a contract to purchase, as lessee or another interest or estate less than fee.

Definitions for certain sections:

1. Definition of "construction contract"

2. Definition of "contractor"

3. Definition of "final completion" as earliest of:

(a) Completion

(b) Date of final inspection & written acceptance by governmental body

4. Definition of "owner"

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

5. Definition of "retention"

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

6. Definition of "subcontractor"

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

7. Definition of "substantial completion" as earliest of:

(a) The stage in the progress of the work on a construction contract when the work, or the work under a portion of a construction contract for which the contract states a separate price, is sufficiently complete in accordance with the terms and conditions of the construction contract so that the owner can occupy and use the work or such portion of the work for its intended purpose.

(a) Stage in which owner can occupy & use the work for its intended purpose

When substantial completion occurs for a portion of a construction contract for which the contract states a separate price, substantial completion occurs only to the work under that portion of the contract.

When contract states separate price for portion: substantial completion limited to that portion

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

(b) Stage in which owner can occupy & use the work for its intended purpose, but owner unable to, or does not, occupy or use work

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

(c) Date of final inspection & written acceptance by governmental body allowing owner to occupy & use the work

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

8. Definition of "work"

§ 32-1181(B) The definitions in this section do not apply to section 12-552.

Definitions inapplicable to § 12-552

A.R.S. § 32-1182

Progress payments by owner; conditions; interest

§ 32-1182(A) By mutual agreement with a contractor, an owner may make progress payments on construction contracts of less than sixty days.

Permission for owner to make progress payments of less than 60 days by mutual agreement with contractor

An owner shall make progress payments to a contractor on all other construction contracts.

On all other construction contracts, mandatory progress payments

Progress payments shall be made on the basis of a duly certified and approved billing or estimate of the work performed and the materials supplied.

Basis of progress payment: duly certified & approved billing or estimate for work & materials supplied

The billing or estimate for a progress payment shall be submitted on a thirty day billing cycle unless the construction contract and each page of the plans, including bid plans and construction plans, shall specifically identify a different billing cycle in a clear and conspicuous manner as prescribed in subsection B of this section.

If billings or estimates depart from 30-day billing cycles: contract & each page of plans must identify the billing cycle clearly & conspicuously as prescribed by § 32-1182(B)

If any work is performed during a billing cycle, a contractor shall timely submit a billing or estimate to the owner.

Contractor's duty to timely submit billing or estimate for work performed in preceding billing cycle

Except as provided in subsection C of this section, the owner shall make progress payments to the contractor within seven days after the date the billing or estimate is certified and approved pursuant to subsection D of this section.

Subject to § 32-1182(C), owner's duty to make progress payments within 7 days after the billing or estimate is certified & approved under § 32-1182(D)

Except as provided in subsection C of this section, an owner shall release retention to the contractor within seven days after the date the billing or estimate for release of retention is certified and approved pursuant to subsection H of this section.

Subject to § 32-1182(C), owner's duty to release retention within 7 days after the billing or estimate for release of retention is certified & approved under § 32-1182(H)

Except as provided in subsection C of this section, an owner shall make final payment to the contractor within seven days after the billing or estimate for final payment is certified and approved pursuant to subsection K of this section.

Subject to § 32-1182(C), owner's duty to make final payment within 7 days after the billing or estimate is certified & approved under § 32-1182(K)

§ 32-1182(B)

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

Permission for construction contract to depart from 30-day billing cycle if the other billing cycle is specifically set forth, and either of the following applies:

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

1. Statutory legend (or substantially similar language) appears clearly & conspicuously on each page of plans, including bid plans & construction plans, stating alternate billing cycle, or substantially similar language

Notice of Alternate Billing Cycle

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

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

2. Statutory legend (or substantially similar language) appears clearly & conspicuously on each page of plans, including bid plans & construction plans, indicating availability of alternate billing cycle

Notice of Alternate Billing Cycle

This contract allows the owner to require the submission of billings or estimates in billing cycles other than thirty days. A written description of such other billing cycle applicable to the project is available from the owner or the

owner's designated agent at (telephone number or address, or both), and the owner or its designated agent shall provide this written description on request.

§ 32-1182(C)

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

1. The construction contract in a clear and conspicuous manner specifically provides for a later payment defined by a specified number of days after certification and approval.
2. The following legend or substantially similar language setting forth the specified number of days appears in clear and conspicuous type on each page of the plans, including bid plans and construction plans:

Notice of Extended Payment Provision

This contract allows the owner to make payment within ___ days after certification and approval of billings and estimates for progress payments, within ___ days after certification and approval of billings and estimates for release of retention and within ___ days after certification and approval of billings and estimates for final payment.

Permission for owner to make progress payments, retention release & final payments later than 7 days, if both:

1. Contract clearly, conspicuously & specifically provides for later payment by specified number of days
2. Statutory legend (or substantially similar language) appears clearly & conspicuously on each page of plans, including bid plans & construction plans, setting forth the specified number of days

§ 32-1182(D)

Except as provided in subsection F of this section, a billing or estimate for a progress payment shall be deemed certified and approved fourteen days after the owner receives the billing or estimate, unless before that time the owner or the owner's agent prepares and issues a written statement stating in reasonable detail the owner's reasons for not certifying or approving all or a portion of the billing or estimate.

The owner is deemed to have received the billing or estimate when the billing or estimate is submitted to any person designated by the owner for receipt or for certification and approval of the billing or estimate.

Subject to § 32-1182(F), the billing or estimate is deemed certified & approved 14 days after receipt by owner, unless before that time the owner or agent issues reasonably detailed written statement of reasons for not certifying or approving

The billing or estimate is deemed received on submission to person designated by owner for receipt or for certification & approval

The owner may withhold from a progress payment a reasonable amount for retention.

Owner's right to withhold reasonable retention amount from progress payment

An owner may decline to certify and approve a billing or estimate or portion of a billing or estimate for any of the following reasons:

Owner's right to decline certification & approval for following reasons:

- | | |
|--|--|
| <ol style="list-style-type: none">1. Unsatisfactory job progress.2. Defective construction work or materials not remedied.3. Disputed work or materials.4. Failure to comply with other material provisions of the construction contract.5. Third-party claims filed or reasonable evidence that a claim will be filed.6. Failure of the contractor or a subcontractor to make timely payments for labor, equipment and materials.7. Damage to the owner.8. Reasonable evidence that the construction contract cannot be completed for the unpaid balance of the construction contract sum. | <ol style="list-style-type: none">1. Unsatisfactory job progress2. Defective work or materials not remedied3. Disputed work or materials4. Failure to comply with material provisions of contract5. Filing, or reasonable evidence of future filing, of third-party claim6. Failure to timely pay for labor, equipment, or materials7. Damage to owner8. Reasonable evidence that contract cannot be completed for unpaid balance |
|--|--|

§ 32-1182(E) An owner may withhold from a progress payment only an amount that is sufficient to pay the direct costs and expenses the owner reasonably expects to incur to protect the owner from loss for which the contractor is responsible and that results from any reasons set forth in writing pursuant to subsection D of this section.

Limitation on owner's withholding

§ 32-1182(F) An owner may extend the period within which the billing or estimate for progress payments, release of retention and final payment is certified and approved if both:

Owner's permission to extend period of certification & approval, if both:

- | | |
|---|---|
| <ol style="list-style-type: none">1. The construction contract in a clear and conspicuous manner specifically provides for an extended time period within which a billing or estimate shall be certified and approved defined by a specified number of days after the owner has received the billing or estimate. | <ol style="list-style-type: none">1. Contract clearly, conspicuously & specifically provides for extended period for certification & approval defined by specified number of days |
|---|---|

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

2. Statutory legend (or substantially similar language) appears clearly & conspicuously on each page of plans, including bid plans & construction plans, setting forth the specified number of days

Notice of Extended Certification and Approval Period Provision

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

§ 32-1182(G) After the effective date of a construction contract, an owner and contractor may change the number of specified days after certification and approval for the owner to make payment to the contractor or within which a billing or estimate must be certified and approved.

Owner & contractor permitted to change specified number of days after effective date

Any contractor or subcontractor that does not provide written consent to the change will continue to be paid as previously agreed.

Absent written consent to change, contractor or subcontractor must be paid as previously agreed

§ 32-1182(H) On substantial completion of the work, a contractor shall submit a billing or estimate for release of retention.

Contractor's duty to submit billing or estimate for retention release on substantial completion

Except as provided in subsection F of this section, the billing or estimate for release of retention shall be deemed certified and approved within fourteen days after the owner receives the billing or estimate, unless before that time the owner or the owner's agent issues a written statement stating in reasonable detail the owner's reasons for not certifying or approving all or a portion of the billing or estimate.

Subject to § 32-1182(F), the billing or estimate is deemed certified & approved 14 days after receipt by the owner, unless before that time owner or agent issues a reasonably detailed written statement of reasons for not certifying or approving

The owner is deemed to have received the billing or estimate when the billing or estimate is submitted to any person designated by the owner for receipt or for certification and approval of the billing or estimate.

The billing or estimate is deemed received on submission to person designated by owner for receipt or for certification & approval

The owner may:

Owner permitted to:

1. Decline to certify and approve a billing or estimate for release of retention or a portion of a billing or estimate for release of retention for failure of the contractor to complete a material requirement of the construction contract or to complete portions of the work or for any reason permitted under subsection D of this section.
2. Withhold from retention to be released only an amount not to exceed one hundred fifty percent of the direct costs and expenses the owner reasonably expects to incur to protect the owner from loss for which the contractor is responsible and that results from the contractor's failure to complete portions of the work at the time of substantial completion or for any reasons set forth in writing pursuant to this subsection.

1. Decline to certify & approve billing or estimate (or portion) for contractor's failure to complete material requirement of contract or portions of work, or for reasons permitted by § 32-1182(D)
2. Withhold from retention to be released up to 150% of direct costs the owner reasonably expects to incur to protect from loss for which the contractor is responsible & resulting from failure to complete work at time of substantial completion or for written reasons issued under § 32-1182(H)

§ 32-1182(I) Except as provided in subsections C and H of this section, the owner shall pay the retention to the contractor within seven days after the date the billing or estimate for release of retention is certified and approved.

Subject to § 32-1182(C) and § 32-1182(H), owner's duty to pay retention within 7 days of certification & approval

If the owner has declined to certify or approve a billing or estimate for release of retention or a portion of a billing or estimate for release of retention pursuant to subsection H of this section, when any reason as stated in the owner's written statement has been removed, the contractor may submit a supplemental billing or estimate for all or a portion of the withheld amounts of retention pursuant to subsection H of this section.

Contractor's right to submit supplemental billing or estimate for amounts withheld, after owner declines to certify or approve billing or estimate

Unless otherwise agreed, the contractor may submit only one billing or estimate during each billing cycle.

Contractor limited to 1 billing or estimate per cycle, unless otherwise agreed

§ 32-1182(J) When a contractor substantially completes all work under a portion of a construction contract for which the contract states a separate price, the contractor shall submit a billing or estimate for release of retention on that portion of the construction contract pursuant to subsection H of this section.

Contractor's duty to submit billing or estimate under § 32-1182(H) after substantial completion of all work having a separate price

§ 32-1182(K) On final completion of the work, a contractor shall submit a billing or estimate for final payment.

Contractor's duty to submit billing or estimate for final payment after final completion

Except as provided in subsection F of this section, a billing or estimate for final payment shall be deemed certified and approved fourteen days after the owner receives the billing or estimate, unless before that time the owner or owner's agent prepares and issues a written statement stating in reasonable detail the reasons the billing or estimate has not been certified or approved.

Subject to § 32-1182(F), the billing or estimate is deemed certified & approved 14 days after receipt by owner, unless before that time owner or agent issues reasonably detailed written statement of reasons for not certifying or approving

The owner is deemed to have received the billing or estimate for final payment when the billing or estimate is submitted to any person designated by the owner for receipt of or for certification and approval of the billing or estimate.

The billing or estimate is deemed received on submission to person designated by owner for receipt or for certification & approval

The owner may:

Owner permitted to:

1. Decline to certify and approve a billing or estimate for final payment or a portion of a billing or estimate for final payment for failure of the contractor to complete a requirement of the construction contract or to complete portions of the work or for any reason permitted under subsection D of this section.
2. Withhold from final payment only an amount not to exceed one hundred fifty percent of the direct costs and expenses the owner reasonably expects to incur to protect the owner from loss for which the contractor is responsible and that results from any reasons set forth in writing pursuant to this subsection.

1. Decline to certify & approve billing or estimate (or portion) for contractor's failure to complete requirement of contract or portions of work, or for reasons permitted by § 32-1182(D)

2. Withhold from final payment up to 150% of direct costs the owner reasonably expects to incur to protect from loss for which the contractor is responsible & resulting from written reasons issued under § 32-1182(K)

§ 32-1182(L)

Except as provided in subsection C of this section, the owner shall make final payment to the contractor within seven days after the date the billing or estimate for final payment is certified and approved.

Subject to § 32-1182(C), owner's duty to make final payment within 7 days after the billing or estimate is certified & approved

If the owner has declined to certify or approve a billing or estimate for final payment or a portion of a billing or estimate for final payment pursuant to subsection K of this section, when any reason as stated in the owner's written statement has been removed, the contractor may submit a billing or estimate for all or a portion of the withheld amounts of final payment pursuant to subsection K of this section.

Contractor's right to submit billing or estimate for amounts withheld, after owner declines to certify or approve billing or estimate

	Unless otherwise agreed, the contractor may submit only one billing or estimate during each billing cycle.	Contractor limited to 1 billing or estimate per cycle, unless otherwise agreed
§ 32-1182(M)	Except as provided in subsection C of this section, on projects that require a federal agency's final certification or approval, the owner shall make payment in full on the construction contract within seven days after the federal agency's final certification or approval.	Subject to § 32-1182(C), owner's duty to make final payment within 7 days after the federal agency's final certification or approval
§ 32-1182(N)	When a contractor completes all work under a portion of a construction contract for which the contract states a separate price, the contractor may timely submit a billing or estimate for final payment on that portion of the construction contract pursuant to subsection K of this section.	Contractor's right to submit billing or estimate under § 32-1182(K) after completion of all work having a separate price
§ 32-1182(O)	Payment shall not be required pursuant to this section unless the contractor provides the owner with a billing or estimate in accordance with the terms of the construction contract between the parties.	Payment not required under § 32-1182 unless billing or estimate provided per terms of construction contract
§ 32-1182(P)	A construction contract shall not alter the rights of any contractor, subcontractor or material supplier to receive prompt and timely payments as provided under this article.	Rights to prompt & timely payment under this Article may not be altered by construction contract
§ 32-1182(Q)	If an owner or a third party designated by an owner as the person responsible for making progress payments, releasing retention or making final payment on a construction contract does not make a timely payment on amounts due pursuant to this section, the owner shall pay the contractor interest at the rate of one and one-half percent a month or fraction of a month on the unpaid balance, or at a higher rate as the parties to the construction contract agree.	Interest due for untimely payments is 1.5% a month or higher, agreed-upon rate
§ 32-1182(R)	On the written request of a subcontractor, the owner shall notify the subcontractor within five days after the issuance of a progress payment to the contractor.	After written request, owner's duty to notify subcontractor within 5 days of progress payment to contractor
	On the written request of a subcontractor, the owner shall notify the subcontractor within five days after the owner releases retention or makes the final payment to the contractor on the construction contract.	After written request, owner's duty to notify subcontractor within 5 days of final payment or release of retention to contractor

	A subcontractor's request pursuant to this subsection shall remain in effect for the duration of the subcontractor's work on the project.	Subcontractor's written request remains effective for duration of subcontractor's work on project
§ 32-1182(S)	In any action or arbitration brought to collect payments or interest pursuant to this section, the successful party shall be awarded costs and attorney fees in a reasonable amount.	Attorney fees & costs awarded to successful party in action or arbitration under § 32-1182
§ 32-1182(T)	If the owner and contractor are a single entity, that entity shall pay its subcontractors or material suppliers within fourteen days after the billing or estimate is certified and approved unless the deadlines for certification and approval or for payment[s that] have been modified pursuant to subsection C or F of this section.	If owner & contractor are single entity, entity pays within 14 days after billing or estimate is certified and approved
§ 32-1182(U)	Notwithstanding anything to the contrary in this section, an owner may define "retention", "substantial completion" and "final completion" to have meanings different than those stated in section 32-1181, if:	Owner may redefine certain statutory terms if:
1. The construction contract in a clear and conspicuous manner defines the terms.		1. Contract clearly & conspicuously defines the terms
2. The legend set forth in subsection W of this section or substantially similar language appears in clear and conspicuous type on each page of the plans, including bid plans and construction plans.		2. Statutory legend (or substantially similar language) appears clearly & conspicuously on each page of plans (including bid & construction plans)
3. The different meanings of "retention", "substantial completion" and "final completion" are set forth in the plans, including on bid plans and construction plans, and the legend required by paragraph 2 of this subsection designates the sheet number of the plans on which the different meanings of the terms can be found.		3. Statutory legend designates sheet numbers where meaning of "retention," "substantial completion" & "final completion" are found
§ 32-1182(V)	Notwithstanding anything to the contrary in this section, an owner may establish different timing and conditions for when the contractor may submit a billing or estimate for release of retention or for final payment and for when such payments shall be due, if:	Permission for owner to establish different timing & conditions for contractor's submission of billing or estimate for release of retention or for final payment & for payment due date, if:
1. The construction contract in a clear and conspicuous manner establishes different timing for when the contractor may submit a billing or estimate for		1. Contract clearly & conspicuously establishes different timing and payment due dates

release of retention or for final payment, or both, and for when such payments shall be due.

- 2. The legend set forth in subsection W of this section or substantially similar language appears in clear and conspicuous type on each page of the plans, including bid plans and construction plans.
- 3. The different timing and conditions for when the contractor may submit a billing or estimate for release of retention or for final payment and for when such payments shall be due are set forth in the plans, including on bid plans and construction plans, and the legend required by paragraph 2 of this subsection designates the sheet number of the plans on which the different timing and conditions can be found.

2. Statutory legend (or substantially similar language) appears clearly & conspicuously on each page of plans (including bid & construction plans)

3. Statutory legend designates sheet numbers where different timing and conditions are found

§ 32-1182(W)

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

Statutory legend

Notice of Alternate Arrangements for Release of Retention and Final Payment

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

**A.R.S. § 32-1183
Performance and payment by contractor,
subcontractor or material supplier;
conditions; interest**

§ 32-1183(A)

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

Performance in accordance with provisions of a construction contract entitles payment

§ 32-1183(B)

If a subcontractor or material supplier has performed in accordance with the provisions of a construction contract, the contractor shall pay to its subcontractors or material suppliers and each subcontractor shall pay to its subcontractors or material suppliers, within seven days of receipt by the contractor or subcontractor of each progress payment, retention release or final payment, the full amount received for such subcontractor's work and materials supplied based on work completed or materials supplied under the subcontract.

Contractor's or subcontractor's duty to pay within 7 days of receipt by the contractor or subcontractor of each progress payment, retention release or final payment

Payment shall not be required pursuant to this subsection unless the subcontractor or material supplier provides to the contractor or subcontractor a billing or invoice for the work performed or material supplied in accordance with the terms of the construction contract between the parties.

Payment not required unless billing or invoice is submitted in accordance with the terms of the construction contract

Each subcontractor or material supplier shall provide a waiver of any mechanic's or materialman's lien conditioned on payment for the work completed or material supplied.

Waiver of mechanic's or materialman's lien

The contractor or subcontractor may require that such conditional waivers of lien be notarized.

Right to require notarized waivers of lien

Any diversion by the contractor or subcontractor of payments received for work performed pursuant to a contract, or failure to reasonably account for the application or use of such payments, constitutes grounds for disciplinary action by the registrar of contractors.

Grounds for disciplinary action by Registrar: diversion of payments for work performed, or failure to reasonably account for the application or use of such payments

Violations of this section shall be grounds for suspension or revocation of a license or other disciplinary action by the registrar pursuant to section 32-1154, subsections B, C and D.

Violations of § 32-1183 are grounds for disciplinary action

The subcontractor or material supplier may notify the registrar of contractors and the owner in writing of any payment less than the amount or percentage approved for the class or item of work as set forth in this section.

Right to notify Registrar & owner in writing if payment is less than the approved amount

§ 32-1183(C)

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

Right to withhold application or certification for payment for following reasons:

- | | |
|--|---|
| 1. Unsatisfactory job progress. | 1. Unsatisfactory job progress |
| 2. Defective construction work or materials not remedied. | 2. Defective work or materials not remedied |
| 3. Disputed work or materials. | 3. Disputed work or materials |
| 4. Failure to comply with other material provisions of the construction contract. | 4. Failure to comply with material provisions of contract |
| 5. Third-party claims filed or reasonable evidence that a claim will be filed. | 5. Filing, or reasonable evidence of future filing, of third-party claim |
| 6. Failure of the subcontractor to make timely payments for labor, equipment and materials. | 6. Failure to timely pay for labor, equipment, or materials |
| 7. Damage to a contractor or another subcontractor or material supplier. | 7. Damage to contractor, subcontractor, or material supplier |
| 8. Reasonable evidence that the subcontract cannot be completed for the unpaid balance of the subcontract sum. | 8. Reasonable evidence that subcontract cannot be completed for unpaid balance |
| 9. The owner has withheld retention from the contractor, in which case the amount of the retention withholding by the contractor shall not exceed the actual amount of the retention retained by the owner pertaining to the subcontractor's work. | 9. Owner has withheld retention; limitation: amount withheld by contractor cannot exceed amount retained by owner |

§ 32-1183(D) A contractor or subcontractor shall not withhold retention from a subcontractor in an amount greater than the actual amount of the retention retained by the owner pertaining to the work of the subcontractor.

Amount withheld by contractor or subcontractor cannot exceed amount retained by owner

§ 32-1183(E) If the contractor or subcontractor chooses to withhold the application or certification for all or a portion of a subcontractor's or material supplier's billing or estimates as permitted by subsection C of this section, the contractor or subcontractor must prepare and issue a written statement within fourteen days to the applicable subcontractors or material suppliers stating in reasonable detail the contractor's or subcontractor's reasons for withholding the application or certification from the owner or contractor.

After withholding application or certification, written statement required within 14 days

§ 32-1183(F) If the owner issues a written statement pursuant to section 32-1182, subsection D, H or K stating that the owner declines to certify or approve all or a portion of the contractor's billing or estimate and if the amounts to be paid from that billing or estimate by the contractor to any subcontractors or material suppliers are affected by the owner's decision not to certify or approve, the contractor shall send a copy of that written statement within seven days after receipt to any affected subcontractors or material suppliers.

Contractor must send a copy of owner's written statement to any affected subcontractor or material supplier within 7 days

If the contractor sends a copy of the owner's written statement to a subcontractor and if the amounts to be paid from that billing or estimate by a subcontractor to any of its subcontractors or material suppliers are affected by the owner's decision not to certify or approve, then the subcontractor shall send a copy of that written statement within seven days after receipt to any of its affected subcontractors or material suppliers.

Subcontractor must send a copy of owner's written statement to any affected subcontractor or material supplier within 7 days

§ 32-1183(G) If the owner issues a written statement pursuant to section 32-1182, subsection D, H or K stating that the owner declines to certify or approve a billing or estimate or a portion of a billing or estimate for defective construction work or materials not remedied and if the contractor as a result does not receive sufficient payment from the owner to pay subcontractors and material suppliers for work included in the contractor's billing or estimate, the contractor shall nevertheless pay any subcontractor or material supplier whose work was not the basis of the owner's withholding for defective construction work or materials not remedied within twenty-one days after payment would otherwise have been made by the owner under section 32-1182, subsection A.

After receiving an owner's written statement, a contractor must pay any subcontractor or material supplier whose work was not the basis of the owner's withholding within 21 days after payment would otherwise have been made

This subsection does not limit a subcontractor's rights to suspend performance under a construction contract or terminate a construction contract under section 32-1185, subsection D.

No limitation on subcontractor's right to suspend performance

§ 32-1183(H) If a progress or final payment or release of retention to a subcontractor or material supplier is delayed by more than seven days after receipt of progress or final payment or release of retention by the contractor or subcontractor pursuant to this section, the contractor or subcontractor

Interest due for untimely payments is 1.5% a month or higher, agreed-upon rate

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

§ 32-1183(I)

Any licensed contractor, licensed subcontractor or material supplier who files a complaint with the registrar of contractors under this section shall be required to post a surety bond or cash deposit of \$500 or one-half of the amount due, whichever is less, with the registrar to secure the payment of claims under this section.

When a complaint is filed with the Registrar under A.R.S. § 32-1183, a surety bond or cash deposit of at least \$500 is required

If the complaint is determined by the registrar to be without merit and frivolous, the registrar shall order the person who filed the complaint to pay one-half of the amount of the required surety bond or cash deposit to the respondent and one-half to the registrar for deposit into the state general fund.

If complaint is without merit & frivolous, Registrar must order complainant to pay ½ the bond or surety amount to respondent and ½ to Registrar for deposit into state general fund

If no claim may be made under this section against the surety bond or cash deposit, the surety bond or cash deposit shall be returned to the complainant.

Surety bond or cash deposit returned if no claim may be made

The surety bond or cash deposit shall be in the name of the licensee or material supplier who files the complaint and shall be subject to claims by the registrar of contractors and the respondent licensee as provided in this section.

Surety bond or cash deposit must be in name of licensee or material supplier who filed the complaint & is subject to claims by Registrar and respondent

The surety bond or cash deposit shall be conditioned on and provide for payment on the presentation of a certified copy of the order of the registrar and a certification by the complainant of nonpayment within thirty days after the order becomes final.

Surety bond or cash deposit conditioned on (1) presentation of a certified copy of the Registrar's order and (2) complainant's certification of nonpayment within 30 days of order becoming final

The surety bond shall be executed by the complainant as principal with a corporation duly authorized to transact surety business in this state.

With an authorized surety business, contractor executes a surety bond as the principal

Evidence of the surety bond shall be submitted to the registrar in a form acceptable to the registrar.

Evidence of surety bond

The cash deposit shall be deposited, pursuant to sections 35-146 and 35-147, by the registrar in the contractors

Cash deposit deposited into prompt pay complaint fund

prompt pay complaint fund and shall be held for the payment of claims.

§ 32-1183(J) In any action or arbitration brought to collect payments or interest pursuant to this section, the successful party shall be awarded costs and attorney fees in a reasonable amount.

Attorney fees & costs awarded to successful party in action or arbitration under § 32-1183

A.R.S. § 32-1184

Interruption of performance of construction contract; damages; termination of contract

§ 32-1184(A) A contractor licensed under this chapter may interrupt the performance of a construction contract without penalty or liability for breach of contract if any applicable law or rule requires the cessation of work or the contractor encounters any hazardous substance or hazardous material which is required to be removed or contained by any applicable law or rule and either of the following apply:

Right to interrupt performance of construction contract if law or rule requires cessation or hazardous substance or materials are encountered, and if either of the following apply:

1. Any applicable law or rule prohibits the contractor from proceeding to remove or contain the hazardous material or hazardous substance unless the contractor is duly licensed and the contractor is not so licensed.
2. The removal or containment of the hazardous material or hazardous substance cannot be accomplished without a cessation of work.

1. Law or rule prohibits contractor from removing or containing hazardous materials or substances

2. Removal of hazardous material or substance requires cessation

§ 32-1184(B) A contractor licensed under this chapter whose work is impaired, impeded or prohibited under subsection A may interrupt performance of the construction contract as provided in this section only to the extent of the area affected by the hazardous materials or hazardous substances removed or contained by the owner or as otherwise required by applicable statute or rule.

Interrupted performance is limited to area affected by hazardous materials or substances

§ 32-1184(C) A person who interrupts the performance of a construction contract under subsection A is entitled to reasonable and foreseeable damages caused by the delay unless the existence of the specific hazardous substance or hazardous material is disclosed in writing prior to entering into the contract.

Unless existence of hazardous materials or substances specifically disclosed, person interrupts performance may recover reasonable & foreseeable damages caused by delay

The right to damages is conditioned upon notification within a reasonable period of time to the owner of the discovery by the person of the existence of the hazardous material or hazardous substance.

Right to damages conditioned on notice to owner within reasonable period of time

This section shall not affect any legal rights and remedies otherwise existing between the parties, including but not limited to rights to damages, setoff and counterclaim.

A.R.S. § 32-1184 does not affect any rights or remedies otherwise existing between parties

§ 32-1184(D)

The owner may terminate the construction contract on payment to the contractor, subcontractor or other person whose work is delayed under subsection A of the amount of any services or materials supplied or expended which conform to the contract terms and specifications and the payment of damages subject to the provisions of subsection C to the date of the termination of the contract.

Owner's right to terminate construction contract on payment of amount for services or materials supplied & any damages subject to § 32-1184C)

A.R.S. § 32-1185
Construction contracts; suspension of performance; termination

§ 32-1185(A)

A contractor may suspend performance under a construction contract or terminate a construction contract for failure by the owner to make timely payment of the amount certified and approved pursuant to section 32-1182.

Contractor's right to suspend performance or terminate contract when owner fails to make timely payment under § 32-1182

A contractor shall provide written notice to the owner at least seven calendar days before the contractor's intended suspension or termination unless a shorter notice period is prescribed in the construction contract between the owner and contractor.

Unless shorter notice period is prescribed, contractor must provide written notice at least 7 days before intended suspension or termination

A contractor shall not be deemed in breach of the construction contract for suspending performance or terminating a construction contract pursuant to this subsection.

Suspending performance or terminating contract under § 32-1185(A) not a breach of construction contract

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

Contract cannot extend time period for contractor to suspend performance or terminate a construction contract

§ 32-1185(B)

A subcontractor may suspend performance under a construction contract or terminate a construction contract if the owner fails to make timely payment of amounts certified and approved pursuant to section 32-1182 for the

Subcontractor's right to suspend performance or terminate contract when owner fails to make timely payment under § 32-1182, and contractor fails to pay for certified & approved work

subcontractor's work and the contractor fails to pay the subcontractor for the certified and approved work.

A subcontractor shall provide written notice to the contractor and owner at least three calendar days before the subcontractor's intended suspension or termination unless a shorter notice period is prescribed in the construction contract between the contractor and subcontractor.

Unless shorter notice period is prescribed, subcontractor must provide written notice at least 3 days before intended suspension or termination

A subcontractor shall not be deemed in breach of a construction contract for suspending performance or terminating a construction contract pursuant to this subsection.

Suspending performance or terminating contract under § 32-1185(B) not a breach of construction contract

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

Contract cannot extend time period for subcontractor to suspend performance or terminate a construction contract

§ 32-1185(C)

A subcontractor may suspend performance under a construction contract or terminate a construction contract if the owner makes timely payment of amounts certified and approved pursuant to section 32-1182 for the subcontractor's work but the contractor fails to pay the subcontractor for the certified and approved work.

Subcontractor's right to suspend performance or terminate contract when owner does make timely payment under § 32-1182, but contractor fails to pay for certified & approved work

A subcontractor shall provide written notice to the contractor and owner at least seven calendar days before the subcontractor's intended suspension or termination unless a shorter notice period is prescribed in the construction contract between the contractor and subcontractor.

Unless shorter notice period is prescribed, subcontractor must provide written notice at least 7 days before intended suspension or termination

A subcontractor shall not be deemed in breach of a construction contract for suspending performance or terminating a construction contract pursuant to this subsection.

Suspending performance or terminating contract under § 32-1185(C) not a breach of construction contract

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

Contract cannot extend time period for subcontractor to suspend performance or terminate a construction contract

§ 32-1185(D)	<p>A subcontractor may suspend performance under a construction contract or terminate a construction contract if the owner declines to approve and certify portions of the contractor's billing or estimate pursuant to section 32-1182 for that subcontractor's work but the reasons for that failure by the owner to approve and certify are not the fault of or directly related to the subcontractor's work.</p>	<p>Subcontractor's right to suspend performance or terminate contract if owner declines to approve and certify portions of contractor's billing under § 32-1182 for subcontractor's work, but reasons for failure are not the fault of or directly related to the subcontractor's work</p>
	<p>A subcontractor shall provide written notice to the contractor and the owner at least seven calendar days before the subcontractor's intended suspension or termination unless a shorter notice period is prescribed in the construction contract between the contractor and subcontractor.</p>	<p>Unless shorter notice period is prescribed, subcontractor must provide written notice at least 7 days before intended suspension or termination</p>
	<p>A subcontractor shall not be deemed in breach of a construction contract for suspending performance or terminating a construction contract pursuant to this subsection.</p>	<p>Suspending performance or terminating contract under § 32-1185(D) not a breach of construction contract</p>
	<p>A construction contract shall not extend the time period for a subcontractor to suspend performance or terminate a construction contract under this subsection.</p>	<p>Contract cannot extend time period for subcontractor to suspend performance or terminate a construction contract</p>
§ 32-1185(E)	<p>A contractor or subcontractor that suspends performance as provided in this section is not required to furnish further labor, materials or services until the contractor or subcontractor is paid the amount that was certified and approved, together with any costs incurred for mobilization resulting from the shutdown or start-up of a project.</p>	<p>After suspension of performance, contractor or subcontractor nor required to furnish labor, materials or services until paid certified & approved amount plus any costs incurred for mobilization due to project's shutdown or start-up</p>
§ 32-1185(F)	<p>In any action or arbitration brought pursuant to this section, the successful party shall be awarded costs and attorney fees in a reasonable amount.</p>	<p>Attorney fees & costs awarded to successful party in action or arbitration under § 32-1185</p>
§ 32-1185(G)	<p>Written notice required under this section shall be deemed to have been provided if either of the following occurs:</p>	<p>Written notice is deemed provided if either of the following occurs:</p>
	<p>1. The written notice is delivered in person to the individual or a member of the entity or to an officer of the corporation for which it was intended.</p>	<p>1. Written notice delivered in person to individual, member of entity, or officer of corporation</p>
	<p>2. The written notice is delivered at or sent by any means that provides written, third-party verification</p>	<p>2. Written notice delivered at or sent by any means that provides third-party verification</p>

of delivery to the last business address known to the party giving notice.

A.R.S. § 32-1186

Construction contracts; void provisions

§ 32-1186(A) The following are against this state's public policy and are void and unenforceable:

1. A provision, covenant, clause or understanding in, collateral to or affecting a construction contract that makes the contract subject to the laws of another state or that requires any litigation arising from the contract to be conducted in another state.
2. A provision, covenant, clause or understanding in, collateral to or affecting a construction contract stating that a party to the contract cannot suspend performance under the contract or terminate the contract if another party to the contract fails to make prompt payments under the contract pursuant to section 32-1181, 32-1182 or 32-1183.

Following provisions are against public policy and void & unenforceable:

1. Provision subjecting construction contract to laws of another state, or requiring litigation in another state
2. Provision prohibiting suspension of performance or termination of contract for failure to make prompt payments under § 32-1181, § 32-1182, or § 32-1183

§ 32-1186(B) Any mediation, arbitration or other dispute resolution proceeding arising from a construction contract for work performed in this state shall be conducted in this state.

Any alternative dispute resolution arising from a construction contract for work performed in this state must be held in Arizona

A.R.S. § 32-1187

Applicability to state and political subdivisions

Sections 32-1182, 32-1183, 32-1185 and 32-1186 do not apply to this state or political subdivisions of this state.

State & political subdivisions exempt

A.R.S. § 32-1188

Applicability to construction of a dwelling for an owner-occupant; definitions

§ 32-1188(A) The requirements in section 32-1182 do not apply to construction contracts for the construction of a dwelling for an owner-occupant unless the following legend or substantially similar language appears in clear and conspicuous type on the front page of each billing or estimate from the contractor to the owner-occupant:

Requirements of A.R.S. § 32-1182 do not apply to construction of owner-occupant dwelling unless the statutory legend (or substantially similar language) in this section appears clearly & conspicuously on the front page of each billing or estimate from the contractor

Notice to owner of applicability of Arizona prompt pay act
(Notice required by Arizona Revised Statutes section 32-1188)

Text of the statutory legend:

Attention: Your obligations to pay your contractor are subject to the Arizona prompt pay act.

That act is set forth in title 32, chapter 10, article 5.

The full text of the statutes are available at your local public law library or the internet.

Under that act, you have the right to withhold all or a portion of a payment to a contractor for a variety of reasons, including defective construction work that has not been corrected.

However, in order to do so, you must issue a written statement setting forth in reasonable detail your reasons for withholding payments within fourteen (14) days after the date you receive a billing or estimate.

If you fail to issue the written statement within that period, the billing or estimate will be deemed approved.

Once the billing or estimate is deemed approved, you must pay the billing or estimate within seven (7) days.

Generally, you are limited by the act to withholding only an amount that is sufficient to pay the direct costs and expenses you reasonably expect to incur to protect you from loss for which the contractor is responsible.

You are encouraged to read the act in full to know your obligations and rights.

§ 32-1188(B) For the purposes of this section, “dwelling” and “owner-occupant” have the same meanings prescribed in section 33-1002.

Terms “dwelling” & “owner-occupant” have same meaning found in A.R.S. § 33-1002

Arizona Revised Statutes

— Title 32 —

Chapter 43: Licensure, Certification and Registration of Military Members

Article 1

General Provisions

A.R.S. § 32-4301

License, certificate or registration expiration; military active duty; one hundred eighty-day extension

§ 32-4301(A)

Except as otherwise provided in this section, a license, certificate or registration that is issued pursuant to this title to any member of the national guard or the United States armed forces reserves shall not expire while the member is serving on federal active duty and shall be extended one hundred eighty days after the member returns from federal active duty, provided that the member, or the legal representative of the member, notifies the license, certificate or registration issuing authority of the federal active duty status of the member.

National Guard - Occupational license does not expire while a member is on active duty

License is extended 180 days after member returns from active duty if the licensing authority is notified

A license, certificate or registration that is issued pursuant to this title to any member serving in the regular component of the United States armed forces shall be extended one hundred eighty days from the date of expiration, provided that the member, or the legal representative of the member, notifies the license, certificate or registration issuing authority of the federal active duty status of the member.

US Armed Forces - Occupational license does not expire while a member is on active duty

License is extended 180 days after member returns from active duty if Agency is notified

§ 32-4301(B)

A license, certificate or registration that is issued pursuant to this title to any member of the national guard, the United States armed forces reserves or the regular component of the United States armed forces shall not expire and shall be extended one hundred eighty days from the date the military member is able to perform activities necessary under the license, certificate or registration if the member both:

National guard; US armed forces; US armed reserves – Occupational license does not expire and extends for 180 days from date the member:

1. Is released from active duty service.
2. Suffers an injury as a result of active duty service that temporarily prevents the member from being able to perform activities necessary under the license, certificate or registration.

1. Is released from active duty service; and
2. Suffers and is unable to perform activities under the license.

§ 32-4301(C)

If the license, certificate or registration is renewed during the applicable extended time period after the member returns from federal active duty, the member is responsible only for normal fees and activities relating to renewal of the license, certificate or

Only normal fees (no late or delinquent fees) permitted for renewal during extended time period

registration and shall not be charged any additional costs such as late fees or delinquency fees.

§ 32-4301(D)

The member, or the legal representative of the member, shall present to the authority issuing the license, certificate or registration a copy of the member's official military orders, a redacted military identification card or a written verification from the member's commanding officer before the end of the applicable extended time period in order to qualify for the extension.

To qualify for extension, must submit (1) military orders; (2) military ID; or (3) written verification

§ 32-4301(E)

This section does not apply to licenses that are issued pursuant to chapter 10 of this title if a person other than the person who is a member of the national guard, the United States armed forces reserves or the regular component of the United States armed forces is authorized to renew the license.

§ 32-4301 inapplicable to Title 32, Chapter 10 if there is another person named on the license with authority renew the license

§ 32-4301(F)

A license or certificate that is issued pursuant to chapter 36 of this title to any member of the national guard, the United States armed forces reserves or the regular component of the United States armed forces shall be placed in active status for ninety days after the member returns from federal active duty, provided that the member, or the legal representative of the member, notifies the department of financial institutions of the federal active duty status of the member.

License issued under Title 32, Chapter 36 becomes active for ninety days after return from active duty if member previously notified the Department of Financial Institutions

**A.R.S. § 32-4302
Out-of-state applicants; military spouses;
licensure; certification; exceptions**

§ 32-4302(A)

Notwithstanding any other law, an occupational or professional license or certificate shall be issued, in the discipline applied for and at the same practice level as determined by the regulating entity, pursuant to this title to a person who establishes residence in this state or without an examination to a person who is married to an active duty member of the armed forces of the United States and who is accompanying the member to an official permanent change of station to a military installation located in this state if all of the following apply:

Out-of-state license must be issued to a (1) person who establishes residency in Arizona; or (2) spouse of a military member moving to an official permanent change of station in Arizona; if:

1. The person is currently licensed or certified in at least one other state in the discipline applied for and at the same practice level as determined by the regulating entity and the license or certification is in good standing in all states in which the person holds a license or certification.

1. Currently licensed in the discipline applied for in another state and in good standing;

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| 2. The person has been licensed or certified by another state for at least one year. | 2. Licensed/certified for at least one year; |
| 3. When the person was licensed or certified by another state there were minimum education requirements and, if applicable, work experience and clinical supervision requirements in effect and the other state verifies that the person met those requirements in order to be licensed or certified in that state. | 3. Out-of-state license subject to minimum education requirements, and work experience, and clinical supervision requirements (if applicable); |
| 4. The person previously passed an examination required for the license or certification if required by the other state. | 4. Previously passed required examinations; |
| 5. The person has not had a license or certificate revoked and has not voluntarily surrendered a license or certificate in any other state or country while under investigation for unprofessional conduct. | 5. No revocations or voluntary surrendering of license while under investigation; |
| 6. The person has not had discipline imposed by any other regulating entity. | 6. No discipline imposed; |
| <p>If another jurisdiction has taken disciplinary action against the person, the regulating entity shall determine if the cause for the action was corrected and the matter resolved.</p> <p>If the matter has not been resolved by that jurisdiction, the regulating entity may not issue or deny a license until the matter is resolved.</p> | <p>If previously disciplined, the regulating authority must determine if issue resolved</p> <p>If no resolution, agency prohibited from issuing license</p> |
| 7. The person does not have a complaint, allegation or investigation pending before another regulating entity in another state or country that relates to unprofessional conduct. | 7. No pending complaints, allegations, or investigations; |
| <p>If an applicant has any complaints, allegations or investigations pending, the regulating entity in this state shall suspend the application process and may not issue or deny a license to the applicant until the complaint, allegation or investigation is resolved.</p> | If pending complaints, allegations, or investigations, application process is suspended and agency is prohibited from issuing a license; and |
| 8. The person pays all applicable fees. | 8. All applicable fees are paid; |
| 9. The person does not have a disqualifying criminal history as determined by the regulating entity pursuant to section 41-1093.04. | 9. No disqualifying criminal history. |

§ 32-4302(B)	This section does not prevent a regulating entity under this title from entering into a reciprocity agreement with another state or jurisdiction for persons married to active duty members of the armed forces of the United States, except that the agreement may not allow out-of-state licensees or certificate holders to obtain a license or certificate by reciprocity in this state if the applicant has not met standards that are substantially equivalent to or greater than the standards required in this state as determined by the regulating entity on a case-by-case basis.	Agency authority to enter into reciprocity agreements for spouses of active duty members
§ 32-4302(C)	Except as provided in subsection A of this section, a regulating entity that administers an examination on laws of this state as part of its license or certificate application requirement may require an applicant to take and pass an examination specific to the laws of this state.	If there is an Arizona statute/rules exam, the agency may require out-of-state applicants take and pass the exam
§ 32-4302(D)	A person who is licensed pursuant to this title is subject to the laws regulating the person's practice in this state and is subject to the regulating entity's jurisdiction.	Licenses granted pursuant to 32-4302 is subject to Arizona laws and jurisdiction
§ 32-4302(E)	This section does not apply to: <ul style="list-style-type: none"> 1. A license or registration certificate that is issued pursuant to chapter 24 or 26 of this title. 2. Requirements for a fingerprint clearance card issued pursuant to title 41, chapter 12, article 3.1 3. Criteria for a license, permit or certificate of eligibility that is established by an interstate compact. 4. The ability of a regulating entity under this title to require an applicant to submit fingerprints in order to access state and federal criminal records information for noncriminal justice purposes. 	<p>§ 32-4302 does not apply to:</p> <ul style="list-style-type: none"> 1. Private investigator or security guard licenses 2. Requirements for fingerprint clearance cards 3. Interstate compacts 4. Fingerprint requirements in order to access criminal records information for noncriminal justice purposes
§ 32-4302(F)	<p>A license or certificate issued pursuant to this section is valid only in this state and does not make the person eligible to be part of an interstate compact.</p> <p>A regulating entity under this title may determine eligibility for an applicant to be licensed or certified under this section if the applicant is not part of an interstate compact.</p>	<p>Licenses issued pursuant to 32-4302 are valid only in Arizona and are not automatically eligible to be part of interstate compacts</p> <p>Interstate compact not required</p>

A.R.S. § 32-4303
Military education, training and experience

Notwithstanding any other law, the education, training or experience requirements for a license, certificate or registration issued pursuant to this title are completely or partially satisfied, as determined by the regulating entity, on presentation of satisfactory evidence that the applicant received substantially equivalent education, training or experience as a member of the United States armed forces or any national guard or other reserve component.

Education, training, or experience requirement satisfied by evidence of substantially equivalent education, training or experience as a member of: (1) armed forces; (2) national guard; or (3) other reserve component

The regulating entity shall work in conjunction with the department of veterans' services to access information regarding the applicant's military education, training or experience.

Agency requirement to work with Department of Veterans services

Arizona Revised Statutes

— Title 41 —

Chapter 6: Administrative Procedure

Article 1

General Provisions

A.R.S. § 41-1001 Definitions

In this chapter, unless the context otherwise requires:

1. "Agency" means any board, commission, department, officer or other administrative unit of this state, including the agency head and one or more members of the agency head or agency employees or other persons directly or indirectly purporting to act on behalf or under the authority of the agency head, whether created under the Constitution of Arizona or by enactment of the legislature.

Agency does not include the legislature, the courts or the governor.

Agency does not include a political subdivision of this state or any of the administrative units of a political subdivision, but does include any board, commission, department, officer or other administrative unit created or appointed by joint or concerted action of an agency and one or more political subdivisions of this state or any of their units.

To the extent an administrative unit purports to exercise authority subject to this chapter, an administrative unit otherwise qualifying as an agency must be treated as a separate agency even if the administrative unit is located within or subordinate to another agency.

2. "Audit" means an audit, investigation or inspection pursuant to title 23, chapter 2 or 4.
3. "Code" means the Arizona administrative code, which is published pursuant to section 41-1011.
4. "Committee" means the administrative rules oversight committee.
5. "Contested case" means any proceeding, including rate making, except rate making pursuant to article XV, Constitution of Arizona, price fixing and licensing, in which the legal rights, duties or privileges of a party are

Definitions

1. Definition of "agency"

Legislature, courts & governor excluded

Political subdivisions excluded; boards, commissions, departments, included

Administrative units may be treated as separate agencies

2. Definition of "audit"

3. Definition of "code"

4. Definition of "committee"

5. Definition of "contested case"

required or permitted by law, other than this chapter, to be determined by an agency after an opportunity for an administrative hearing.

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| 6. "Council" means the governor's regulatory review council. | 6. Definition of "council" |
| 7. "Delegation agreement" means an agreement between an agency and a political subdivision that authorizes the political subdivision to exercise functions, powers or duties conferred on the delegating agency by a provision of law.

Delegation agreement does not include intergovernmental agreements entered into pursuant to title 11, chapter 7, article 3. | 7. Definition of "delegation agreement"

Excludes intergovernmental agreements |
| 8. "Emergency rule" means a rule that is made pursuant to section 41-1026. | 8. Definition of "emergency rule" |
| 9. "Fee" means a charge prescribed by an agency for an inspection or for obtaining a license. | 9. Definition of "fee" |
| 10. "Final rule" means any rule filed with the secretary of state and made pursuant to an exemption from this chapter in section 41-1005, made pursuant to section 41-1026, approved by the council pursuant to section 41-1052 or 41-1053 or approved by the attorney general pursuant to section 41-1044.

For purposes of judicial review, final rule includes expedited rules pursuant to section 41-1027. | 10. Definition of "final rule"

Includes expedited rules |
| 11. "General permit" means a regulatory permit, license or agency authorization that is for facilities, activities or practices in a class that are substantially similar in nature and that is issued or granted by an agency to a qualified applicant to conduct identified operations or activities if the applicant meets the applicable requirements of the general permit, that requires less information than an individual or traditional permit, license or authorization and that does not require a public hearing. | 11. Definition of "general permit" |
| 12. "License" includes the whole or part of any agency permit, certificate, approval, registration, charter or similar form of permission required by law, but does not include a license required solely for revenue purposes. | 12. Definition of "license" |

13. "Licensing" includes the agency process respecting the grant, denial, renewal, revocation, suspension, annulment, withdrawal or amendment of a license.	13. Definition of "licensing"
14. "Party" means each person or agency named or admitted as a party or properly seeking and entitled as of right to be admitted as a party.	14. Definition of "party"
15. "Person" means an individual, partnership, corporation, association, governmental subdivision or unit of a governmental subdivision, a public or private organization of any character or another agency.	15. Definition of "person"
<p>16. "Preamble" means:</p> <p>(a) For any rulemaking subject to this chapter, a statement accompanying the rule that includes:</p> <p>(i) Reference to the specific statutory authority for the rule.</p> <p>(ii) The name and address of agency personnel with whom persons may communicate regarding the rule.</p> <p>(iii) An explanation of the rule, including the agency's reasons for initiating the rulemaking.</p> <p>(iv) A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on in its evaluation of or justification for the rule or proposes not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study and any analysis of each study and other supporting material.</p> <p>(v) The economic, small business and consumer impact summary, or in the case of a proposed rule, a preliminary summary and a solicitation of input on the accuracy of the summary.</p> <p>(vi) A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state.</p>	<p>16. Definition of "preamble"</p> <p>(a) Statement accompanying rule that:</p> <p>(i) References statutory authority;</p> <p>(ii) Names agency personnel;</p> <p>(iii) Explains rule;</p> <p>(iv) References relevant studies</p> <p>(v) Economic impact summary</p> <p>(vi) Good cause showing</p>

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| <p>(vii) Such other matters as are prescribed by statute and that are applicable to the specific agency or to any specific rule or class of rules.</p> | <p>(vii) Additional materials as required by statute</p> |
| <p>(b) In addition to the information set forth in subdivision (a) of this paragraph, for a proposed rule, the preamble also shall include a list of all previous notices appearing in the register addressing the proposed rule, a statement of the time, place and nature of the proceedings for the making, amendment or repeal of the rule and where, when and how persons may request an oral proceeding on the proposed rule if the notice does not provide for one.</p> | <p>(b) In addition to requirements of subdivision (a), must include (1) a list of previous notices; (2) statement of proceedings; (3) instructions for requesting oral proceeding on proposed rule</p> |
| <p>(c) In addition to the information set forth in subdivision (a) of this paragraph, for an expedited rule, the preamble also shall include a statement of the time, place and nature of the proceedings for the making, amendment or repeal of the rule and an explanation of why expedited proceedings are justified.</p> | <p>(c) In addition to requirements of subdivision (a), expedited rules must include statement of proceedings and justification</p> |
| <p>(d) For a final rule, except an emergency rule, the preamble also shall include, in addition to the information set forth in subdivision (a), the following information:</p> | <p>(d) In addition to requirements of subdivision (a), final rules must include:</p> |
| <p>(i) A list of all previous notices appearing in the register addressing the final rule.</p> | <p>(i) List of all previous notices;</p> |
| <p>(ii) A description of the changes between the proposed rules, including supplemental notices and final rules.</p> | <p>(ii) Description of changes between proposed and final rules;</p> |
| <p>(iii) A summary of the comments made regarding the rule and the agency response to them.</p> | <p>(ii) Summary of comments & responses;</p> |
| <p>(iv) A summary of the council's action on the rule.</p> | <p>(iv) Summary of council action;</p> |
| <p>(v) A statement of the rule's effective date.</p> | <p>and (v) Effective date</p> |
| <p>(e) In addition to the information set forth in subdivision (a) of this paragraph, for an emergency rule, the preamble also shall include an explanation of the situation justifying the rule being made as an emergency rule, the date of the attorney general's approval of the rule and a statement of the emergency rule's effective date.</p> | <p>(e) In addition to requirements of subdivision (a), emergency rule must (1) describe the justification; (2) include date of AG approval; and (3) include an effective date</p> |

17. "Provision of law" means the whole or a part of the federal or state constitution, or of any federal or state statute, rule of court, executive order or rule of an administrative agency.	17. Definition of "provision of law"
18. "Register" means the Arizona administrative register, which is:	18. Definition of "register"
(a) This state's official publication of rulemaking notices that are filed with the office of secretary of state.	(a) Official rulemaking publication
(b) Published pursuant to section 41-1011.	(b) Published under § 41-1011
19. "Rule" means an agency statement of general applicability that implements, interprets or prescribes law or policy, or describes the procedure or practice requirements of an agency.	19. Definition of "rule"
Rule includes prescribing fees or the amendment or repeal of a prior rule but does not include intraagency memoranda that are not delegation agreements.	Includes prescribing fees or the amendment/repeal of prior rule, but excludes intraagency memos
20. "Rulemaking" means the process to make a new rule or amend, repeal or renumber a rule.	20. Definition of "rulemaking"
21. "Small business" means a concern, including its affiliates, which is independently owned and operated, which is not dominant in its field and which employs fewer than one hundred full-time employees or which had gross annual receipts of less than four million dollars in its last fiscal year.	21. Definition of "small business"
For purposes of a specific rule, an agency may define small business to include more persons if it finds that such a definition is necessary to adapt the rule to the needs and problems of small businesses and organizations.	Agency authority to expand definition of small business
22. "Substantive policy statement" means a written expression which informs the general public of an agency's current approach to, or opinion of, the requirements of the federal or state constitution, federal or state statute, administrative rule or regulation, or final judgment of a court of competent jurisdiction, including, where appropriate, the agency's current practice, procedure or method of action based upon that approach or opinion.	22. Definition of "substantive policy statement"
A substantive policy statement is advisory only.	Advisory only

A substantive policy statement does not include internal procedural documents which only affect the internal procedures of the agency and does not impose additional requirements or penalties on regulated parties, confidential information or rules made in accordance with this chapter.

Excludes internal procedural documents that do not impose additional requirements or penalties

A.R.S. § 41-1001.01 **Regulatory bill of rights; small businesses**

- § 41-1001.01(A)** To ensure fair and open regulation by state agencies, a person:
1. Is eligible for reimbursement of fees and other expenses if the person prevails by adjudication on the merits against an agency in a court proceeding regarding an agency decision as provided in section 12-348.
 2. Is eligible for reimbursement of the person's costs and fees if the person prevails against any agency in an administrative hearing as provided in section 41-1007.
 3. Is entitled to have an agency not charge the person a fee unless the fee for the specific activity is expressly authorized as provided in section 41-1008.
 4. Is entitled to receive the information and notice regarding inspections and audits prescribed in section 41-1009.
 5. May review the full text or summary of all rulemaking activity, the summary of substantive policy statements and the full text of executive orders in the register as provided in article 2 of this chapter.
 6. May participate in the rulemaking process as provided in articles 3, 4, 4.1 and 5 of this chapter, including:
 - (a) Providing written comments or testimony on proposed rules to an agency as provided in section 41-1023 and having the agency adequately address those comments as provided in section 41-1052, subsection D, including comments or testimony concerning the information contained in the economic, small business and consumer impact statement.
 - (b) Filing an early review petition with the governor's regulatory review council as provided in article 5 of this chapter.

Persons:

1. Are eligible for reimbursement of fees/expenses when prevailing against an agency in court. see A.R.S. § 12-348;
2. May be reimbursed for fees and expenses when prevailing against an agency in administrative hearing. See A.R.S. § 41-1007;
3. May not be charged fees unless provided for under § 41-1008;
4. Are entitled to information and notice provided for under § 41-1009;
5. May review documents related to rulemaking, substantive policy statements, and executive orders;
6. May participate in the rulemaking process by:
 - (a) Written comment or testimony to agency;
 - (b) Filing an early review petition; or

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| <p>(c) Providing written comments or testimony on rules to the governor's regulatory review council during the mandatory sixty-day comment period as provided in article 5 of this chapter.</p> | <p>(c) Written comment or testimony to GRRC.</p> |
| <p>7. Is entitled to have an agency not base a licensing decision in whole or in part on licensing conditions or requirements that are not specifically authorized by statute, rule or state tribal gaming compact as provided in section 41-1030, subsection B.</p> | <p>7. Right to have licensing decision based only on statute, rule, or state tribal gaming compact;</p> |
| <p>8. Is entitled to have an agency not make a rule under a specific grant of rulemaking authority that exceeds the subject matter areas listed in the specific statute or not make a rule under a general grant of rulemaking authority to supplement a more specific grant of rulemaking authority as provided in section 41-1030, subsection C.</p> | <p>8. Right to reasonable rulemaking by agency;</p> |
| <p>9. May allege that an existing agency practice or substantive policy statement constitutes a rule and have that agency practice or substantive policy statement declared void because the practice or substantive policy statement constitutes a rule as provided in section 41-1033.</p> | <p>9. May allege practice/substantive policy statement constitutes a rule and have rule declared void; see § 41-1033;</p> |
| <p>10. May file a complaint with the administrative rules oversight committee concerning:</p> | <p>10. May file complaint with oversight committee:</p> |
| <p>(a) A rule's, practice's or substantive policy statement's lack of conformity with statute or legislative intent as provided in section 41-1047.</p> | <p>(a) Illegal rule, practice, or substantive policy statement</p> |
| <p>(b) An existing statute, rule, practice alleged to constitute a rule or substantive policy statement that is alleged to be duplicative or onerous as provided in section 41-1048.</p> | <p>(b) Duplicative or onerous statute, rule, practice, or substantive policy statement</p> |
| <p>11. May have the person's administrative hearing on contested cases and appealable agency actions heard by an independent administrative law judge as provided in articles 6 and 10 of this chapter.</p> | <p>11. Right to hearing before ALJ under Title 41, Chapter 6, Articles 6 & 10;</p> |
| <p>12. May have administrative hearings governed by uniform administrative appeal procedures as provided in articles 6 and 10 of this chapter and may appeal a final administrative decision by filing a notice of appeal pursuant to title 12, chapter 7, article 6.</p> | <p>12. Right to hearings under Title 41, Chapter 6, Articles 6 & 10; Right to appeal under Title 12, Chapter 7, Article 6;</p> |

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| 13. May have an agency approve or deny the person's license application within a predetermined period of time as provided in article 7.1 of this chapter. | 13. Right to timely licensing decisions under Title 41, Chapter 6, Article 7.1; |
| 14. Is entitled to receive written notice from an agency on denial of a license application: | 14. Right to written notice after denial of license: |
| (a) That justifies the denial with references to the statutes or rules on which the denial is based as provided in section 41-1076. | (a) Notice must justify the denial as provided in § 41-1076 |
| (b) That explains the applicant's right to appeal the denial as provided in section 41-1076. | (b) Notice must advise applicant of appeal rights |
| 15. Is entitled to receive information regarding the license application process before or at the time the person obtains an application for a license as provided in sections 41-1001.02 and 41-1079. | 15. Right to receive information. See A.R.S. § 41-1001.02 & 41-1079; |
| 16. May receive public notice and participate in the adoption or amendment of agreements to delegate agency functions, powers or duties to political subdivisions as provided in section 41-1026.01 and article 8 of this chapter. | 16. Right to receive public notice of, and participate in, delegation of agency authority. See A.R.S. § 41-1026.01; |
| 17. May inspect all rules and substantive policy statements of an agency, including a directory of documents, in the office of the agency director as provided in section 41-1091. | 17. Right to inspect rules and substantive policies. See A.R.S. § 41-1091; |
| 18. May file a complaint with the office of the ombudsman-citizens aide to investigate administrative acts of agencies as provided in chapter 8, article 5 of this title. | 18. Right to file ombudsman complaint. See Title 41, Chapter 8, Article 5; |
| 19. Unless specifically authorized by statute, may expect state agencies to avoid duplication of other laws that do not enhance regulatory clarity and to avoid dual permitting to the extent practicable as prescribed in section 41-1002. | 19. Right to non-duplicative laws. See A.R.S. § 41-1002; |
| 20. May have the person's administrative hearing on contested cases pursuant to title 23, chapter 2 or 4 heard by an independent administrative law judge as prescribed by title 23, chapter 2 or 4. | 20. Right to hearing for contested case. See Title 23, Chapter 2 & 4; and |
| 21. Pursuant to section 41-1009, subsection E, may correct deficiencies identified during an inspection unless otherwise provided by law. | 21. Right to correct deficiencies identified. |

§ 41-1001.01(B)

The enumeration of the rights listed in subsection A of this section does not grant any additional rights that are not

No grant of additional rights

prescribed in the sections referenced in subsection A of this section.

§ 41-1001.01(C)

Each state agency that conducts audits, inspections or other regulatory enforcement actions pursuant to section 41-1009 shall create and clearly post on the agency's website a small business bill of rights.

Public posting requirement

The agency shall create the small business bill of rights by selecting the applicable rights prescribed in this section and section 41-1009 and any other agency-specific statutes and rules.

Creation requirements

The agency shall provide a written document of the small business bill of rights to the authorized on-site representative of the regulated small business.

Agency requirement to provide written copy

In addition to the rights listed in this section and section 41-1009, the agency notice of the small business bill of rights shall include the process by which a small business may file a complaint with the agency employees who are designated to assist members of the public or regulated community pursuant to section 41-1006.

Right to file complaint under § 41-1006. Public posting must include process to file a complaint with the agency

The notice must provide the contact information of the agency's designated employees.

Public posting must include contact information for complaints.

The agency notice must also state that if the regulated person has already made a reasonable effort with the agency to resolve the problem and still has not been successful, the regulated person may contact the office of ombudsman-citizens aide.

Notice requirement: ombudsman contact information

Article 7.1

Licensing Time Frames

A.R.S. § 41-1072

Definitions

In this article, unless the context otherwise requires:

Definitions

1. "Administrative completeness review time frame" means the number of days from agency receipt of an application for a license until an agency determines that the application contains all components required by statute or rule, including all information required to be submitted by other government agencies.

1. Definition of "administrative completeness review time frame"

The administrative completeness review time frame does not include the period of time during which an agency provides public notice of the license application or performs a substantive review of the application.

Excludes: (1) time to provide public notice; and (2) time to perform substantive review

2. "Overall time frame" means the number of days after receipt of an application for a license during which an agency determines whether to grant or deny a license.

2. Definition of "overall time frame"

The overall time frame consists of both the administrative completeness review time frame and the substantive review time frame.

Includes: (1) administrative completeness review & substantive time frames

3. "Substantive review time frame" means the number of days after the completion of the administrative completeness review time frame during which an agency determines whether an application or applicant for a license meets all substantive criteria required by statute or rule.

3. Definition of "substantive review time frame"

Any public notice and hearings required by law shall fall within the substantive review time frame.

Public notice period & hearings included

A.R.S. § 41-1073

Time frames; exception

§ 41-1073(A)

No later than December 31, 1998, an agency that issues licenses shall have in place final rules establishing an overall time frame during which the agency will either grant or deny each type of license that it issues.

Agency required to establish overall time frame

Agencies shall submit their overall time frame rules to the governor's regulatory review council pursuant to the schedule developed by the council.

Agency requirement to submit overall time frame to GRRC

The council shall schedule each agency's rules so that final overall time frame rules are in place no later than December 31, 1998.

GRRC authority to schedule rules

The rule regarding the overall time frame for each type of license shall state separately the administrative completeness review time frame and the substantive review time frame.

Overall time frame must state (1) administrative completeness review time frame & (2) substantive review time frame

§ 41-1073(B)

If a statutory licensing time frame already exists for an agency but the statutory time frame does not specify separate time frames for the administrative completeness review and the substantive review, by rule the agency shall establish separate time frames for the administrative completeness review and the substantive review, which together shall not exceed the statutory overall time frame.

Agency must establish separate time frames for administrative completeness review and substantive review

Combined time frame may not exceed overall time frame

An agency may establish different time frames for initial licenses, renewal licenses and revisions to existing licenses.

Agency discretion to establish different time frames for (1) applications; (2) renewals; and (3) revisions

§ 41-1073(C)

The submission by the department of environmental quality of a revised permit to the United States environmental protection agency in response to an objection by that agency shall be given the same effect as a notice granting or denying a permit application for licensing time frame purposes.

DEQ submission of revised permit to US EPA has same effect of notice granting/denying a permit application

For the purposes of this subsection, "permit" means a permit required by title 49, chapter 2, article 3.1 or section 49-426.

Definition of "permit" for § 41-1073(C)

§ 41-1073(D)

In establishing time frames, agencies shall consider all of the following:

Agency must consider the following when establishing time frames:

1. The complexity of the licensing subject matter.
2. The resources of the agency granting or denying the license.
3. The economic impact of delay on the regulated community.
4. The impact of the licensing decision on public health and safety.
5. The possible use of volunteers with expertise in the subject matter area.

1. **Complexity;**
2. **Resources;**
3. **Economic impact;**
4. **Impact on public health and safety;**
5. **Volunteers;**

6. The possible increased use of general licenses for similar types of licensed businesses or facilities.
7. The possible increased cooperation between the agency and the regulated community.
8. Increased agency flexibility in structuring the licensing process and personnel.

6. General licenses;
7. Cooperation between agency and regulated community; and
8. Agency flexibility in structuring licensing process.

§ 41-1073(E) This article does not apply to licenses issued either:

Article inapplicable:

1. Pursuant to tribal state gaming compacts.
2. Within seven days after receipt of initial application.
3. By a lottery method.

1. Tribal state gaming compact licenses;
2. Licenses issued within 7 days of receipt of an initial application; or
3. Licenses issued by a lottery method

A.R.S. § 41-1074

Compliance with administrative completeness review time frame

§ 41-1074(A) An agency shall issue a written notice of administrative completeness or deficiencies to an applicant for a license within the administrative completeness review time frame.

Notice of administrative completeness or deficiency

§ 41-1074(B) If an agency determines that an application for a license is not administratively complete, the agency shall include a comprehensive list of the specific deficiencies in the written notice provided pursuant to subsection A.

Agency must provide list of deficiencies for administratively incomplete applications

If the agency issues a written notice of deficiencies within the administrative completeness time frame, the administrative completeness review time frame and the overall time frame are suspended from the date the notice is issued until the date that the agency receives the missing information from the applicant.

Notice of deficiency suspends (1) the administrative completeness review time frame; and (2) the overall time frame

§ 41-1074(C) If an agency does not issue a written notice of administrative completeness or deficiencies within the administrative completeness review time frame, the application is deemed administratively complete.

Application deemed administratively complete if agency does not send a written notice of completeness or deficiency within the appropriate time frame

If an agency issues a timely written notice of deficiencies, an application shall not be complete until all requested information has been received by the agency.

If notice of deficiency is timely issued, application may not be deemed complete until deficiencies are corrected

A.R.S. § 41-1075

Compliance with substantive review time frame

§ 41-1075(A)	<p>During the substantive review time frame, an agency may make one comprehensive written request for additional information.</p> <p>The agency and applicant may mutually agree in writing to allow the agency to submit supplemental requests for additional information.</p> <p>If an agency issues a comprehensive written request or a supplemental request by mutual written agreement for additional information, the substantive review time frame and the overall time frame are suspended from the date the request is issued until the date that the agency receives the additional information from the applicant.</p>	<p>Agency authority to make one request additional information</p> <p>Mutual agreement required for additional requests for information</p> <p>Request for additional information suspends (1) the substantive review time frame; and (2) the overall time frame</p>
§ 41-1075(B)	<p>By mutual written agreement, an agency and an applicant for a license may extend the substantive review time frame and the overall time frame.</p> <p>An extension of the substantive review time frame and the overall time frame may not exceed twenty-five per cent of the overall time frame.</p>	<p>Mutual agreement required to extend substantive review and overall time frames</p> <p>Extension may not exceed 25% of the overall time frame</p>

A.R.S. § 41-1076

Compliance with overall time frame

<p>Unless an agency and an applicant for a license mutually agree to extend the substantive review time frame and the overall time frame pursuant to section 41-1075, an agency shall issue a written notice granting or denying a license within the overall time frame to an applicant.</p> <p>If an agency denies an application for a license, the agency shall include in the written notice at least the following information:</p> <ol style="list-style-type: none">1. Justification for the denial with references to the statutes or rules on which the denial is based.2. An explanation of the applicant's right to appeal the denial. <p>The explanation shall include the number of days in which the applicant must file a protest challenging the denial and the name and telephone number of an agency contact person who can answer questions regarding the appeals process.</p>	<p>Absent mutual agreement, agency must grant or deny a license within the overall time frame</p> <p>Agency denial notice must include:</p> <ol style="list-style-type: none">1. Justification;2. Description of appeal rights <p>Explanation must include timeframe to protest, and contact information for agency personnel</p>
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A.R.S. § 41-1077
Consequence for agency failure to comply with overall time frame; refund; penalty

§ 41-1077(A)

If an agency does not issue to an applicant the written notice granting or denying a license within the overall time frame or within the time frame extension pursuant to section 41-1075, the agency shall refund to the applicant all fees charged for reviewing and acting on the application for the license and shall excuse payment of any such fees that have not yet been paid.

If an agency fails to grant or deny a license within overall timeframe, the agency must: (1) refund all fees charged for reviewing and acting on license application; and (2) excuse payment of fees not yet paid

The agency shall not require an applicant to submit an application for a refund pursuant to this subsection.

Applicant does not need to submit application for refund

The refund shall be made within thirty days after the expiration of the overall time frame or the time frame extension.

Refund must be made within 30 days after overall time frame expires

The agency shall continue to process the application subject to subsection B of this section.

Agency must continue to process the application

Notwithstanding any other statute, the agency shall make the refund from the fund in which the application fees were originally deposited.

Refund must come from fund where fees were originally deposited

This section applies only to license applications that were subject to substantive review.

§ 41-1077 only applicable to applications subject to substantive review

§ 41-1077(B)

Except for license applications that were not subject to substantive review, the agency shall pay a penalty to the state general fund for each month after the expiration of the overall time frame or the time frame extension until the agency issues written notice to the applicant granting or denying the license.

Agency penalty to state fund after expiration of overall time frame or extension

The agency shall pay the penalty from the agency fund in which the application fees were originally deposited.

Payment of penalty must come from agency fund

The penalty shall be two and one-half per cent of the total fees received by the agency for reviewing and acting on the application for each license that the agency has not granted or denied on the last day of each month after the expiration of the overall time frame or time frame extension for that license.

Penalty is 2.5% of total fees received; penalty due on last day of each month after expiration of overall time frame or extension

A.R.S. § 41-1079
Information required to be provided

§ 41-1079(A) An agency that issues licenses shall provide the following information to an applicant at the time the applicant obtains an application for a license:

1. A list of all of the steps the applicant is required to take in order to obtain the license.
2. The applicable licensing time frames.
3. The name and telephone number of an agency contact person who can answer questions or provide assistance throughout the application process.

Agency duty to provide the following information to license applicants:

- 1. List of steps required to obtain a license;**
- 2. Licensing time frames;**
- 3. Contact information for agency personnel**

§ 41-1079(B) This section does not apply to the Arizona peace officer standards and training board established by section 41-1821.

§ 41-1079 inapplicable to Arizona peace officer standards and training board

Article 7.2

Licensing Requirements

A.R.S. § 41-1080

Licensing eligibility; authorized presence; documentation; applicability; definitions

§ 41-1080(A)

Subject to subsections C and D of this section, an agency or political subdivision of this state shall not issue a license to an individual if the individual does not provide documentation of citizenship or alien status by presenting any of the following documents to the agency or political subdivision indicating that the individual's presence in the United States is authorized under federal law:

1. An Arizona driver license issued after 1996 or an Arizona nonoperating identification license.
2. A driver license issued by a state that verifies lawful presence in the United States.
3. A birth certificate or delayed birth certificate issued in any state, territory or possession of the United States.
4. A United States certificate of birth abroad.
5. A United States passport.
6. A foreign passport with a United States visa.
7. An I-94 form with a photograph.
8. A United States citizenship and immigration services employment authorization document or refugee travel document.
9. A United States certificate of naturalization.
10. A United States certificate of citizenship.
11. A tribal certificate of Indian blood.
12. A tribal or bureau of Indian affairs affidavit of birth.

Agency may not issue license to individuals who fail to provide documentation of citizenship or alien status

Acceptable forms of proof:

1. Arizona drive license or identification license;
2. Driver license from state that verifies lawful presence;
3. Birth certificate issued by US state or territory;
4. US certificate of birth abroad;
5. US passport;
6. Foreign passport with a US visa;
7. I-94 form with photograph;
8. Citizenship & immigration services employment authorization document or refugee document;
9. US certificate of naturalization;
10. US certificate of citizenship
11. Tribal certificate of Indian blood
12. Tribal or bureau of Indian affairs affidavit of birth

13. Any other license that is issued by the federal government, any other state government, an agency of this state or a political subdivision of this state that requires proof of citizenship or lawful alien status before issuing the license.

13. Other license issued by fed. government, state government, or Arizona agency/political subdivision that requires proof of citizenship or lawful presence

§ 41-1080(B)

This section does not apply to an individual if either:

§ 41-1080 inapplicable if either:

1. Both of the following apply:

1. Both of the following apply:

(a) The individual is a citizen of a foreign country or, if at the time of application, the individual resides in a foreign country.

(a) Individual is a citizen of, or resides in, a foreign country; and

(b) The benefits that are related to the license do not require the individual to be present in the United States in order to receive those benefits.

(b) The license's benefits do not require actual presence in the US; or

2. All of the following apply:

2. All of the following apply:

(a) The individual is a resident of another state.

(a) Resident of another state;

(b) The individual holds an equivalent license in that other state and the equivalent license is of the same type being sought in this state.

(b) Individual holds equivalent license in another state;

(c) The individual seeks the Arizona license to comply with this state's licensing laws and not to establish residency in this state.

(c) Individual requires the license to comply with licensing

§ 41-1080(C)

If, pursuant to subsection A of this section, an individual has affirmatively established citizenship of the United States or a form of nonexpiring work authorization issued by the federal government, the individual, on renewal or reinstatement of a license, is not required to provide subsequent documentation of that status.

Proof of citizenship generally not required on renewal after affirmatively establishing citizenship

§ 41-1080(D)

If, on renewal or reinstatement of a license, an individual holds a limited form of work authorization issued by the federal government that has expired, the individual shall provide documentation of that status.

Proof of lawful work authorization may be required on renewal if individual holds limited form of work authorization

§ 41-1080(E)

If a document listed in subsection A, paragraphs 1 through 12 of this section does not contain a photograph of the individual, the individual shall also present a government issued document that contains a photograph of the individual.

Photo ID required

§ 41-1080(F) For the purposes of this section:

Definitions:

1. "Agency" means any agency, department, board or commission of this state or any political subdivision of this state that issues a license for the purposes of operating a business in this state or to an individual who provides a service to any person.
2. "License" means any agency permit, certificate, approval, registration, charter or similar form of authorization that is required by law and that is issued by any agency for the purposes of operating a business in this state or to an individual who provides a service to any person where the license is necessary in performing that service.

1. Definition of "agency"

2. Definition of "license"

A.R.S. § 41-1080.01 Licensing fees; waiver; definitions

§ 41-1080.01(A) Except for an individual who applies for a license pursuant to title 36, chapter 4, article 10 or chapter 28.1, an agency shall waive any fee charged for an initial license for any individual applicant whose family income does not exceed two hundred percent of the federal poverty guidelines if the individual is applying for that specific license in this state for the first time.

Mandatory requirement to waive initial licensing fees for first-time applicants below the 200% poverty line

§ 41-1080.01(B) For the purposes of this section, "agency" and "license" have the same meanings prescribed in section 41-1080.

Definition of "agency" and "license"

Article 10

Uniform Administrative Hearing Procedures

A.R.S. § 41-1092

Definitions

In this article, unless the context otherwise requires:

Definitions for Article 10:

1. "Administrative law judge" means an individual or an agency head, board or commission that sits as an administrative law judge, that conducts administrative hearings in a contested case or an appealable agency action and that makes decisions regarding the contested case or appealable agency action.
2. "Administrative law judge decision" means the findings of fact, conclusions of law and recommendations or decisions issued by an administrative law judge.
3. "Appealable agency action" means an action that determines the legal rights, duties or privileges of a party and that is not a contested case.

1. Definition of "administrative law judge"

2. Definition of "administrative law judge decision"

3. Definition of "appealable agency action"

Appealable agency actions do not include interim orders by self-supporting regulatory boards, rules, orders, standards or statements of policy of general application issued by an administrative agency to implement, interpret or make specific the legislation enforced or administered by it or clarifications of interpretation, nor does it mean or include rules concerning the internal management of the agency that do not affect private rights or interests.

Excludes interim orders, rules, orders, standards, or statements of general policy

For the purposes of this paragraph, administrative hearing does not include a public hearing held for the purpose of receiving public comment on a proposed agency action.

Excludes public hearing for purposes of receiving public comment

4. "Director" means the director of the office of administrative hearings.
5. "Final administrative decision" means a decision by an agency that is subject to judicial review pursuant to title 12, chapter 7, article 6.
6. "Office" means the office of administrative hearings.

4. Definition of "director"

5. Definition of "final administrative decision"

6. Definition of "office"

7. "Self-supporting regulatory board" means any one of the following:

7. Definition of "self-supporting regulatory board"

- (a) The Arizona state board of accountancy.
- (b) The board of barbers.
- (c) The board of behavioral health examiners.
- (d) The Arizona state boxing and mixed martial arts commission.
- (e) The state board of chiropractic examiners.
- (f) The board of cosmetology.
- (g) The state board of dental examiners.
- (h) The state board of funeral directors and embalmers.
- (i) The Arizona game and fish commission.
- (j) The board of homeopathic and integrated medicine examiners.
- (k) The Arizona medical board.
- (l) The naturopathic physicians medical board.
- (m) The state board of nursing.
- (n) The board of examiners of nursing care institution administrators and adult care home managers.
- (o) The board of occupational therapy examiners.
- (p) The state board of dispensing opticians.
- (q) The state board of optometry.
- (r) The Arizona board of osteopathic examiners in medicine and surgery.
- (s) The Arizona peace officer standards and training board.
- (t) The Arizona state board of pharmacy.
- (u) The board of physical therapy.
- (v) The state board of podiatry examiners.

- (w) The state board for private postsecondary education.
- (x) The state board of psychologist examiners.
- (y) The board of respiratory care examiners.
- (z) The state board of technical registration.
- (aa) The Arizona state veterinary medical examining board.
- (bb) The acupuncture board of examiners.
- (cc) The Arizona regulatory board of physician assistants.
- (dd) The board of athletic training.
- (ee) The board of massage therapy.

A.R.S. § 41-1092.01
Office of administrative hearings; director;
powers and duties; fund

§ 41-1092.01(A)	An office of administrative hearings is established.	OAH established
§ 41-1092.01(B)	The governor shall appoint the director pursuant to section 38-211. At a minimum, the director shall have the experience necessary for appointment as an administrative law judge. The director also shall possess supervisory, management and administrative skills, as well as knowledge and experience relating to administrative law.	Governor appoints director Director experience requirements Director skill & knowledge requirements
§ 41-1092.01(C)	The director shall: <ul style="list-style-type: none"> 1. Serve as the chief administrative law judge of the office. 2. Make and execute the contracts and other instruments that are necessary to perform the director's duties. 3. Subject to chapter 4, article 4 of this title, hire employees, including full-time administrative law judges, and contract for special services, including temporary administrative law judges, that are necessary to carry out this article. <p>An administrative law judge employed or contracted by the office shall have graduated from an accredited college</p>	Director duties: <ul style="list-style-type: none"> 1. Serve as chief ALJ 2. Enter into contracts 3. Hire employees/ALJs ALJ requirements

of law or shall have at least two years of administrative or managerial experience in the subject matter or agency section the administrative law judge is assigned to in the office.

4. Make rules that are necessary to carry out this article, including rules governing ex parte communications in contested cases.
5. Submit a report to the governor, speaker of the house of representatives and president of the senate by November 1 of each year describing the activities and accomplishments of the office.

4. Make rules

5. Annually report to governor and heads of legislature

The director's annual report shall include a summary of the extent and effect of agencies' utilization of administrative law judges, court reporters and other personnel in proceedings under this article and recommendations for changes or improvements in the administrative procedure act or any agency's practice or policy with respect to the administrative procedure act.

Report contents

The director shall provide a copy of the report to the secretary of state.

Director's duty to provide report to Secretary of State

6. Secure, compile and maintain all decisions, opinions or reports of administrative law judges issued pursuant to this article and the reference materials and supporting information that may be appropriate.
7. Develop, implement and maintain a program for the continuing training and education of administrative law judges and agencies in regard to their responsibilities under this article.

6. Preserve ALJ opinions

7. Establish training programs

The program shall require that an administrative law judge receive training in the technical and subject matter areas of the sections to which the administrative law judge is assigned.

Program requirements

8. Develop, implement and maintain a program of evaluation to aid the director in the evaluation of administrative law judges appointed pursuant to this article that includes comments received from the public.

8. Establish evaluation program for ALJs

<p>9. Annually report the following to the governor, the president of the senate and the speaker of the house of representatives and provide a copy of this report to the secretary of state by December 1 for the prior fiscal year:</p>	<p>9. Annually report:</p>
<p>(a) The number of administrative law judge decisions rejected or modified by agency heads.</p>	<p>(a) Number of rejections</p>
<p>(b) By category, the number and disposition of motions filed pursuant to section 41-1092.07, subsection A to disqualify office administrative law judges for bias, prejudice, personal interest or lack of expertise.</p>	<p>(b) Motions to disqualify ALJs</p>
<p>(c) By agency, the number and type of violations of section 41-1009.</p>	<p>(c) Violations of § 41-1009</p>
<p>10. Schedule hearings pursuant to section 41-1092.05 upon the request of an agency or the filing of a notice of appeal pursuant to section 41-1092.03.</p>	<p>10. Schedule hearings</p>
<p>§ 41-1092.01(D) The director shall not require legal representation to appear before an administrative law judge.</p>	<p>Legal representation not required</p>
<p>§ 41-1092.01(E) Except as provided in subsection F of this section, all state agencies supported by state general fund sources, unless exempted by this article, and the registrar of contractors shall use the services and personnel of the office to conduct administrative hearings.</p>	<p>All state agencies receiving general funds must use OAH to conduct hearings; § 41-1092.01(F) exception</p>
<p>All other agencies shall contract for services and personnel of the office to conduct administrative hearings.</p>	<p>All other agencies must contract with OAH</p>
<p>§ 41-1092.01(F) An agency head, board or commission that directly conducts an administrative hearing as an administrative law judge is not required to use the services and personnel of the office for that hearing.</p>	<p>Agencies, boards, or commissions that conduct their own hearings are exempt</p>
<p>§ 41-1092.01(G) Each state agency, and each political subdivision contracting for office services pursuant to subsection I of this section, shall make its facilities available, as necessary, for use by the office in conducting proceedings pursuant to this article.</p>	<p>Agencies or political subdivisions contracting with OAH must make facilities available for hearings</p>
<p>§ 41-1092.01(H) The office shall employ full-time administrative law judges to conduct hearings required by this article or other laws as follows:</p>	<p>Requirement to employ ALJs to conduct hearings</p>
<p>1. The director shall assign administrative law judges from the office to an agency, on either a temporary or a permanent basis, at supervisory or other levels, to preside</p>	<p>1. Director duty to assign ALJs to preside over actions within their expertise</p>

over contested cases and appealable agency actions in accordance with the special expertise of the administrative law judge in the subject matter of the agency.

2. The director shall establish the subject matter and agency sections within the office that are necessary to carry out this article.

2. Director duty to establish sections

Each subject matter and agency section shall provide training in the technical and subject matter areas of the section as prescribed in subsection C, paragraph 7 of this section.

Section training requirement

§ 41-1092.01(I)

If the office cannot furnish an office administrative law judge promptly in response to an agency request, the director may contract with qualified individuals to serve as temporary administrative law judges.

Director authority to hire temporary ALJs

These temporary administrative law judges are not employees of this state.

Temporary ALJs are not state employees

§ 41-1092.01(J)

The office may provide administrative law judges on a contract basis to any governmental entity to conduct any hearing not covered by this article.

OAH authority to contract ALJs to government entities

The director may enter into contracts with political subdivisions of this state, and these political subdivisions may contract with the director for the purpose of providing administrative law judges and reporters for administrative proceedings or informal dispute resolution.

Director authority to enter into contracts with state political subdivisions

The contract may define the scope of the administrative law judge's duties.

Contract defines scope of duties

Those duties may include the preparation of findings, conclusions, decisions or recommended decisions or a recommendation for action by the political subdivision.

Preparation of findings, conclusions, decisions, or recommended decisions

For these services, the director shall request payment for services directly from the political subdivision for which the services are performed, and the director may accept payment on either an advance or reimbursable basis.

Duty to charge for ALJ contractual services

§ 41-1092.01(K)

The office shall apply monies received pursuant to subsections E and J of this section to offset its actual costs for providing personnel and services.

Monies received pursuant to §§ 41-1092.01(E) & (J) must be used to offset OAH costs

§ 41-1092.01(L) The office shall receive complaints against a county, a local government as defined in section 9-1401 or video service provider as defined in section 9-1401 or 11-1901 and shall comply with the duties imposed on the office pursuant to title 9, chapter 13 for complaints involving local governments and title 11, chapter 4 for complaints involving counties.

OAH duty to receive complaints filed against county or local governments of video service providers.

A.R.S. § 41-1092.02
Appealable agency actions; application of procedural rules; exemption from article

§ 41-1092.02(A) This article applies to all contested cases as defined in section 41-1001 and all appealable agency actions, except contested cases with or appealable agency actions of:

Title 41, Chapter 6, Article 10 applies to all "contested cases" and "appealable agency actions" except:

1. The state department of corrections.
2. The board of executive clemency.
3. The industrial commission of Arizona.
4. The Arizona corporation commission.
5. The Arizona board of regents and institutions under its jurisdiction.
6. The state personnel board.
7. The department of juvenile corrections.
8. The department of transportation, except as provided in title 28, chapter 30, article 2.
9. The department of economic security except as provided in section 46-458.
10. The department of revenue regarding:
 - (a) Income tax or withholding tax.
 - (b) Any tax issue related to information associated with the reporting of income tax or withholding tax unless the taxpayer requests in writing that this article apply and waives confidentiality under title 42, chapter 2, article 1.
11. The board of tax appeals.

1. Department of corrections
2. Board of executive clemency
3. Industrial commission of Arizona
4. Arizona corporation commission
5. Arizona board of regents
6. State personnel board
7. Department of juvenile corrections
8. Department of transportation (generally)
9. Department of economic security (generally)
10. Department of revenue for:
 - (a) Income tax or withholding tax
 - (b) Additional tax issues related to reporting or withholding
11. Board of tax appeals

	12. The state board of equalization.	12. State board of equalization
	13. The state board of education, but only in connection with contested cases and appealable agency actions related to applications for issuance or renewal of a certificate and discipline of certificate holders pursuant to sections 15-203, 15-534, 15-534.01, 15-535, 15-545 and 15-550.	13. State board of education, but only for contested cases of appealable agency actions related to certificates and discipline
	14. The board of fingerprinting.	14. Board of fingerprinting
	15. The department of child safety except as provided in sections 8-506.01 and 8-811.	15. Department of child safety (generally)
§ 41-1092.02(B)	Unless waived by all parties, an administrative law judge shall conduct all hearings under this article, and the procedural rules set forth in this article and rules made by the director apply.	Unless waived, hearings conducted according to Title 41, Chapter 6, Article 10 and rules made by the director
§ 41-1092.02(C)	Except as provided in subsection A of this section: <ol style="list-style-type: none"> 1. A contested case heard by the office of administrative hearings regarding taxes administered under title 42 shall be subject to section 42-1251. 2. A final decision of the office of administrative hearings regarding taxes administered under title 42 may be appealed by either party to the director of the department of revenue, or a taxpayer may file and appeal directly to the board of tax appeals pursuant to section 42-1253. 	Except as provided in § 41-1092.02(A): <ol style="list-style-type: none"> 1. Contested cases regarding taxes under Title 42 are subject to § 42-1251 2. OAH Final decision regarding taxes under Title 42 may be appealed
§ 41-1092.02(D)	Except as provided in subsections A, B, E, F and G of this section and notwithstanding any other administrative proceeding or judicial review process established in statute or administrative rule, this article applies to all appealable agency actions and to all contested cases.	Title 41, Chapter 6, Article 10 applicability
§ 41-1092.02(E)	Except for a contested case or an appealable agency action regarding unclaimed property, sections 41-1092.03, 41-1092.08 and 41-1092.09 do not apply to the department of revenue.	Department of revenue exempt from §§ 41-1092.03; 41-1092.08; and 41-1092.09
§ 41-1092.02(F)	The board of appeals established by section 37-213 is exempt from: <ol style="list-style-type: none"> 1. The time frames for hearings and decisions provided in section 41-1092.05, subsection A, section 41-1092.08 and section 41-1092.09. 2. The requirement in section 41-1092.06, subsection A to hold an informal settlement conference at the appellant's request 	Board of appeals exempt from: <ol style="list-style-type: none"> 1. Hearing and decision timeframes 2. Informal settlement conference requirement

if the sole subject of an appeal pursuant to section 37-215 is the estimate of value reported in an appraisal of lands or improvements.

§ 41-1092.02(G) Auction protest procedures pursuant to title 37, chapter 2, article 4.1 are exempt from this article.

Auction protest procedures are exempt

A.R.S. § 41-1092.03
Notice of appealable agency action or contested case; hearing; informal settlement conference; applicability

§ 41-1092.03(A) Except as provided in subsection D of this section, an agency shall serve notice of an appealable agency action or contested case pursuant to section 41-1092.04.

Agency duty to serve notice of appealable agency actions or contested cases

The notice shall:

Notice requirements:

1. Identify the statute or rule that is alleged to have been violated or on which the action is based.

1. Identify applicable statutes/rules;

2. Identify with reasonable particularity the nature of any alleged violation, including, if applicable, the conduct or activity constituting the violation.

2. Identify violations and conduct/activity;

3. Include a description of the party's right to request a hearing on the appealable agency action or contested case.

3. Describe party's right to request a hearing; and

4. Include a description of the party's right to request an informal settlement conference pursuant to section 41-1092.06.

4. Notify party of right to request informal settlement conference

§ 41-1092.03(B) A party may obtain a hearing on an appealable agency action or contested case by filing a notice of appeal or request for a hearing with the agency within thirty days after receiving the notice prescribed in subsection A of this section.

Party to appealable agency action or contested case right to obtain a hearing by filing request within 30 days of notice required under § 41-1092.03(A)

The notice of appeal or request for a hearing may be filed by a party whose legal rights, duties or privileges were determined by the appealable agency action or contested case.

Impacted party's right to file appeal or request for hearing

A notice of appeal or request for a hearing also may be filed by a party who will be adversely affected by the appealable agency action or contested case and who exercised any right provided by law to comment on the action being appealed or contested, provided that the grounds for the notice of appeal or request for a hearing are limited to issues raised in that party's comments.

Adversely affected party's right to file appeal or request for hearing

The notice of appeal or request for a hearing shall identify the party, the party's address, the agency and the action being appealed or contested and shall contain a concise statement of the reasons for the appeal or request for a hearing.

Appeal/request for hearing requirements

The agency shall notify the office of the appeal or request for a hearing and the office shall schedule an appeal or contested case hearing pursuant to section 41-1092.05, except as provided in section 41-1092.01, subsection F.

Agency duty to inform OAH of appeals or requests for hearing

§ 41-1092.03(C) If good cause is shown an agency head may accept an appeal or request for a hearing that is not filed in a timely manner.

Late requests for hearing may be accepted for good cause

§ 41-1092.03(D) This section does not apply to a contested case if the agency:

1. Initiates the contested case hearing pursuant to law other than this chapter and not in response to a request by another party.
2. Is not required by law, other than this chapter, to provide an opportunity for an administrative hearing before taking action that determines the legal rights, duties or privileges of an applicant for a license.

§ 41-1092.03 inapplicable to contested cases where the agency:
1. Initiates contested case hearing pursuant to a different chapter and not in response to a request

2. Is not required to provide an opportunity for hearing before taking action

A.R.S. § 41-1092.04 Service of documents

Unless otherwise provided in this article, every notice or decision under this article shall be served by personal delivery or certified mail, return receipt requested, or by any other method reasonably calculated to effect actual notice on the agency and every other party to the action to the party's last address of record with the agency.

All notices & decisions must be served to last address of record with the agency by (1) personal service; (2) certified mail with return receipt; or (3) other reasonable methods

Each party shall inform the agency and the office of any change of address within five days of the change.

Party's duty to notify agency and OAH of any address change within 5 days

A.R.S. § 41-1092.05 Scheduling of hearings; prehearing conferences

§ 41-1092.05(A) Except as provided in subsections B and C, hearings for:

1. Appealable agency actions shall be held within sixty days after the notice of appeal is filed.
2. Contested cases shall be held within sixty days after the agency's request for a hearing.

Except as provided in §§ 41-1092.05(B) & (C)

1. Appealable agency actions must be heard within 60 days of filing notice of appeal
2. Contested cases must be heard within 60 days of agency's request

<p>§ 41-1092.05(B)</p> <p>§ 41-1092.05(C)</p> <p>§ 41-1092.05(D)</p> <p>§ 41-1092.05(E)</p>	<p>Hearings for appealable agency actions of or contested cases with self-supporting regulatory boards that meet quarterly or less frequently shall be held at the next meeting of the board after the board receives the written decision of an administrative law judge or the issuance of the notice of hearing, except that:</p> <ol style="list-style-type: none"> 1. If the decision of the administrative law judge is received or the notice of hearing is issued within thirty days before the board meets, the hearing shall be held at the following meeting of the board. 2. If good cause is shown, the hearing may be held at a later meeting of the board. <p>The date scheduled for the hearing may be advanced or delayed on the agreement of the parties or on a showing of good cause.</p> <p>The agency shall prepare and serve a notice of hearing on all parties to the appeal or contested case at least thirty days before the hearing.</p> <p>The notice shall include:</p> <ol style="list-style-type: none"> 1. A statement of the time, place and nature of the hearing. 2. A statement of the legal authority and jurisdiction under which the hearing is to be held. 3. A reference to the particular sections of the statutes and rules involved. 4. A short and plain statement of the matters asserted. <p>If the agency or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved.</p> <p>After the initial notice and on application, a more definite and detailed statement shall be furnished.</p> <p>Notwithstanding subsection D, a hearing shall be expedited as provided by law or upon a showing of extraordinary circumstances or the possibility of irreparable harm if the parties to the appeal or contested case have actual notice of the hearing date.</p> <p>Any party to the appeal or contested case may file a motion with the director asserting the party's right to an expedited hearing.</p>	<p>Hearing timing requirements for self-supporting regulatory boards</p> <ol style="list-style-type: none"> 1. If ALJ decision is made/ notice of hearing is issued within 30 days before board meets, hearing must occur at following board meeting 2. If good cause, hearing may be held at later meeting date <p>Hearing date may be advanced or delayed on (1) agreement of parties, or (2) good cause showing</p> <p>Agency duty to prepare and serve notice of hearing at least 30 days before hearing date</p> <p>Notice requirements:</p> <ol style="list-style-type: none"> 1. Statement of time, place, & nature of hearing; 2. Statement of legal authority & jurisdiction; 3. Reference to applicable statutes & rules; and 4. Short & plain statement of matters asserted <p>Initial notice need only state the issues involved if unable to provide specific details</p> <p>Agency authority to supplement initial notice</p> <p>If parties have actual notice, hearing must be expedited on showing of (1) extraordinary circumstances or (2) possibility of irreparable harm</p> <p>Right to expedited hearing</p>
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The right to an expedited hearing shall be listed on any abatement order.

Right to expedited hearing must be listed on abatement orders

The Arizona health care cost containment system administration may file a motion with every member grievance and eligibility appeal that cites federal law and that requests that a hearing be set within thirty days after the motion is filed.

AHCCCS authority to file motion with all member grievances and eligibility appeals citing federal law & requesting hearing

§ 41-1092.05(F) Prehearing conferences may be held to:

Prehearing conferences available to:

1. Clarify or limit procedural, legal or factual issues.
2. Consider amendments to any pleadings.
3. Identify and exchange lists of witnesses and exhibits intended to be introduced at the hearing.
4. Obtain stipulations or rulings regarding testimony, exhibits, facts or law.
5. Schedule deadlines, hearing dates and locations if not previously set.
6. Allow the parties opportunity to discuss settlement.

1. Clarify or limit issues of procedure, law, or fact;
2. Consider amendments;
3. Identify/exchange witness & exhibit lists;
4. Obtain stipulations or rulings on evidence or law;
5. Schedule deadlines, hearing dates, or locations; or
6. Discuss settlement

A.R.S. § 41-1092.06

Appeals of agency actions and contested cases; informal settlement conferences; applicability

§ 41-1092.06(A) If requested by the appellant of an appealable agency action or the respondent in a contested case, the agency shall hold an informal settlement conference within fifteen days after receiving the request.

Appellant's/respondent's right to informal settlement conference within 15 days of a request

A request for an informal settlement conference shall be in writing and shall be filed with the agency no later than twenty days before the hearing.

Written request must be: (1) in writing; and (2) filed more than 20 days before a hearing

If an informal settlement conference is requested, the agency shall notify the office of the request and the outcome of the conference, except as provided in section 41-1092.01, subsection F.

Agency duty to notify OAH of: (1) the settlement conference request and (2) it's outcome

The request for an informal settlement conference does not toll the sixty day period in which the administrative hearing is to be held pursuant to section 41-1092.05.

Request for settlement conference does not toll 60-day requirement to hold hearings

§ 41-1092.06(B)	If an informal settlement conference is held, a person with the authority to act on behalf of the agency must represent the agency at the conference.	Agency must be represented by person with authority to act on its behalf
	The agency representative shall notify the appellant in writing that statements, either written or oral, made by the appellant at the conference, including a written document, created or expressed solely for the purpose of settlement negotiations are inadmissible in any subsequent administrative hearing.	Agency representative duty to notify participants that statements made for purpose of settlement negotiations are inadmissible at subsequent hearings
	The parties participating in the settlement conference shall waive their right to object to the participation of the agency representative in the final administrative decision.	Participating parties waive their right to object to participation of agency representative in final decision

A.R.S. § 41-1092.07 Hearings

§ 41-1092.07(A)	A party to a contested case or appealable agency action may file a nonperemptory motion with the director to disqualify an office administrative law judge from conducting a hearing for bias, prejudice, personal interest or lack of technical expertise necessary for a hearing.	Party's right to file motion to disqualify ALJ for: (1) bias; (2) prejudice; (3) personal interest; or (4) lack of technical expertise
§ 41-1092.07(B)	The parties to a contested case or appealable agency action have the right to be represented by counsel or to proceed without counsel, to submit evidence and to cross-examine witnesses.	Party's right to (1) be represented by counsel or unrepresented; (2) present evidence; and (3) cross-examine witnesses
§ 41-1092.07(C)	The administrative law judge may issue subpoenas to compel the attendance of witnesses and the production of documents. The subpoenas shall be served and, on application to the superior court, enforced in the manner provided by law for the service and enforcement of subpoenas in civil matters. The administrative law judge may administer oaths and affirmations to witnesses.	ALJ's authority to issue subpoenas Subpoena service & enforcement requirements ALJ's authority to administer oaths and affirmations
§ 41-1092.07(D)	All parties shall have the opportunity to respond and present evidence and argument on all relevant issues. All relevant evidence is admissible, but the administrative law judge may exclude evidence if its probative value is outweighed by the danger of unfair prejudice, by confusion of the issues or by considerations of undue delay, waste of time or needless presentation of cumulative evidence.	Party's right to respond and present evidence ALJ's authority to exclude evidence

The administrative law judge shall exercise reasonable control over the manner and order of cross-examining witnesses and presenting evidence to make the cross-examination and presentation effective for ascertaining the truth, avoiding needless consumption of time and protecting witnesses from harassment or undue embarrassment.

ALJ duty to exercise reasonable control over hearings

§ 41-1092.07(E)

All hearings shall be recorded.

Requirement for hearings to be recorded

The administrative law judge shall secure either a court reporter or an electronic means of producing a clear and accurate record of the proceeding at the agency's expense.

ALJ duty to accurately record at the agency's expense by: (1) court reporter or (2) electronic means

Any party that requests a transcript of the proceeding shall pay the costs of the transcript to the court reporter or other transcriber.

Requesting party bears costs of transcript

§ 41-1092.07(F)

Unless otherwise provided by law, the following apply:

Unless otherwise provided by law:

1. A hearing may be conducted in an informal manner and without adherence to the rules of evidence required in judicial proceedings.

1. Hearings may be informal

Neither the manner of conducting the hearing nor the failure to adhere to the rules of evidence required in judicial proceedings is grounds for reversing any administrative decision or order if the evidence supporting the decision or order is substantial, reliable and probative.

Failure to adhere to rules of evidence is not reversible error if supporting evidence is substantial, reliable, and probative

2. Copies of documentary evidence may be received in the discretion of the administrative law judge.

2. ALJ discretion to receive copies of documentary evidence

On request, parties shall be given an opportunity to compare the copy with the original.

Party's right to compare duplicates with original

3. Notice may be taken of judicially cognizable facts.

3. ALJ discretion to accept certain facts as true without evidence

In addition, notice may be taken of generally recognized technical or scientific facts within the agency's specialized knowledge.

Notice of generally recognized technical/scientific facts permissible

Parties shall be notified either before or during the hearing or by reference in preliminary reports or otherwise of the material noticed including any staff memoranda or data and they shall be afforded an opportunity to contest the material so noticed.

Party's right to be notified of and to contest material noticed

The agency's experience, technical competence and specialized knowledge may be used in the evaluation of the evidence.

Agency expertise may be used in evaluating evidence

4. On application of a party or the agency and for use as evidence, the administrative law judge may permit a deposition to be taken, in the manner and on the terms designated by the administrative law judge, of a witness who cannot be subpoenaed or who is unable to attend the hearing.

4. ALJ's authority to permit depositions

Subpoenas for the production of documents may be ordered by the administrative law judge if the party seeking the discovery demonstrates that the party has reasonable need of the materials being sought.

ALJ authority to issue subpoena to produce electronic or physical documents

All provisions of law compelling a person under subpoena to testify are applicable.

Subpoena laws apply

Fees for attendance as a witness shall be the same as for a witness in court, unless otherwise provided by law or agency rule.

Fees

Notwithstanding section 12-2212, subpoenas, depositions or other discovery shall not be permitted except as provided by this paragraph or subsection C of this section.

Subpoenas, depositions, or other discovery not permitted except under § 41-1092.07(C)

5. Informal disposition may be made by stipulation, agreed settlement, consent order or default.
6. Findings of fact shall be based exclusively on the evidence and on matters officially noticed.
7. A final administrative decision shall include findings of fact and conclusions of law, separately stated.

5. Settlement, consent orders, and defaults permitted

6. Findings of fact must be based on evidence and matters noticed

7. Final administrative decision must include findings of fact and conclusions of law

Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings.

Findings of fact must contain statement of underlying facts supporting a finding

Conclusions of law shall specifically address the agency's authority to make the decision consistent with section 41-1030.

Conclusions of law must address agency's authority to issue a decision

§ 41-1092.07(G) Except as otherwise provided by law:

Unless otherwise provided by law:

1. At a hearing on an agency's denial of a license or permit or a denial of an application or request for modification of a

1. Applicant bears burden of persuasion after denial of license, permit, or application

license or permit, the applicant has the burden of persuasion.

2. At a hearing on an agency action to suspend, revoke, terminate or modify on its own initiative material conditions of a license or permit, the agency has the burden of persuasion.
3. At a hearing on an agency's imposition of fees or penalties or any agency compliance order, the agency has the burden of persuasion.
4. At a hearing held pursuant to chapter 23 or 24 of this title, the appellant or claimant has the burden of persuasion.

2. Agency bears burden of persuasion to suspend or revoke a license or permit

3. Agency bears burden of persuasion to impose fees or penalties

4. Appellant/claimant bears burden of persuasion for hearings held under Title 41, chapter 23 or 24

§ 41-1092.07(H) Subsection G of this section does not affect the law governing burden of persuasion in an agency denial of, or refusal to issue, a license renewal.

§ 41-1092.07(G) does not affect burden of persuasion in agency denial for license renewals

A.R.S. § 41-1092.08

Final administrative decisions; review; exception

§ 41-1092.08(A) The administrative law judge of the office shall issue a written decision within twenty days after the hearing is concluded.

ALJ must issue written decision within 20 days of a hearing

The written decision shall contain a concise explanation of the reasons supporting the decision, including the findings of fact and conclusions of law.

Written decision must contain findings of fact and conclusions of law

The administrative law judge shall serve a copy of the decision on the agency.

ALJ duty to serve copy of written decision on agency

On request of the agency, the office shall also transmit to the agency the record of the hearing as described in section 12-904, except as provided in section 41-1092.01, subsection F.

If requested, OAH must transmit record of the hearing

§ 41-1092.08(B) Within thirty days after the date the office sends a copy of the administrative law judge's decision to the head of the agency, executive director, board or commission, the head of the agency, executive director, board or commission may review the decision and accept, reject or modify it.

Agency authority to accept, reject, or modify written decision within 30 days after receipt

If the head of the agency, executive director, board or commission declines to review the administrative law judge's decision, the agency shall serve a copy of the decision on all parties.

If agency does not review the written decision, the agency must serve a copy to all parties

If the head of the agency, executive director, board or commission rejects or modifies the decision, the agency head, executive director, board or commission must file with the office, except as provided in section 41-1092.01, subsection F, and serve on all parties a copy of the administrative law judge's decision with the rejection or modification and a written justification setting forth the reasons for the rejection or modification of each finding of fact or conclusion of law.

If agency rejects or modifies the decision, the agency must serve a copy to OAH and all parties.

Modification/rejection must set for the reasons for the rejection or modification of each finding of fact or conclusion of law

If there is a rejection or modification of a conclusion of law, the written justification shall be sent to the president of the senate and the speaker of the house of representatives.

Agency's duty to send copy of written justification to senate & house when a conclusion of law is rejected or modified

§ 41-1092.08(C) A board or commission whose members are appointed by the governor may review the decision of the agency head, as provided by law, and make the final administrative decision.

Board & commission comprised of governor-appointed members may make final administrative decisions

§ 41-1092.08(D) Except as otherwise provided in this subsection, if the head of the agency, the executive director or a board or commission does not accept, reject or modify the administrative law judge's decision within thirty days after the date the office sends a copy of the administrative law judge's decision to the head of the agency, executive director, board or commission, as evidenced by receipt of such action by the office by the thirtieth day, the office shall certify the administrative law judge's decision as the final administrative decision.

ALJ's written decision certifies as final if agency does not act within 30 days of written decision's transmittal; See § 41-1092.08(E)

If the board or commission meets monthly or less frequently, if the office sends the administrative law judge's decision at least thirty days before the next meeting of the board or commission and if the board or commission does not accept, reject or modify the administrative law judge's decision at the next meeting of the board or commission, as evidenced by receipt of such action by the office within five days after the meeting, the office shall certify the administrative law judge's decision as the final administrative decision.

Exception for boards and commissions who meet monthly or less frequently

§ 41-1092.08(E) For the purposes of subsections B and D of this section, a copy of the administrative law judge's decision is sent on personal delivery of the decision or five days after the decision is mailed to the head of the agency, executive director, board or commission.

A decision is "sent" on (1) personal delivery; or (2) five days after the decision is mailed

§ 41-1092.08(F) The decision of the agency head is the final administrative decision unless either:

Agency decisions are the final administrative decision unless:

1. The agency head, executive director, board or commission does not review the administrative law judge's decision pursuant to subsection B of this section or does not reject or modify the administrative law judge's decision as provided in subsection D of this section, in which case the administrative law judge's decision is the final administrative decision.
2. The decision of the agency head is subject to review pursuant to subsection C of this section.

1. The decision certifies; or

2. The decision is subject to review under § 41-1092.08(C)

§ 41-1092.08(G)

If a board or commission whose members are appointed by the governor makes the final administrative decision as an administrative law judge or on review of the decision of the agency head, the decision is not subject to review by the head of the agency.

Governor-appointed boards and commissions final administrative decisions not reviewable by agency head

§ 41-1092.08(H)

A party may appeal a final administrative decision pursuant to title 12, chapter 7, article 6, except as provided in section 41-1092.09, subsection B and except that if a party has not requested a hearing on receipt of a notice of appealable agency action pursuant to section 41-1092.03, the appealable agency action is not subject to judicial review.

Party's right to appeal final administrative decision

Appealable agency actions only appealable to superior court if the party first requests a hearing under § 42-1092.03

§ 41-1092.08(I)

This section does not apply to the Arizona peace officer standards and training board established by section 41-1821.

§ 41-1092.08 does not apply to Arizona peace officer standards and training board

**A.R.S. § 41-1092.09.
Rehearing or review**

§ 41-1092.09(A)

Except as provided in subsection B of this section:

1. A party may file a motion for rehearing or review within thirty days after service of the final administrative decision.
2. The opposing party may file a response to the motion for rehearing within fifteen days after the date the motion for rehearing is filed.
3. After a hearing has been held and a final administrative decision has been entered pursuant to section 41-1092.08, a party is not required to file a motion for rehearing or review of the decision in order to exhaust the party's administrative remedies.

Except as provided in § 41-1092.09(B):

1. Party's right to request rehearing within 30 days of the final administrative decision

2. Opposing party's right to file a response to rehearing request

3. Rehearing or review of final administrative decision not required to exhaust administrative remedies

§ 41-1092.09(B) A party to an appealable agency action of or contested case with a self-supporting regulatory board shall exhaust the party's administrative remedies by filing a motion for rehearing or review within thirty days after the service of the administrative decision that is subject to rehearing or review in order to be eligible for judicial review pursuant to title 12, chapter 7, article 6.

For self-supporting regulator boards, party must file motion for rehearing to be eligible for judicial review under Title 12, Chapter 7, Article 6

The board shall notify the parties in the administrative decision that is subject to rehearing or review that a failure to file a motion for rehearing or review within thirty days after service of the decision has the effect of prohibiting the parties from seeking judicial review of the board's decision.

Board duty to notify parties that failure to request a rehearing prohibits judicial review of the underlying decision

§ 41-1092.09(C) Service is complete on personal service or five days after the date that the final administrative decision is mailed to the party's last known address.

Service complete on (1) personal service; or (2) five days after mailing to last known address

§ 41-1092.09(D) Except as provided in this subsection, the agency head, executive director, board or commission shall rule on the motion within fifteen days after the response to the motion is filed or, if a response is not filed, within five days of the expiration of the response period.

Agency duty to rule on motion: (1) within 15 days after response to the motion is filed; or (2) where no motion is filed, within 5 days after the response period expires

A self-supporting regulatory board shall rule on the motion within fifteen days after the response to the motion is filed or at the board's next meeting after the motion is received, whichever is later.

Self-supporting regulatory boards must rule on motion on the later date of: (1) 15 days after receipt; or (2) at the board's next meeting

A.R.S. § 41-1092.10 Compulsory testimony; privilege against self-incrimination

§ 41-1092.10(A) A person may not refuse to attend and testify or produce evidence sought by an agency in an action, proceeding or investigation instituted by or before the agency on the ground that the testimony or evidence, documentary or otherwise, required of the person may tend to incriminate the person or subject the person to a penalty or forfeiture unless it constitutes the compelled testimony or the private papers of the person that would be privileged evidence either pursuant to the fifth amendment of the Constitution of the United States or article II, section 10, Constitution of Arizona, and the person claims the privilege before the production of the testimony or papers.

Person's right not to attend and testify and right to refuse to testify or produce evidence if privilege is asserted before testimony or production

§ 41-1092.10(B) If a person asserts the privilege against self-incrimination and the agency seeks to compel production of the testimony or documents sought, the office or agency as provided in section 41-1092.01, subsection F may issue, with the prior written approval of the attorney general, a written order compelling the testimony or production of documents in proceedings and investigations before the office or agency as provided in section 41-1092.01, subsection F or apply to the appropriate court for such an order in other actions or proceedings.

If person asserts right not to testify or right not to produce documents, OAH or agency may issue written order compelling testimony or production of documents with written approval of attorney general or by court order

§ 41-1092.10(C) Evidence produced pursuant to subsection B of this section is not admissible in evidence or usable in any manner in a criminal prosecution, except for perjury, false swearing, tampering with physical evidence or any other offense committed in connection with the appearance made pursuant to this section against the person testifying or the person producing the person's private papers.

Evidence produced under § 41-1092.10(B) inadmissible in criminal prosecutions except for: (1) perjury; (2) false swearing; (3) tampering; or (4) other related offenses

A.R.S. § 41-1092.11 Licenses; renewal; revocation; suspension; annulment; withdrawal

§ 41-1092.11(A) If a licensee makes timely and sufficient application for the renewal of a license or a new license with reference to any activity of a continuing nature, the existing license does not expire until the application has been finally determined by the agency, and, in case the application is denied or the terms of the new license limited, until the last day for seeking review of the agency order or a later date fixed by order of the reviewing court.

If licensee timely submits application for renewal, the license does not expire while the agency's final determination is pending

§ 41-1092.11(B) Revocation, suspension, annulment or withdrawal of any license is not lawful unless, before the action, the agency provides the licensee with notice and an opportunity for a hearing in accordance with this article.

Agency must provide licensee with notice an opportunity for hearing before disciplining a license

If the agency finds that the public health, safety or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, the agency may order summary suspension of a license pending proceedings for revocation or other action.

Summary suspension permitted to protect public health, safety, or welfare

These proceedings shall be promptly instituted and determined.

Requirement to promptly institute proceedings

A.R.S. § 41-1092.12
Private right of action; recovery of costs and fees;
definitions

§ 41-1092.12(A)	<p>If an agency takes an action against a party that is arbitrary, capricious or not in accordance with law, the action is an appealable agency action if all of the following apply:</p> <ol style="list-style-type: none"> 1. Within ten days after the action that is arbitrary, capricious or not in accordance with law, the party notifies the director of the agency in writing of the party's intent to file a claim pursuant to this section. <p style="margin-left: 40px;">This notice shall include a description of the action the party claims to be arbitrary, capricious or not in accordance with law and reasons why the action is arbitrary, capricious or not in accordance with law.</p> <ol style="list-style-type: none"> 2. The agency continues the action that is arbitrary, capricious or not in accordance with law more than ten days after the agency receives the notice. 3. The action is not excluded from the definition of appealable agency action as defined in section 41-1092. 	<p>Dept. of Environmental Quality (See § 41-1092.12(E)) action is appealable if all of the following apply:</p> <ol style="list-style-type: none"> 1. Party notifies agency director of intent to pursue a claim within 10 days of the action; <p style="margin-left: 40px;">Notice must include description of the activity and reasons why the action is arbitrary, capricious, or illegal</p> <ol style="list-style-type: none"> 2. The agency continues the action; and 3. The action is not excluded from definition of “appealable agency action” See § 41-1092(3)
§ 41-1092.12(B)	<p>This section only applies if an administrative remedy or an administrative or a judicial appeal of final agency action is not otherwise provided by law.</p>	<p>§ 41-1092.12 only applicable if there is no other available remedy</p>
§ 41-1092.12(C)	<p>If the party prevails, the agency shall pay reasonable costs and fees to the party from any monies appropriated to the agency and available for that purpose or from other operating monies of the agency.</p> <p>If the agency fails or refuses to pay the award within fifteen days after the demand, and if no further review or appeal of the award is pending, the prevailing party may file a claim with the department of administration.</p> <p>The department of administration shall pay the claim within thirty days in the same manner as an uninsured property loss under title 41, chapter 3.1, article 1, except that the agency is responsible for the total amount awarded and shall pay it from its operating monies.</p> <p>If the agency had appropriated monies available for paying the award at the time it failed or refused to pay, the legislature shall</p>	<p>Agency must pay reasonable costs and fees to a party under § 41-1092.12</p> <p>Prevailing party's right to file claim with ADOA if agency fails to pay within 15 days of demand</p> <p>ADOA must pay claim within 30 days of demand</p> <p>If agency can pay, but refuses, legislature must reduce agency's operating cost</p>

reduce the agency's operating appropriation for the following fiscal year by the amount of the award and shall appropriate that amount to the department of administration as reimbursement for the loss.

§ 41-1092.12(D) If the administrative law judge determines that the appealable agency action is frivolous, the administrative law judge may require the party to pay reasonable costs and fees to the agency in responding to the appeal filed before the office of administrative hearings.

ALJ authority to require party to pay reasonable costs and fees to agency

§ 41-1092.12(E) For the purposes of this section:

Definitions applicable to § 41-1092.12

1. "Action against the party" means any of the following that results in the expenditure of costs and fees:
 - (a) A decision.
 - (b) An inspection.
 - (c) An investigation.
 - (d) The entry of private property.
2. "Agency" means the department of environmental quality established pursuant to title 49, chapter 1, article 1.
3. "Costs and fees" means reasonable attorney and professional fees.
4. "Party" means an individual, partnership, corporation, association and public or private organization at whom the action was directed and who has expended costs and fees as a result of the action against the party.

1. Definition of "action against the party" includes:

(a) Decision

(b) Inspection

(c) Investigation

(d) Entry of private property

2. Definition of "agency"

3. Definition of "costs and fees"

4. Definition of "party"

Article 11

Occupational Regulation

A.R.S. § 41-1093

Definitions

In this article, unless the context otherwise requires:

1. "Health, safety or welfare":
 - (a) Means the protection of members of the public against harm, fraud or loss, including the preservation of public security, order or health.
 - (b) Does not include the protection of existing businesses or agencies, whether publicly or privately owned, against competition.
2. "Individual" means a natural person.
3. "Occupational regulation":
 - (a) Means a rule, regulation, practice or policy that allows an individual to use an occupational title or work in a lawful occupation, trade or profession or a cease and desist demand or other regulatory requirement that prevents an individual from using an occupational title or working in a lawful occupation, trade or profession.
 - (b) Does not include:
 - (i) A business license, facility license, building permit or zoning and land use regulation.
 - (ii) Any rule or regulation relating to an institution or individual that is subject to title 36, chapter 4, article 10 or chapter 20.
 - (iii) Any license or regulation that is required by federal law.
 - (iv) Any rule or regulation adopted by an agency that is authorized by statute and has been approved by the council pursuant to section 41-1052.

Definitions

1. Definition of "health, safety or welfare":

(a) Protection of public against harm, fraud, or loss

(b) Does not include protecting businesses or agencies

2. Definition of "individual"

3. Definition of "occupational regulation"

(a) Includes rules, regulations, practices, or policies permitting occupational title or work

(b) Excludes:

(i) Business license, facility license, building permit, zoning regulation

(ii) Rules or regulations under Title 36, Chapter 4, Article 10 or Chapter 20

(iii) Federal licenses or regulations

(iv) Agency-adopted rules approved by GRRC

(v) Any rule or regulation relating to emergency medical and transportation services that originated with a public access system or medical transportation requested by a medical authority or by the patient for which a certificate of necessity is required under section 36-2233.

(v) **Emergency medical and transportation service rules or regulations**

(vi) Any rule relating to the licensing of a securities dealer, securities salesman, investment adviser or investment adviser representative.

(vi) **Securities rules**

A.R.S. § 41-1093.01 Occupational regulations; limitations

An agency shall limit all occupational regulations to regulations that are demonstrated to be necessary to specifically fulfill a public health, safety or welfare concern.

Occupational regulations restricted to those necessary to satisfy specific public health, safety or welfare concern

A.R.S. § 41-1093.02 Administrative proceedings

§ 41-1093.02(A) Any individual harmed by an occupational regulation may petition an agency to repeal or modify any occupational regulation within the agency's jurisdiction.

Individual's right to petition agency to repeal or modify occupational regulations

§ 41-1093.02(B) Within ninety days after a petition is filed, the agency shall repeal the occupational regulation, modify the occupational regulation to comply with section 41-1093.01, recommend legislative action, if required, to repeal or amend the occupational regulation to comply with section 41-1093.01 or state the basis on which the agency concludes that the occupational regulation complies with section 41-1093.01.

Agency duty to respond within 90 days of receiving petition

A.R.S. § 41-1093.03 Enforcement; fees and costs

§ 41-1093.03(A) Whether or not a petition is filed pursuant to section 41-1093.02, any individual may file an action in a court of general jurisdiction to challenge an occupational regulation.

Right to file action challenging an occupational regulation

§ 41-1093.03(B) To prevail in an action challenging the occupational regulation, the court must find by a preponderance of the evidence that the challenged occupational regulation on its face or in its effect burdens the entry into or participation in an occupation, trade or profession and that this state has failed to prove by a preponderance of the evidence that the challenged occupational

To prevail: (1) the occupational regulation must burden entry into occupation; and (2) state must fail to demonstrate public health, safety, or welfare justification

regulation is demonstrated to be necessary to specifically fulfill a public health, safety or welfare concern.

§ 41-1093.03(C) If the court finds for the plaintiff, the court shall enjoin further enforcement of the challenged occupational regulation and shall award reasonable attorney fees and costs to the plaintiff.

Court authority to enjoin enforcement of challenged regulation

A.R.S. § 41-1093.04
Occupational license, permit or certificate or other state recognition rights; petition for review of criminal record; annual report

§ 41-1093.04(A) A person with a criminal record may petition an agency, at any time, including before obtaining any required education or experience, taking any examination or paying any fee for a determination of whether the person's criminal record disqualifies the person from obtaining a license, permit, certificate or other state recognition.

Right to petition agency for a determination whether past felony prohibits licensure

§ 41-1093.04(B) In the petition, the person shall include:

Petition must include:

1. The person's complete criminal history record.
2. Any additional information about the person's current circumstances, including the time since the offense was committed and the sentence was completed, the payment of any court-ordered restitution, evidence of rehabilitation, testimonials, employment history and employment aspirations.

1. Complete criminal history record;
2. Additional information including: (1) time since offense committed; (2) payment of court-ordered restitution; (3) evidence of rehabilitation; and (4) employment history

§ 41-1093.04(C) The agency shall determine whether the person's criminal record disqualifies the person from obtaining a license, permit, certificate or other state recognition.

Agency duty to determine whether criminal record disqualifies licensure

§ 41-1093.04(D) Notwithstanding any other law or rule, the agency may determine that the person's criminal record disqualifies the person from obtaining a license, permit, certificate or other state recognition only if the agency concludes that the state has an important interest in protecting public safety that is superior to the person's right and either of the following applies:

Agency may determine criminal record disqualifies license if state interest is superior to person's right to licensure and either:

1. The person was convicted of any of the following, the conviction occurred within seven years before the date of the petition, excluding any period of time that the person was imprisoned in the custody of the state department of corrections, and the conviction has not been set aside:

1. Conviction has not been set aside and the person was convicted of within 7 years, excluding time served, of any of the following:

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| (a) A felony offense. | (a) Felony offense; |
| (b) A violent crime as defined in section 13-901.03. | (b) Violent crime under § 13-901.03; |
| (c) An offense included in title 13, chapter 20, 21 or 23 or section 13-2310 or 13-2311 if the license, permit, certificate or other state recognition is for an occupation in which the applicant would owe a fiduciary duty to a client. | (c) If fiduciary duty implications, an offense under title 32, chapter 20, 21, 23, or § 13-210, or § 13-211. |
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- | | |
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| 2. The person was, at any time, convicted of either of the following: | 2. Person was convicted at any time of: |
| (a) An offense that a law specifically requires the agency to consider when issuing a license, permit, certificate or other state recognition and the conviction has not been set aside. | (a) An offense the agency is specifically required to consider that has not been set aside; or |
| (b) A dangerous offense as defined in section 13-105, a serious offense as defined in section 13-706, a dangerous crime against children as defined in section 13-705 or an offense included in title 13, chapter 14 or 35.1, and the conviction has not been set aside. | (b) Dangerous offense, serious offense, dangerous crime against children; sexual offense; sexual exploitation of children offense |

§ 41-1093.04(E) To conclude that the state has an important interest in protecting public safety that is superior to the person’s right, as required by subsection D of this section, the agency must determine by clear and convincing evidence at the time of the petition that both of the following apply:

State has an important interest superior to the person’s right if both:

1. The specific offense that the person was convicted of is substantially related to the state's interest.
2. The person, based on the nature of the specific offense that the person was convicted of and the person's current circumstances, is more likely to reoffend by virtue of having the license, permit, certificate or other state recognition than if the person did not have the license, permit, certificate or other state recognition.

1. **Specific offense is substantially related to state’s interest; and**
2. **The person is more likely to reoffend by virtue of having the license.**

§ 41-1093.04(F) The agency shall issue a determination on the petition within ninety days after the agency receives the petition.

Agency must issue a determination within 90 days

The determination on the petition must be in writing and include findings of fact and conclusions of law.

Determination must be in writing and include findings of fact and conclusions of law

§ 41-1093.04(G)	If the agency determines that the state's interest is superior to the person's right, the agency may advise the person of the actions that the person may take to remedy the disqualification, including:	If the agency determines the state's interest is superior to the person's right the agency may advise a petitioner that:
	<ol style="list-style-type: none"> 1. An appeal of the determination as provided in title 12, chapter 7, article 6. 2. The submission of a new petition to the same agency at any time within two years after the final determination of the initial petition. 	<ol style="list-style-type: none"> 1. Petitioner has the right to appeal the disqualification; and 2. Petitioner has the right to submit a new petition at any time within two years
§ 41-1093.04(H)	The agency shall rescind the determination any time after the determination is made but before issuing a license, permit, certificate or other state recognition if the person is convicted of an additional offense that is included in subsection D, paragraph 1 of this section.	Additional convictions require the agency to rescind an initial determination
§ 41-1093.04(I)	Subsection D of this section does not apply to any of the following:	§ 41-1093.04(D) inapplicable to:
	<ol style="list-style-type: none"> 1. Any law enforcement agency or the Arizona peace officer standards and training board. 2. Any license or registration certificate that is issued pursuant to title 32, chapter 24 or 26. 3. Any certification, license or permit that is issued pursuant to title 15. 4. Statutory requirements for a fingerprint clearance card issued pursuant to chapter 12, article 3.1 of this title. 5. Any criteria for license, permit or certificate eligibility that is established by an interstate compact. 	<ol style="list-style-type: none"> 1. Law enforcement agencies or peace officer standards or training board; 2. Private investigator or security guard licenses; 3. Teacher's certificates, licenses, or permits; 4. Fingerprint clearance cards; or 5. Interstate compacts
§ 41-1093.04(J)	Each agency shall submit a report on or before July 1 of each year to the governor and the legislature and provide a copy of this report to the secretary of state.	Agency duty to file report with govern, legislature, and secretary of state
	The report shall include the following information for the previous calendar year:	Report requirements:
	<ol style="list-style-type: none"> 1. The number of applicants who petition the agency for a determination. 2. The number of petitions that were granted and the types of offenses at issue. 	<ol style="list-style-type: none"> 1. Number of petitioners; 2. Number of granted petitions and types of offenses;

3. The number of petitions that were denied and the types of offenses at issue.
4. The number of determinations that were rescinded.

3. Number of denied petitions and types of offenses; and

4. Number of rescinded determinations

A.R.S. § 41-1093.05 License applicants; notice

An agency shall prominently post on the agency's website and print on a license application, a communication denying a license, a cease and desist order or any other communication in which the agency asserts that a person is required to obtain a license the following:

Agency duty to display notice of right to petition agency under § 41-1093.02 for (1) license application; (2) license denials; (3) cease and desist orders; or (4) any other communication used to assert a person is required to be licensed

Notice:

Pursuant to section 41-1093.01, Arizona Revised Statutes, an agency shall limit all occupational regulations to regulations that are demonstrated to be necessary to specifically fulfill a public health, safety or welfare concern. Pursuant to sections 41-1093.02 and 41-1093.03, Arizona Revised Statutes, you have the right to petition this agency to repeal or modify the occupational regulation or bring an action in a court of general jurisdiction to challenge the occupational regulation and to ensure compliance with section 41-1093.01, Arizona Revised Statutes.

Arizona Revised Statutes

— Title 44 —

Chapter 11: Regulations Concerning Particular Businesses

A.R.S. § 44-1761 Definitions

In this article, unless the context otherwise requires:

1. "Collector" means a component of a solar energy device that is used to absorb solar radiation, convert it to heat or electricity and transfer the heat to a heat transfer fluid or to storage.
2. "Distributed energy generation system":
 - (a) Means a device or system that is used to generate or store electricity, that has an electric delivery capacity, singly or in connection with other similar devices or systems, greater than one kilowatt or one kilowatt-hour, and that is primarily for on-site energy consumption.
 - (b) Does not include an electric generator that is intended for occasional use.
3. "Energize" or "energized" means that the distributed energy generation system is installed and operational for its intended purposes of generating or storing electricity.
4. "Heat exchanger" means a component of a solar energy device that is used to transfer heat from one fluid to another.
5. "Interconnected" or "interconnection" means a distributed energy generation system that is connected to the power grid and that is able to transfer electricity to the power grid.
6. "Seller or marketer" means an individual or a company acting through its officers, employees or agents that markets, sells or solicits the sale, financing or lease of distributed energy generation systems or negotiates or enters into agreements for the sale, financing or lease of distributed energy generation systems.
7. "Solar daylighting" means a device that is specifically designed to capture and redirect the visible portion of the solar beam spectrum, while

Definitions

1. Definition of "collector"

2. Definition of "distributed energy system":

(a) Device/system used to generate or store electricity

(b) Excludes occasional use electric generators

3. Definition of "energize" or "energized"

4. Definition of "heat exchanger"

5. Definition of "interconnected" or "interconnection"

6. Definition of "seller or marketer"

7. Definition of "solar daylighting"

controlling the infrared portion, for use in illuminating interior building spaces in lieu of artificial lighting.

8. "Solar energy device":

- (a) Means a system or series of mechanisms that is designed primarily to provide heating, to provide cooling, to produce electrical power, to produce mechanical power, to provide solar daylighting or to provide any combination of the foregoing by means of collecting and transferring solar generated energy into such uses either by active or passive means.

Such systems may also have the capability of storing such energy for future utilization.

Passive systems shall clearly be designed as a solar energy device such as a trombe wall and not merely a part of a normal structure such as a window.

- (b) Includes a distributed energy generation system.

8. Definition of "solar energy device":

- (a) System designed to provide heating, cooling, electrical or mechanical power, solar daylighting or any combination of them**

Systems include those storing solar generated energy

Passive systems

- (b) Includes distributed energy generation system**

**A.R.S. § 44-1762
Solar energy device warranties; installation standards; inspections**

§ 44-1762(A) The collectors, heat exchangers and storage units of a solar energy device that is sold or installed in this state or leased or financed under an agreement pursuant to section 44-1763, and the installation of the solar energy device, shall be warranted for a period of at least two years or shall include an energy production output guarantee provided pursuant to section 44-1763, subsection A, paragraph 4.

2-year minimum warranty for solar energy devices; alternatively may provide energy production output guarantee under A.R.S. § 44-1763(A)

The remaining components of the solar energy device and their installation shall be warranted for a period of at least one year.

1-year minimum warranty for components

§ 44-1762(B) Any person who manufactures, furnishes for installation or installs a solar energy device shall provide with the device a written statement of warranty, responsibilities assumed or disclaimed and performance data of the solar

Manufacturers, furnishers, and installers must provide written statement of warranty, responsibilities, and performance data

energy device and components of the solar energy device as prescribed by section 44-1763 as part of the agreement for the financing, sale or lease of a solar energy device.

The form of the statement required by this subsection is subject to approval by the registrar of contractors.

Registrar of Contractor's right to approve statement's form

The statement shall specify the source of any performance data it contains.

Statement must specify information sources

A copy of the statement shall be delivered to the registrar of contractors where it shall be kept on public file.

Copy of statement must be delivered to the Registrar of Contractors

§ 44-1762(C) A person who sells a solar energy device in this state shall furnish a certificate to the buyer that the solar energy device complies with the requirements of this section.

Sellers of solar energy devices must provide certificate of compliance

§ 44-1762(D) A solar energy device that is sold or installed in this state shall comply with all applicable state and federal consumer protection, rating, certification, performance, marking, installation and safety standards that are required by section 44-1763.

Solar energy devices sold in Arizona must comply with state and federal standards

§ 44-1762(E) An individual who installs a solar energy device in this state, in addition to being a licensed solar contractor under title 32, chapter 10, article 4, shall:

Installers must be a licensed solar contractor and:

1. Possess the general license that is appropriate to the type of solar energy device that is installed.

1. Possess a general license for the type of solar energy device installed

Installers of a solar water heater or a photovoltaic device shall possess an appropriate contractor's license.

Solar water heater or photovoltaic device installers must be appropriately licensed

2. Meet any education and training standards that have been adopted by the registrar of contractors.

2. Meet education/training standards adopted by the Registrar of Contractors

3. Pass an examination on the installation of the type of device to be installed, if the registrar of contractors has adopted such an examination.

3. Pass an examination on the installation of the device, if provided by the Registrar of Contractors

§ 44-1762(F) Solar energy devices that are designed or installed by the final owner are exempt from the requirements of subsections A through E of this section.

Solar energy devices designed/installed by final owner are exempt from §§ 44-1762(A) – (E)

§ 44-1762(G) The installation of a solar energy device shall meet the requirements of:

Solar energy device installation must comply with:

1. All applicable fire, safety and building codes.
2. Consumer protection standards, including any freeze protection and temperature related damage standards.
3. All other applicable federal, state and local laws.

1. Fire, safety & building codes;
2. Consumer protection standards; and
3. Federal, state & local laws

§ 44-1762(H)

Contractors who fail to meet safety, installation or other prescribed standards or the requirements of section 44-1763 are subject to disciplinary action under title 32, chapter 10, article 3.

Failure to comply with § 44-1763 may result in discipline under Title 32, Chapter 10, Article 3

A.R.S. § 44-1763
Distributed energy generation system agreements; disclosures; exception

§ 44-1763(A)

An agreement governing the financing, sale or lease of a distributed energy generation system to any person or a political subdivision of this state must:

Financing, sale, and lease agreements must:

1. Be signed by the person buying, financing or leasing the distributed energy generation system and must be dated.

1. Be dated, and signed by buyer;

Any agreement that contains blank spaces affecting the timing, value or obligations of the agreement in a material manner when signed by the buyer or lessee is voidable at the option of the buyer or lessee until the distributed energy generation system is installed.

Blank spaces affecting timing, value, or obligations in a material manner may make the contract voidable by buyer until the system is installed

Any blank spaces in the agreement must be shown to and initialed by the buyer or lessee at the time the buyer or lessee signs the agreement.

Blank spaces must be initialed by buyer or lessee at the time of the agreement

2. Be in at least ten-point type.
3. Include a provision, which must be separately acknowledged by the buyer or lessee, granting the buyer or lessee the right to rescind the financing, sale or lease agreement for a period of not less than three business days after the agreement is signed by the buyer or lessee and before the distributed energy generation system is installed.

2. Be in 10-point font
3. Include provision granting right to rescind finance, sale, or lease for at least 3 business days after the agreement is signed and before installation

- | | |
|--|--|
| <p>4. Provide a description, which must be separately acknowledged by the buyer or lessee, including the make and model of the distributed energy generation system's major components or a guarantee concerning energy production output that the distributed energy generation system being sold or leased will provide over the life of the agreement.</p> <p>If the warranty period for any major component is less than the duration of the agreement, the length of the warranty must be disclosed to and separately acknowledged by the buyer or lessee.</p> | <p>4. Describe the make and model of the system's major components or guarantee the energy production over the life of the agreement; must be separately acknowledged by the buyer/lessee</p> <p>If the warranty length is less than agreement's duration, it must be disclosed and acknowledged</p> |
| <p>5. Separately set forth the following items, which must be separately acknowledged by the buyer or lessee, if applicable:</p> <p>(a) The total purchase price or total cost to the buyer or lessee under the agreement for the distributed energy generation system over the life of the agreement.</p> <p>(b) Any interest, installation fees, document preparation fees, service fees or other costs to be paid by the buyer or lessee of the distributed energy generation system.</p> <p>(c) If the distributed energy generation system is being financed or leased, the total number of payments, the payment frequency, the amount of the payment expressed in dollars and the payment due date.</p> | <p>5. State the following items, which must be acknowledged by buyer/lessee:</p> <p>(a) Total purchase price or cost;</p> <p>(b) Interest, installation fees, document preparation fees, service fees, or other costs; and</p> <p>(c) Lease/finance terms, if applicable</p> |
| <p>6. Provide a disclosure in the sale and financing agreements, to the extent they are used by the seller or marketer in determining the purchase price of the agreement, that identifies all current tax incentives and rebates or other state or federal incentives for which the buyer or lessee may be eligible and any conditions or requirements pursuant to the agreement to obtain these tax incentives, rebates or other incentives.</p> | <p>6. Disclose tax incentives used by the seller/marketer made to determine the purchase price</p> |
| <p>7. Identify the tax obligations that the buyer or lessee may be required to pay as a result of buying,</p> | <p>7. Identify buyer's or lessee's tax obligations including:</p> |

financing or leasing the distributed energy generation system, including:

- | | |
|--|---|
| (a) The assessed value and the property tax assessments associated with the distributed energy generation system calculated in the year the agreement is signed. | (a) Assessed value and property tax assessments; |
| (b) Transaction privilege taxes that may be assessed against the person buying or leasing the distributed energy generation system. | (b) TPT taxes; and |
| (c) Any obligation of the buyer or lessee to transfer tax credits or tax incentives of the distributed energy generation system to any other person. | (c) Any obligation for buyer or lessee to transfer tax incentives |
| 8. Disclose whether the warranty or maintenance obligations related to the distributed energy generation system may be sold or transferred to a third party. | 8. Disclose whether warranty or maintenance obligations may be sold or transferred |
| 9. Include a disclosure, the receipt of which shall be separately acknowledged by the buyer or lessee, if a transfer of the sale, lease or financing agreement contains any restrictions pursuant to the agreement on the lessee's or buyer's ability to modify or transfer ownership of a distributed energy generation system, including whether any modification or transfer is subject to review or approval by a third party. | 9. Disclose any restrictions on subsequent modifications or transfer of ownership of the distributed energy generation system; must be separately acknowledged by the buyer/lessee |
| If the modification or transfer of the distributed energy generation system is subject to review or approval by a third party, the agreement must identify the name, address and telephone number of, and provide for updating any change in, the entity responsible for approving the modification or transfer. | If modification or transfer is subject to review or approval, the agreement must identify the approver |
| 10. Include a disclosure, the receipt of which shall be separately acknowledged by the buyer or lessee, if a modification or transfer of ownership of the real property to which the distributed energy generation system is or will be affixed contains any restrictions pursuant to the agreement on the lessee's or buyer's ability to modify or transfer ownership of the real property to which the distributed energy generation | 10. Disclose any restrictions on subsequent modifications or transfer of ownership of the real property; must be separately acknowledged by the buyer/lessee |

system is installed or affixed, including whether any modification or transfer is subject to review or approval by a third party.

If the modification or transfer of the real property to which the distributed energy generation system is affixed or installed is subject to review or approval by a third party, the agreement must identify the name, address and telephone number of, and provide for updating any change in, the entity responsible for approving the modification or transfer.

If subject to review or approval, the agreement must identify the approver

11. Provide a full and accurate summary of the total costs under the agreement for maintaining and operating the distributed energy generation system over the life of the distributed energy generation system, including financing, maintenance and construction costs related to the distributed energy generation system.

11. Summarize the total costs for maintenance and operation

12. If the agreement contains an estimate of the buyer's or lessee's future utility charges based on projected utility rates, provide an estimate of the buyer's or lessee's future utility charges as impacted by potential utility rate changes ranging from at least a five percent annual decrease to at least a five percent annual increase from current utility costs applied to the duration of the agreement in one percent increments.

12. Estimate the buyer's or lessee's future utility charges

Any comparative estimates must be calculated by applying the entire rate change range to the duration of the agreement.

Comparative estimate requirements

13. Include a disclosure, the receipt of which shall be separately acknowledged by the buyer or lessee, that states:

13. Mandatory disclosure language; must be separately acknowledged by the buyer/lessee

Utility rates and utility rate structures are subject to change. These changes cannot be accurately predicted. Projected savings from your distributed energy generation system are therefore subject to change. Tax incentives are subject to change or termination by executive, legislative or regulatory action.

14. Comply with section 32-1158.

§ 44-1763(B)

If a document or sales presentation relating to a distributed energy generation system states or suggests that the distributed energy generation system will result in financial savings for a buyer or lessee, the document or sales presentation must substantiate the methodology used to calculate those savings and, if the document or sales presentation is intended for a specific potential buyer or lessee, reasonably quantify the cumulative savings expected for the duration of the agreement.

14. Contain minimum contract elements

Requirement to disclose basis for stated financial savings

§ 44-1763(C)

If a document or sales presentation relating to a distributed energy generation system contains financial savings comparative estimates or utility rate comparative estimates, the document or sales presentation must include historical utility rates for the immediately preceding period of time that is of the same duration as the proposed financing or lease period for the same class of utility customer in the same utility service territory as the prospective buyer or lessee.

Requirement to disclose basis for comparative estimates

These historical rates must be included in any comparative estimates.

Must include historical rates

§ 44-1763(D)

Before the maintenance or warranty obligations of a distributed energy generation system under an existing lease, financing or purchase agreement is transferred, the person who is currently obligated to maintain or warrant the distributed energy generation system must disclose the name, address and telephone number of the person who will be assuming the maintenance or warranty of the distributed energy generation system.

Before transferring maintenance or warranty obligations, mandatory disclosure of person assuming responsibilities

§ 44-1763(E)

If a document or sales presentation relating to a distributed energy generation system contains an estimate of the buyer's or lessee's future utility charges based on projected utility rates, the document or sales presentation must contain an estimate of the buyer's or lessee's future utility charges as impacted by potential utility rate changes ranging from at least a five percent annual decrease to at least a five percent annual increase from current utility costs applied to the duration of an agreement for the financing, sale or lease of a distributed energy generation system in one percent increments.

Requirement to disclose basis for future utility charge estimates

Any comparative estimates must be calculated by applying the entire rate change range to the duration of the agreement.

Mandatory calculation for comparative estimates

§ 44-1763(F) Recurring payments under a distributed energy generation system lease may not begin until the distributed energy generation system is energized and interconnected.

Recurring payments may not begin until the system is: 91) energized; and (2) interconnected

§ 44-1763(G) This section does not apply to an individual or company, acting through its officers, employees or agents, that markets, sells, solicits, negotiates or enters into an agreement for the sale, financing or lease of a distributed energy generation system as part of a transaction involving the sale or transfer of the real property to which the distributed energy generation system is or will be affixed.

§ 44-1763 inapplicable to sale, financing, or leasing of a distributed energy system that is part of a real property transaction

A.R.S. § 44-1764

Distributed energy generation systems; interconnection

Any person who seeks to install, energize or interconnect a distributed energy generation system must first submit a complete application for interconnection to the power grid to the utility that owns or operates the power grid at the point of interconnection.

Installers must submit application for interconnection to the appropriate Utility

A person shall not install, energize or interconnect the distributed energy generation system until the utility approves the application.

Prohibition against energizing or interconnecting until application is approved

If the utility does not approve or deny the application within sixty days after the filing date of the application, the distributed energy generation system may be installed.

If the utility fails to grant or deny the application within 60 days, the system may be installed

The application must disclose the current owner of the distributed energy generation system and the owner of the distributed energy generation system at the time the system will be energized.

Requirement to disclose the system's current owner and owner at time of energizing

The utility that owns or operates the power grid to which the distributed energy generation system is interconnected must receive notice of any changes in ownership of the distributed energy generation system.

Requirement to notify appropriate the utility of changes in the ownership of the system

A utility with less than seventy-five thousand customers, in its sole discretion, may waive any of the requirements of this section.

Utility with less than 75,000 customers may waive § 44-1764's requirements

List of Edits & Emendations

- Nov. 7, 2016** The Registrar prepared for publication this annotated statute booklet.
- Jan. 24, 2017** The Registrar corrected typographical errors in the section covering A.R.S. § 32-1105. Several section labels had read “11-3205” rather than “32-1105.”
- Oct. 18, 2017** The Registrar updated the statutes to conform to legislative changes which went into effect on August 9, 2017.
- Dec. 10, 2018** The Registrar updated the statutes to conform to legislative changes which went into effect on August 3, 2018.
- Aug. 27, 2019** The Registrar updated the statutes to conform to legislative changes which went into effect on August 27, 2019.