

# **Arizona Revised Statutes**

## **— Title 32 —**

### **Chapter 10:** Contractors



## Introduction

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## Introduction & Disclaimer

<b>Statutory Text</b>	<p>This booklet is published by the Arizona Registrar of Contractors. It contains the text of statutes from Chapter 10 of Title 32 of the Arizona Revised Statutes.</p> <p>Title 32 generally covers “Professions and Occupations.”</p> <p>Chapter 10 specifically covers “Contractors.”</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: <a href="http://www.azleg.gov/">http://www.azleg.gov/</a>.</p>	<p>Chapter 10 of Title 32 of the Arizona Revised Statutes</p> <p>Title 32: Professions &amp; Occupations Chapter 10: Contractors</p> <p>Statutory text is in the main column of this booklet</p> <p>Statutory text comes from the Legislature’s website</p>
<b>Information in the Margins</b>	<p>This booklet also contains notes in the margins. There are two kinds of margin notes:</p> <ol style="list-style-type: none"><li>1. The numbered subsections of the statutes.</li><li>2. Annotations summarizing the contents of the statute, sentence by sentence.</li></ol>	<p>Two kinds of margin notes:</p> <ol style="list-style-type: none"><li>1. Numbered subsections</li><li>2. Annotations summarizing the statute</li></ol>
<b>Purpose of Booklet</b>	<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"><li>• easy to read,</li><li>• easy to navigate, and</li><li>• easy to reference.</li></ul>	<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 &amp; easy to reference</p>

You must understand that this booklet is:

## **Important Disclaimer**

If you use this booklet, you need to understand the following points:

1. Not an official legal publication
  2. Not necessarily the most current version of the statutory text
  3. Not a replacement for, or a supplement to, the statutory text
  4. Not a comprehensive statement of applicable law
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# Article I

## 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 any combination, that, for compensation, undertakes to or offers to undertake to, purports to have the capacity to undertake to, submits a bid 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. Definition of “contractor”

3. “Contractor” 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:

(a) Contractor’s services

(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) Utility, metering & sewer connections

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

(c) Mechanical or structural service

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

4. Definition of “dual licensed 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 any combination, that undertakes to or offers to undertake to, purports to have the capacity to undertake to, submits a bid 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) Dual licensed contractor’s services

(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.

- (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.
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.
6. “Person” means an applicant, an individual, a member of a limited liability company, a qualifying party, any partner of a partnership or limited liability partnership or any officer, director, qualifying party, trustee of a trust, beneficiary of a trust or owner of at least twenty-five per cent of the stock or beneficial interest of a corporation.
7. “Registrar” means the registrar of contractors.
8. “Residential contractor” 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 undertakes to or offers to undertake to, purports to have the capacity to undertake to, submits a bid to, or does himself or by or through others, within residential property lines:
- (a) Construct, alter, repair, add to, subtract from, improve, move, wreck or demolish any residential structure, such as houses, townhouses, condominiums or cooperative units.
- Residential structures also include apartment complexes of four units or less and any appurtenances on or within residential property lines.
- (b) Utility, metering & sewer connections
  - (c) Mechanical or structural service
5. Definition of “license.” *See also* Arizona Administrative Code (“A.A.C.”) R4-9-101(B) for definition of “licensee.”
6. Definition of “person”
7. Definition of “Registrar”
8. Definition of “residential contractor”
- (a) Residential contractor’s services
- Apartment complexes with four units or less & appurtenances

(b) Utility, metering & sewer connections

(b) Connect such residential structure to utility service lines, metering devices or sewer lines.

(c) Mechanical or structural service

(c) Provide mechanical or structural service for any such residential structure.

Subcontractors & others included in definition of "contractor"

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

**§ 32-1101(B)**

Owner making improvements under A.R.S. § 32-1121(A)(5) not a "residential contractor"

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

**§ 32-1101(C)**

Only "contractors" licensed & regulated by Chapter 10

Only contractors as defined in this section are licensed and regulated by this chapter.

**§ 32-1101(D)**

### **A.R.S. § 32-1101.01 Local authority**

Licensing of contractors is a proper state function

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

Inapplicable to licenses before section's effective date

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.

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

Mandatory license classifications:

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

I. General commercial building contracting; per A.R.S. § 32-1121, materialmen & suppliers not included

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.

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.

2. General dual licensed contracting; per A.R.S. § 32-1121, materialmen & suppliers not included

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.

3. General engineering contracting

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.

4. General residential contracting; swimming-pool contractors included

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|--|---|
| 5. Specialty commercial contracting    | 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.             |
| 6. Specialty dual licensed 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.   |
| 7. Specialty residential 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. |

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

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

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

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|---|--|---------------------|
| Enumeration of Registrar's powers & duties: | The registrar, in addition to other duties and rights provided for in this chapter, shall:                                       | <b>§ 32-1104(A)</b> |
| I. Maintaining offices                      | 1. Maintain an office in Phoenix and in such other cities and towns in the state as the registrar deems advisable and necessary. |                     |

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

2. Maintaining indexed record for 7 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 cancellation or suspension, upon receipt of the prescribed fee, and such certified copy 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 upon receipt of the prescribed fee.

Furnishing certified copies of bonds or deposit certificates

Fees charged pursuant to this paragraph shall be at a rate of ten dollars per hour, except that the minimum fee charged pursuant to this paragraph shall be ten dollars.

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

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

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

Guidance from Arizona construction business

In the adoption of such rules of minimum standards, the registrar shall be guided by established usage and procedure as found in the construction business in this state.

Precedence of municipal & county building codes

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

6. Procedure for proposing rule changes:

6. Apply the following to proposed rule changes:

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

(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), and any other individual holding a bona fide contractor's license who qualifies in accordance with subdivision (b), a copy of the notice of proposed rule change.

(b) Qualification of trade association for notice

(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).

Biennial request for notice by trade association

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



	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 shall be made every two years during the month of January.	Biennial request for notice by licensed contractor
	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 committed by persons previously named on a license which has been revoked to the appropriate law enforcement agency or prosecuting authority.	8. Referral of criminal violations to law enforcement & prosecutors
<b>§ 32-1104(B)</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 the resolution of disputes in an informal process before a reportable written complaint is filed.	2. Dispute-resolution programs
	The registrar shall 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 shall 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

Notice of findings within 5 days	The registrar shall notify the contractor and the homeowner in writing of the registrar's findings within five days after the date of the inspection.	
Information not posted on Registrar's website	The registrar shall not post any information regarding the informal complaint process as part of a licensee's record on the registrar's web site.	
3. Construction-related programs	3. Develop, manage, operate and sponsor construction related programs designed to benefit the public in conjunction with other private and public entities.	
Authority to adopt rules for posting names & to furnish posting lists. <i>See also</i> A.A.C. R4-9-115	The registrar may adopt rules for the posting of names of applicants and personnel of applicants for contractors' licenses and furnish copies of such posting lists upon written request.	<b>§ 32-1104(C)</b>
20-day minimum posting period	The name and address of the applicant, together with the names and addresses and official capacity of all persons associated with the applicant who have signed the application, shall be publicly posted in the place and manner to be prescribed by the registrar for a period of not less than twenty days, except as otherwise provided in this subsection, commencing on the day designated by the registrar of contractors.	
Authority to waive posting period	The registrar may waive a part of the posting period when the records reflect that the applicant or qualifying party has previously undergone the twenty day posting for a previous license.	
Maximum \$2 monthly fee associated with posting lists	A reasonable charge of not to exceed two dollars per month may be made for compilation, printing and postage for such posting lists.	
Authority to accept gifts, grants, or monies for programs	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.	<b>§ 32-1104(D)</b>

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

- |                     |   |  |
|---------------------|---|--|
| <b>§ 32-1105(A)</b> | The registrar may adopt rules necessary to effect the classification of 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, to those divisions thereof 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. <i>See also</i> A.A.C. R4-9-107                 |
| <b>§ 32-1105(B)</b> | The registrar shall establish by rule license classifications for dual licensed contractors.<br><br>A contractor classified as a dual licensed contractor may perform equivalent construction work on both commercial and residential projects under a single license.<br><br>The registrar shall adopt rules necessary to establish the scope of work that may be done under the dual license classifications.                                 | Duty to establish dual license classifications<br><br>Single license for dual licensed contractor<br><br>Duty to establish scope of work for dual license classifications. <i>See also</i> A.A.C. R4-9-104 |
| <b>§ 32-1105(C)</b> | A licensee may apply for classification and be classified in more than one classification or division thereof after the licensee meets the qualifications prescribed by the registrar for such additional classification or classifications.<br><br>A single form of application shall be adopted for all licenses issued by the registrar.   | More than one classification permitted for licensee<br><br>Duty to adopt single application form for all licenses  |
| <b>§ 32-1105(D)</b> | Nothing in this chapter shall 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**

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

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.

Incorporation of 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.”

## **A.R.S. § 32-1107**

### **Registrar of contractors fund**

Establishment of fund

The registrar of contractors fund is established.

**§ 32-1107(A)**

Administration of fund

The registrar of contractors shall administer the fund.

All monies collected by Registrar to be deposited into fund; exception recovery-fund monies, cash bonds & civil penalties

The registrar shall deposit, pursuant to sections 35-146 and 35-147, all monies collected under this chapter, except monies collected for the residential contractors’ recovery fund and the contractors’ cash bond fund and monies received from civil penalties, as follows:

1. For 1994—1995:  
70% in Registrar’s fund &  
30% in state general fund
2. For 1995—1996:  
80% in Registrar’s fund &  
20% in state general fund

1. For fiscal year 1994-1995, seventy per cent in the registrar of contractors fund and thirty per cent in the state general fund.
2. For fiscal year 1995-1996, eighty per cent in the registrar of contractors fund and twenty per cent in the state general fund.

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

3. After 1996:  
90% in Registrar's fund &  
10% in state general fund

**§ 32-1107(B)**

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.

Duty to use deposited monies for carrying out powers, duties & chapter's purpose

Monies deposited in the registrar of contractors fund are subject to section 35-143.01.

Deposited monies subject to A.R.S. § 35-143.01

# Article 2

## Licensing

### A.R.S. § 32-1121

#### Persons not required to be licensed; penalties; applicability

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, either not installing or attaching items, or installing or attaching items not exceeding \$1,000; restrictions on such items

This chapter shall not be construed to 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. Trustees of an express trust that is not formed for the purpose of conducting business as a contractor or officers of a court, if they are acting within the terms of their trust or office.
3. Public utilities operating under regulation of the corporation commission or construction, repair or operation incidental to discovering or producing petroleum or gas, or the drilling, testing, abandoning or other operation of a petroleum or gas well, if performed by an owner or lessee.
4. Any materialman, manufacturer or retailer who furnishes finished products, materials or articles of merchandise and who does not install or attach such items or 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 one thousand dollars, 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 person, that can be plugged into a common household electrical outlet utilizing a two-pronged or three-pronged electrical connector and that

**§ 32-1121(A)**

does not use any other form of energy, including natural gas, propane or other petroleum or gaseous fuel, to operate or is attached by a nail, screw or other fastening device to the frame or foundation of any residential structure.

The materialman, manufacturer or retailer shall inform the purchaser that the installation may also be performed by a licensed contractor whose name and address the purchaser may request.

Duty to inform purchaser

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.

5. Property owners improving or building on their property; restrictions

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.

Prima facie evidence of purpose of sale or rent; exception

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.

Breadth of terms "sale" & "rent"

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

6. Property owners acting as developers; restrictions

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

Contractors' names & license numbers required in sales documents

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

7. Architects & engineers for preconstruction activities including:

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 utilities

(a) Subsurface utility location and designation services.

(b) Potholes

(b) Potholing.

(c) Drilling for:

(c) Drilling for any of the following:

(i) Soil samples

(i) Soil samples.

(ii) Rock samples

(ii) Rock samples.

(iii) Pavement samples

(iii) Pavement samples.

(d) Locating building features

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

8. Pest management services

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

9. 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.

This exemption does not apply if a local building permit is required, if the total price of the finished product, material or article of merchandise, including labor but excluding any electrical fixture or appliance that was designed by the manufacturer, that is unaltered, unchanged or unmodified by any person, that can be plugged into a common household electrical outlet utilizing a two pronged or three pronged electrical connector and that does not use any other form of energy, including natural gas, propane or other petroleum or gaseous fuel, to operate or is attached by a nail, screw or other fastening device to the frame or foundation of any residential structure, is more than one thousand dollars or if the removal of the finished product, material or article of merchandise causes damage to the structure or renders the structure unfit for its intended use.

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

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.
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.
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, provided all construction work is performed by duly licensed contractors.

10. Employees of owners & management agents for condominiums, townhouses, cooperative units & apartment complexes of four units or less
11. Employees of exempt property owners & employees receiving wages
12. Sureties using licensed contractors to undertake completion of bonded contract

13. Insurance companies using licensed contractors to undertake completion of bonded contract

14. The “Handyman Exemption” — Unlicensed person undertaking work with aggregate contract price of less than \$1,000; restrictions

Exemption applicable only to casual or minor work

Exemption inapplicable if:

(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

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, provided all construction work is performed by duly licensed contractors.

14. 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, 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 person, that can be plugged into a common household electrical outlet utilizing a two-pronged or three-pronged electrical connector and that does not use any other form of energy, including natural gas, propane or other petroleum or gaseous fuel, to operate or is attached by a nail, screw or other fastening device to the frame or foundation of any residential structure, is less than one thousand dollars.

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

This exemption does not apply:

(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 one thousand dollars, excluding any electrical fixture or appliance that was designed by the manufacturer, that is unaltered, unchanged or unmodified by any person, that can be plugged into a common household electrical outlet utilizing a two-pronged or three-pronged electrical

connector and that does not use any other form of energy, including natural gas, propane or other petroleum or gaseous fuel, to operate or is attached by a nail, screw or other fastening device to the frame or foundation of any residential structure, for the purpose of evasion of this chapter or otherwise.

(c) To a person who utilizes 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.

(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.

15. Persons licensed by Department of Fire, Building & Life safety & not otherwise required to be licensed by Chapter 10

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

16. Gardeners

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

17. Alarm agents

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

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. Fire safety installation & fire safety maintenance and repair

Definition of "fire safety installation"

Exclusion from "fire safety maintenance and repair"

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

Provision on liquefied petroleum gas containers unaffected

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.

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.

For the purposes of this paragraph, fire safety maintenance and repair does not include routine work that is conducted by an employee of an apartment or condominium complex and that is incidental to the fire safety equipment.

2. All work that is done, including the installation, maintenance and repair of devices, appliances or equipment, that involves the connecting to any supply of natural gas, propane or other petroleum or gaseous fuel.

Nothing in this paragraph impacts the effect of section 36-1624.01.

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

Registrar's exclusive authority to issue contractors' licenses

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

**§ 32-1122(A)**

Registrar's duties:

The registrar shall:

1. Classification & qualification of applicants  
2. Reclassification of licenses to maintain liability on a bond. *See also* A.A.C. R4-9-107

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. Necessary investigations

3. Conduct investigations the registrar deems necessary.

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

**§ 32-1122(B)**

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

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 and shall advise the registrar of any change in the information within thirty days:
  - (a) A designation of the classification of license that is sought by the applicant.
  - (b) If the applicant is an individual, 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 corporation, an association or any other organization, the names and addresses of the president, vice-president, if any, secretary and treasurer or the names and addresses of the functional equivalent of these officers, the directors and the owners of twenty-five percent or more of the stock or beneficial interest.
  - (e) The name and address of the qualifying party.
  - (f) If the applicant is a corporation, evidence that the corporation is in good standing with the corporation commission.
  - (g) 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) Proof that the applicant has complied with the statutes or rules governing workers' compensation insurance.

4. Establishment of written examinations necessary for public health & safety. *See also* A.A.C. R4-9-106(D).  
Duties of applicants in obtaining or renewing licenses:

- I. Submission of verified application. *See also* A.A.C. R4-9-113(A); advise Registrar within 30 days of changes in mandatory information:
  - (a) Designation of license classification sought
  - (b) Name & address of a sole proprietor
  - (c) Names & addresses of partners; designation of limited partners
  - (d) For business organizations: names & addresses of officers, directors & any owners of 25% or more
  - (e) Qualifying party's name & address
  - (f) Evidence of good standing with Arizona Corporation Commission
  - (g) Location of place of business & mailing address
  - (h) Proof of compliance with workers' compensation rules & statutes

2. Submission of appropriate bond & fee

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

Financial statement required for swimming-pool contractors

Notwithstanding any other law, a swimming pool contractor shall also submit a detailed statement of current financial condition as required by this subsection.

Requirement of good character & reputation

To obtain or renew a license under this chapter, each person shall be of good character and reputation.

**§ 32-1122(C)**

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 issued by another state

Lack of good character and reputation may be established by showing that a person has 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 contractor’s license that was suspended or revoked in another state.

Actions & circumstances constituting disqualifications for a license: (1) having a license refused or revoked within 1 year of application; (2) engaging in unlicensed contracting within 1 year of application; (3) submitting bids while unlicensed within 1 year of application; (4) acting as contractor between applying for & actually receiving a license

To obtain a license under this chapter, a person shall not have had a license refused or revoked, within one year before the person’s application, or shall not have engaged in the contracting business, nor shall the person have submitted a bid without first having been licensed within one year before the person’s application, nor shall a person act as a contractor between the filing of the application and actual issuance of the license.

**§ 32-1122(D)**

Registrar’s authority to excuse those actions & circumstances if: (1) reasonable doubt about licensure or (2) no unremedied hardship, danger, or loss to public

The registrar may find any of those actions or circumstances to be excusable if there was reasonable doubt as to the need for licensure or the actions of the applicant did not result in an unremedied hardship or danger or loss to the public.

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

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.

Qualifying party’s requirements:

Before a license is issued, the qualifying party shall:

**§ 32-1122(E)**

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

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.

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.

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.

The registrar may waive the work experience documentation and verification or 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.

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.

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

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

Registrar's authority to waive work-experience documentation & verification, or the examination, if qualifying party is or was already a qualifying party in Arizona in same classification within preceding 5 years. *See also* A.A.C. R4-9-106(D).

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

Registrar's duty to maintain multiple versions of examination

The registrar shall maintain multiple versions of examinations for each type of license that requires an examination.

Prohibition against issuing contractor's license to a minor

No license shall 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.

**§ 32-1122(F)**

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

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.

**§ 32-1122(G)**

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

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.

Authority of DPS to share fingerprint data with FBI

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

**A.R.S. § 32-1123**

**Unlicensed contractors; contract bidding; license denial; exemptions; warning**

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

Except as provided in subsection D of this section, if an entity that is not licensed pursuant to this chapter bids on a contract for a project with an aggregate worth of more than one thousand dollars, excluding any electrical fixture or appliance that was designed by the manufacturer, that is unaltered, unchanged or unmodified by any person, that can be plugged into a common household electrical outlet utilizing a two pronged or three pronged electrical connector and that does not use any other form of energy, including natural gas, propane or other petroleum or gaseous fuel, to operate or is attached by a nail, screw or other fastening device to the frame or foundation of any residential structure, the registrar shall not issue the entity a license pursuant to this chapter for one year after the date of the bid.

**§ 32-1123(A)**

§ 32-1123 inapplicable to:

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

**§ 32-1123(B)**



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)** If an 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 one thousand dollars, excluding any electrical fixture or appliance that was designed by the manufacturer, that is unaltered, unchanged or unmodified by any person, that can be plugged into a common household electrical outlet utilizing a two pronged or three pronged electrical connector and that does not use any other form of energy, including natural gas, propane or other petroleum or gaseous fuel, to operate or is attached by a nail, screw or other fastening device to the frame or foundation of any residential structure, and less than twenty thousand dollars, the registrar shall issue the entity a written warning relating to the unlicensed activity if the registrar has not previously issued the entity a warning.

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

### **A.R.S. § 32-1123.01 Staggered periods of licensure; biennial renewal**

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

From and after January 1, 1993, the registrar shall implement a system for biennial license renewal and provide for proration of license renewal fees for that purpose.

After Jan. 1, 1993, Registrar's duty to implement system for biennial license renewal

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

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

petition by a contractor claiming that the biennial requirements would cause a real and immediate hardship.

Contractor's real & immediate hardship established by detailed financial statement

The written petition shall include a detailed statement of the contractor's current financial condition containing information that is required by the registrar on a form furnished by or acceptable to the registrar.

Registrar's duty to notify contractor in writing of decision & to specify terms of exception

The registrar shall notify the contractor in writing of the decision and shall specify the terms of the exception if granted.

Failure to provide financial statement as grounds for denial

Failure of the contractor to provide a detailed statement of current financial condition is grounds for denial.

### **A.R.S. § 32-1124**

#### **Issuance and display of license; suspension**

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

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 from 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.

**§ 32-1124(A)**

Signature of licenses & renewals by Registrar (or designee) and by licensee

Licenses issued under this chapter and any renewals shall be signed by the registrar or the registrar's designated representative and by the licensee.

**§ 32-1124(B)**

License nontransferable; evidence of possession on demand. *See also* A.A.C. R4-9-109.

The license shall be nontransferable, and satisfactory evidence of possession shall be exhibited by the licensee on demand.

The license number appearing on any licenses held by the licensee shall 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.

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

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.

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

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.

For § 32-1124, trade-association directory distributed solely to association members not considered “advertising”

**§ 32-1124(C)** If an application for a license is denied for any reason provided in this chapter, the application fee paid by the applicant shall be forfeited and deposited pursuant to section 32-1107.

Forfeiture of application fee if application is denied; deposit of forfeited fee under § 32-1107

A reapplication for a license shall be accompanied by the fee fixed by this chapter.

Reapplication for license requires fee

**§ 32-1124(D)** 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.

Registrar’s duty to issue a single license certificate showing all licenses & expiration dates, if requested by licensee

**§ 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

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

- 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. Licensed entity lacks authority to do business in Arizona
- 3. Insufficient-funds check used to obtain or renew a license  
License remains suspended until Registrar receives certified check, money order, or cash

The registrar shall suspend by operation of law a license issued under this chapter if any of the following occurs:

- 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.
- 2. The licensed entity does not have authority to do business in this state.
- 3. The license is obtained or renewed with an insufficient funds check.  
The license remains suspended until the registrar receives a certified check, a money order or cash as payment for the license fees and assessments.

**§ 32-1124(F)**

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

Registrar prohibited from releasing the following information:

- 1. Residential address or residential telephone number;
- 2. E-mail address; and

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:

- 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.
- 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.

**§ 32-1124.01(A)**

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 shall be suspended on the day following its renewal date by operation of law.

License suspended by operation of law day after renewal date. *See also* A.A.C. R4-9-116; exception: 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 shall authorize 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 which 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 payment of the application fee in the amount provided for renewal in this chapter in addition to a fifty dollar fee.

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

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

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

Licensee permitted to apply for qualifying-party exemption

A licensee may make written application to the registrar for exemption from a qualifying party.

**§ 32-1125(C)**

Satisfactory showing that within past 5 years:

The applicant shall show to the satisfaction of the registrar that during the past five years:

- 1. License in effect
- 2. No transfer of 50% or more of ownership
- 3. No more than 5 valid & unresolved complaints

- 1. The license has been in effect.
- 2. A transfer of ownership of fifty per cent or more of the stock, if applicable, or beneficial interest, in the licensee has not occurred.
- 3. No more than five valid complaints which have not been resolved by the licensee, as determined by the registrar, have been filed against the licensee.

Approval or denial within 30 days

The application shall be approved or denied within thirty days after its receipt.

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

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

Exemption immediately effective on application's approval

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

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

A licensee which 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:

**§ 32-1125(D)**

- 1. Transfer of 50% or more of ownership
- 2. Violation of § 32-1154

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

**A.R.S. § 32-1125.01**  
**Inactive license**

<b>§ 32-1125.01(A)</b>	<p>A contractor may request the registrar, on forms prescribed by the registrar, to inactivate his current license for a period not to exceed five years at one time by giving written notice to the registrar.</p> <p>The registrar may, in the absence of any disciplinary proceeding or disciplinary suspension and upon payment of reasonable fees determined by the registrar, issue to the contractor an inactive license certificate.</p> <p>The inactive license certificate may consist of an endorsement upon the contractor's license stating that the license is inactive.</p> <p>The registrar may not refund any of the license renewal fee which a contractor paid prior to requesting inactive status.</p>	<p>Contractor's right to request in writing the inactivation of a current license for 5 years</p> <p>Absent a disciplinary proceeding or a suspension, Registrar's authority to issue an inactive-license certificate, subject to payment of reasonable fees</p> <p>Permission for the inactive-license certificate to consist of endorsement on license</p> <p>Prohibition against Registrar refunding a license-renewal fee after an inactivation request</p>
<b>§ 32-1125.01(B)</b>	<p>A contractor's license which is not suspended or revoked and is inactive may be reactivated as an active license upon payment of the current renewal fee and thirty days' written notice to the registrar.</p> <p>No examination may be required to reactivate an inactive license.</p> <p>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.</p> <p>No contractor may inactivate the license more than twice.</p>	<p>Reactivation of license on (1) payment of renewal fee &amp; (2) 30 days' written notice</p> <p>Prohibition against examination as condition of reactivation</p> <p>After 5 years of license being inactive, a new license application required; exception: contractor requests additional inactive period of 5 years or less</p> <p>Limitation: only 2 inactivations</p>
<b>§ 32-1125.01(C)</b>	<p>The holder of an inactive license shall not practice as a contractor until his license is reactivated as an active license.</p>	<p>Prohibition against contracting until license reactivated</p>
<b>§ 32-1125.01(D)</b>	<p>The inactive status of a contractor's license shall not bar any disciplinary action by the registrar against a licensed contractor for any of the grounds stated in this chapter.</p>	<p>Inactive status not a bar to disciplinary action</p>

## A.R.S. § 32-1126 Fees

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

The license fees prescribed by this chapter shall be as follows:

**§ 32-1126(A)**

1. Original biennial license:
    - (a) General residential contracting & subclassifications: \$500 or less
    - (b) General commercial contracting & subclassifications: \$1,500 or less
    - (c) General dual licensed contracting: \$2,000 or less
    - (d) Specialty residential contracting: \$350 or less
    - (e) Specialty commercial contracting: \$1,000 or less
    - (f) Specialty dual licensed contracting: \$1,350 or less
  2. Biennial license renewal:
    - (a) General residential contracting & subclassifications: \$320 or less
    - (b) General commercial contracting & subclassifications: \$1,000 or less
    - (c) General dual licensed contracting: \$1,320 or less
1. Application and license fees for an original biennial license:
    - (a) For general residential contracting and subclassifications of general residential contracting, not more than five hundred dollars.
    - (b) For general commercial contracting and subclassifications of general commercial contracting, not more than one thousand five hundred dollars.
    - (c) For general dual licensed contracting, not more than two thousand dollars.
    - (d) For specialty residential contracting, not more than three hundred fifty dollars.
    - (e) For specialty commercial contracting, not more than one thousand dollars.
    - (f) For specialty dual licensed contracting, not more than one thousand three hundred fifty dollars.
  2. Biennial license renewal fee:
    - (a) For general residential contracting and subclassifications of general residential contracting, not more than three hundred twenty dollars.
    - (b) For general commercial contracting and subclassifications of general commercial contracting, not more than one thousand dollars.
    - (c) For general dual licensed contracting, not more than one thousand three hundred twenty dollars.



	(d) For specialty residential contracting, not more than two hundred seventy dollars.	(d) Specialty residential contracting: \$270 or less
	(e) For specialty commercial contracting, not more than nine hundred dollars.	(e) Specialty commercial contracting: \$900 or less
	(f) For specialty dual licensed contracting, not more than one thousand one hundred seventy dollars.	(f) Specialty dual licensed contracting: \$1,170 or less
<b>§ 32-1126(B)</b>	The fee for an annual license renewal granted pursuant to section 32-1123.01 shall be one-half of the biennial license renewal fee.	Renewal fee under § 32-1123.01 equals one-half the biennial license renewal fee
<b>§ 32-1126(C)</b>	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
<b>§ 32-1126(D)</b>	The penalty for failure to apply for renewal of a license within the time prescribed by this chapter shall be fifty dollars.	\$50 penalty for failure to renew
<b>§ 32-1126(E)</b>	The registrar may establish a separate fee for examination.	Registrar's authority to establish an examination fee
<b>§ 32-1126(F)</b>	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

**A.R.S. § 32-1127**  
**Responsible managing employee and**  
**qualifying party; definitions**

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

“Qualifying party” equivalent to “responsible managing employee”; definition of QP as licensee’s regularly employed employee actively engaged in the classification of the licensee’s work

Prohibition against qualifying party taking any employment conflicting with qualifying-party duties or ability to adequately supervise licensee's work

While engaged as a qualifying party for a licensee, the qualifying party shall 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.

Permission for licensee's qualifying party to act as qualifying party for additional licensee, as long as:

Such person may act in the capacity of the qualifying party for one additional licensee if one of the following conditions exists:

- 1. Common ownership of at least 25% between the licensed entities
- 2. One licensee is subsidiary of the other licensee

- 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.
- 2. One licensee is a subsidiary of another licensee for which the same person acts in a qualifying capacity.

Definition of "subsidiary"

"Subsidiary" as used in this section means a corporation of which at least twenty-five per cent is owned by the other licensee.

### **A.R.S. § 32-1128 Asbestos educational pamphlet**

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

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.

**§ 32-1128(A)**

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

The registrar shall distribute asbestos educational pamphlets with each contractor's license or license renewal.

**§ 32-1128(B)**

### **A.R.S. § 32-1129 Definitions; applicability**

Definitions for certain sections:

In sections 32-1129.01, 32-1129.02, 32-1129.03, 32-1129.04, 32-1129.05 and 32-1129.07, unless the context otherwise requires:

**§ 32-1129(A)**

- |   |  |
|---|--|
| <p>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.</p>   | <p>1. Definition of “construction contract”</p>  |
| <p>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.</p>  | <p>2. Definition of “contractor”</p>   |
| <p>3. “Final completion” means the earliest of the following:</p> <p style="margin-left: 40px;">(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.</p> <p style="margin-left: 40px;">(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.</p> | <p>3. Definition of “final completion” as earliest of:</p> <p style="margin-left: 40px;">(a) Completion</p> <p style="margin-left: 40px;">(b) Date of final inspection &amp; written acceptance by governmental body</p> |
| <p>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.</p>                                   | <p>4. Definition of “owner”</p>  |
| <p>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.</p>  | <p>5. Definition of “retention”</p>  |

6. Definition of “subcontractor”

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.

7. Definition of “substantial completion” as earliest of:

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

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

(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.

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

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.

(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

(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.

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

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"

**§ 32-1129(B)** The definitions in this section do not apply to section 12-552.

Definitions inapplicable to § 12-552

**A.R.S. § 32-1129.01**  
**Progress payments by owner; conditions; interest**

**§ 32-1129.01(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 during the preceding thirty day billing cycle, or such other billing cycle as stated in the construction contract.

Basis of progress payment: duly certified & approved billing or estimate for work & materials supplied in preceding 30-day billing cycle

If billings or estimates are to be submitted in other than thirty day billing cycles, the construction contract and each page of the plans, including bid plans and construction plans, shall specifically identify such other 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 § 32-1129.01(B)

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

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 § 32-1129.01(C), owner's duty to make progress payments within 7 days after the billing or estimate is certified & approved under § 32-1129.01(D)

Subject to § 32-1129.01(C), owner's duty to release retention within 7 days after the billing or estimate for release of retention is certified & approved under § 32-1129.01(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 § 32-1129.01(C), owner's duty to make final payment within 7 days after the billing or estimate is certified & approved under § 32-1129.01(K)

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.

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:

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:

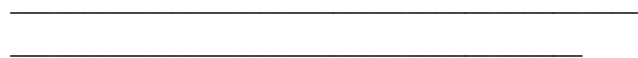
**§ 32-1129.01(B)**

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

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:

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. 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

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:

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.

**§ 32-1129.01(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.

**§ 32-1129.01(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.

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

Subject to § 32-1129.01(D), 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

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

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

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

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:

1. Unsatisfactory job progress
2. Defective work or materials not remedied
3. Disputed work or materials
4. Failure to comply with material provisions of contract
5. Filing, or reasonable evidence of future filing, of third-party claim
6. Failure to timely pay for labor, equipment, or materials
7. Damage to owner
8. Reasonable evidence that contract cannot be completed for unpaid balance

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.

Limitation on owner's withholding: only an amount to pay direct costs the owner reasonably expects to incur to protect from loss for which the contractor is responsible & resulting from written reasons issued under § 32-1129.01(D)

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.

**§ 32-1129.01(E)**

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

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:

**§ 32-1129.01(F)**

1. Contract clearly, conspicuously & specifically provides for extended period for certification & approval defined by specified number of days

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.

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.

**§ 32-1129.01(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

**§ 32-1129.01(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 § 32-1129.01(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 billing or estimate is deemed received on submission to person designated by owner for receipt or for certification & approval

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.

Owner permitted to:

The owner may:

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 § 32-1129.01(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 § 32-1129.01(H)

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 per cent 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.

Subject to § 32-1129.01(C) and § 32-1129.01(H), owner's duty to pay retention within 7 days of certification & approval

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.

**§ 32-1129.01(I)**

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

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

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

**§ 32-1129.01(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 § 32-1129.01(H) after substantial completion of all work having a separate price

**§ 32-1129.01(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 § 32-1129.01(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 per cent 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 § 32-1129.01(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 § 32-1129.01(K)

**§ 32-1129.01(L)** Except as provided in subsection C of this section, the owner shall make final payment to the contractor within seven days

Subject to § 32-1129.01(C), owner's duty to make final payment within 7 days after the billing or estimate is certified & approved

after the date the billing or estimate for final payment is certified and approved.

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

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

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

Subject to § 32-1129.01(C), owner's duty to make final payment within 7 days after the federal agency's final certification or approval

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.

**§ 32-1129.01(M)**

Contractor's right to submit billing or estimate under § 32-1129.01(K) after completion of all work having a separate price

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.

**§ 32-1129.01(N)**

Payment not required under § 32-1129.01 unless billing or estimate provided per terms of construction contract

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.

**§ 32-1129.01(O)**

Rights to prompt & timely payment under this Article may not be altered by construction contract

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.

**§ 32-1129.01(P)**

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

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 per cent a month or

**§ 32-1129.01(Q)**

fraction of a month on the unpaid balance, or at a higher rate as the parties to the construction contract agree.

**§ 32-1129.01(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

**§ 32-1129.01(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 § 32-1129.01

**§ 32-1129.01(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

**§ 32-1129.01(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 32-1129, if:

Owner may redefine certain statutory terms if:

1. The construction contract in a clear and conspicuous manner 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.

1. Contract clearly & conspicuously defines the terms
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 meaning of “retention,” “substantial completion” & “final completion” are found

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.

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:

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:

**§ 32-1129.01(V)**

1. Contract clearly & conspicuously establishes different timing and payment due dates

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

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

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

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.

Statutory legend

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

**§ 32-1129.01(W)**

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. § 32-1129.02**  
**Performance and payment by contractor,  
subcontractor or material supplier;  
conditions; interest**

**§ 32-1129.02(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

**§ 32-1129.02(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

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

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.

Violations of § 32-1129.02 are grounds for disciplinary action

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.

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

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 withhold application or certification for payment for following reasons:

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:

**§ 32-1129.02(C)**

1. Unsatisfactory job progress
2. Defective work or materials not remedied
3. Disputed work or materials
4. Failure to comply with material provisions of contract
5. Filing, or reasonable evidence of future filing, of third-party claim
6. Failure to timely pay for labor, equipment, or materials
7. Damage to owner

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 subcontractor to make timely payments for labor, equipment and materials.
7. Damage to a contractor or another subcontractor or material supplier.



8. Reasonable evidence that the subcontract cannot be completed for the unpaid balance of the subcontract sum.
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.

8. Reasonable evidence that subcontract cannot be completed for unpaid balance
9. Owner has withheld retention; limitation: amount withheld by contractor cannot exceed amount retained by owner

**§ 32-1129.02(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

**§ 32-1129.02(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

**§ 32-1129.02(F)**

If the owner issues a written statement pursuant to section 32-1129.01, 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 must send a copy of owner's written statement to any affected subcontractor or material supplier within 7 days

subcontractor shall send a copy of that written statement within seven days after receipt to any of its affected subcontractors or material suppliers.

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

If the owner issues a written statement pursuant to section 32-1129.01, 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 32-1129.01, subsection A.

**§ 32-1129.02(G)**

No limitation on subcontractor's right to suspend performance

This subsection does not limit a subcontractor's rights to suspend performance under a construction contract or terminate a construction contract under section 32-1129.04, subsection D.

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

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 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 per cent per month or a fraction of a month on the unpaid balance or at such higher rate as the parties agree.

**§ 32-1129.02(H)**

When a complaint is filed with the Registrar under A.R.S. § 32-1129.02, a surety bond or cash deposit of at least \$500 is required

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 five hundred dollars or one-

**§ 32-1129.02(I)**

half of the amount due, whichever is less, with the registrar to secure the payment of claims under this section.

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 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.

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.

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.

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

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

The cash deposit shall be deposited, pursuant to sections 35-146 and 35-147, by the registrar in the contractors prompt pay complaint fund and shall be held for the payment of claims.

**§ 32-1129.02(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.

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

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

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

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

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

Evidence of surety bond

Cash deposit deposited into prompt pay complaint fund

Attorney fees & costs awarded to successful party in action or arbitration under § 32-1129.02

**A.R.S. § 32-1129.03**  
**Interruption of performance of construction contract; damages; termination of contract**

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. Law or rule prohibits contractor from removing or containing hazardous materials or substances
2. Removal of hazardous material or substance requires cessation

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

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

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

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:

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.

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.

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.

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.

**§ 32-1129.03(A)**

**§ 32-1129.03(B)**

**§ 32-1129.03(C)**

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. § 32-1129.03 does not affect any rights or remedies otherwise existing between parties

**§ 32-1129.03(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 § 32-1129.03(C)

**A.R.S. § 32-1129.04**  
**Construction contracts; suspension of performance; termination**

**§ 32-1129.04(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 32-1129.01.

Contractor's right to suspend performance or terminate contract when owner fails to make timely payment under § 32-1129.01

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 § 32-1129.04(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

**§ 32-1129.04(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 32-1129.01 for the subcontractor's work and the contractor fails to pay the subcontractor for the certified and approved work.

Subcontractor's right to suspend performance or terminate contract when owner fails to make timely payment under § 32-1129.01, and contractor fails to pay for certified & approved work

Unless shorter notice period is prescribed, subcontractor must provide written notice at least 3 days before intended suspension or termination

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.

Suspending performance or terminating contract under § 32-1129.04(B) not a breach of construction contract

A subcontractor shall not be deemed in breach of a construction contract for suspending performance or terminating a construction contract pursuant to this subsection.

Contract cannot extend time period for subcontractor to suspend performance or terminate a 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.

Subcontractor's right to suspend performance or terminate contract when owner does make timely payment under § 32-1129.01, but contractor fails to pay for certified & approved work

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 32-1129.01 for the subcontractor's work but the contractor fails to pay the subcontractor for the certified and approved work.

**§ 32-1129.04(C)**

Unless shorter notice period is prescribed, subcontractor must provide written notice at least 7 days before intended suspension or termination

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.

Suspending performance or terminating contract under § 32-1129.04(C) not a breach of construction contract

A subcontractor shall not be deemed in breach of a construction contract for suspending performance or terminating a construction contract pursuant to this subsection.

Contract cannot extend time period for subcontractor to suspend performance or terminate a 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.

<b>§ 32-1129.04(D)</b>	<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 32-1129.01 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>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>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>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>Subcontractor's right to suspend performance or terminate contract if owner declines to approve and certify portions of contractor's billing under § 32-1129.01 for subcontractor's work, but reasons for failure are not the fault of or directly related to the subcontractor's work</p> <p>Unless shorter notice period is prescribed, subcontractor must provide written notice at least 7 days before intended suspension or termination</p> <p>Suspending performance or terminating contract under § 32-1129.04(D) not a breach of construction contract</p> <p>Contract cannot extend time period for subcontractor to suspend performance or terminate a construction contract</p>
<b>§ 32-1129.04(E)</b>	<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 not required to furnish labor, materials or services until paid certified &amp; approved amount plus any costs incurred for mobilization due to project's shutdown or start-up</p>
<b>§ 32-1129.04(F)</b>	<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 &amp; costs awarded to successful party in action or arbitration under § 32-1129.04</p>
<b>§ 32-1129.04(G)</b>	<p>Written notice required under this section shall be deemed to have been provided if either of the following occurs:</p> <ol style="list-style-type: none"> <li>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.</li> </ol>	<p>Written notice is deemed provided if either of the following occurs:</p> <ol style="list-style-type: none"> <li>1. Written notice delivered in person to individual, member of entity, or officer of corporation</li> </ol>

2. Written notice delivered at or sent by any means that provides third-party verification

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

**A.R.S. § 32-1129.05**  
**Construction contracts; void provisions**

Following provisions are against public policy and void & unenforceable:

The following are against this state’s public policy and are void and unenforceable:

**§ 32-1129.05(A)**

- 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 § 32-1129, § 32-1129.01, or § 32-1129.02

- 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 32-1129, 32-1129.01 or 32-1129.02.

Any alternative dispute resolution arising from a construction contract for work performed in this state must be held in Arizona

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.

**§ 32-1129.05(B)**

**A.R.S. § 32-1129.06**  
**Applicability to state and political subdivisions**

State & political subdivisions exempt

Sections 32-1129.01, 32-1129.02, 32-1129.04 and 32-1129.05 do not apply to this state or political subdivisions of this state.



**A.R.S. § 32-1129.07**  
**Applicability to construction of a dwelling for  
an owner-occupant; definitions**

**§ 32-1129.07(A)** The requirements in section 32-1129.01 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. § 32-1129.01 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 32-1129.07)

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 section 32-1129, Arizona Revised Statutes, and sections 32-1129.01 through 32-1129.07, Arizona Revised Statutes.

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.

Terms “dwelling” & “owner-occupant” have same meaning found in A.R.S. § 33-1002

For the purposes of this section, “dwelling” and “owner-occupant” have the same meanings prescribed in section 33-1002.

**§ 32-1129.07(B)**

# 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. "Person injured":
  - (a) Means any owner of residential real property that is either noncommercial historic property as defined in section 41-12101 or classified as class three property under section 42-12003.

The property must also be actually occupied or intended to be occupied by the owner as a residence including community property, tenants in common or joint tenants who are damaged by the failure of a residential contractor or a dual licensed contractor to adequately build or improve a residential structure or appurtenance on that real property.

- (b) Includes lessees of residential real property who contract directly with a residential contractor or indirectly with a subcontractor of that contractor and homeowners' or unit owners' associations after transfer of control from the builder or developer for damages to the common elements within the complex.
4. "Residential contractor" means a contractor as defined in section 32-1101 who is licensed to perform work on

Definitions for Article 2.1:

1. Definition of "assessment"
2. Definition of "fund"
3. Definition of "person injured"
  - (a) Owner of noncommercial historic property or class three property  
  
Property is actually occupied or intended to be occupied & owner is damaged by licensee
  - (b) Lessees of residential real property & associations
4. Definition of "residential contractor"

residential property pursuant to this chapter and who engages in residential contracting.

**A.R.S. § 32-1132**  
**Residential contractors' recovery fund**

**§ 32-1132(A)**

Establishment of recovery fund for persons injured by licensed residential contractors

The residential contractors' recovery fund is established, to be administered by the registrar, from which any person injured 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 may be awarded in the county where the violation occurred an amount of not more than thirty thousand dollars for damages sustained by the act, representation, transaction or conduct.

\$30,000 maximum award

Actual damages limitation on awards from recovery fund

An award from the fund is limited to the actual damages suffered by the claimant as a direct result of the contractor's violation but shall not exceed an amount necessary to complete or repair a residential structure or appurtenance within residential property lines.

No bids or work supplied by unlicensed entities

Actual damages shall not be established by bids supplied by or the value of work performed by a person or entity that is not licensed pursuant to this chapter and that is required to be licensed pursuant to this chapter.

Deposit & down payment cases

If the claimant has paid a deposit or down payment and no actual work is performed or materials are delivered, the award of actual damages shall not exceed the exact dollar amount of the deposit or down payment plus interest at the rate of ten per cent a year from the date the deposit or down payment is made or not more than thirty thousand dollars, whichever is less.

Interest paid only by order of court

Interest shall not be paid from the fund on any other awards under this chapter unless ordered by a court of competent jurisdiction.

Award unavailable if contractor not duly licensed

An award from the fund shall not be available to persons injured by an act, representation, transaction or conduct of a residential contractor who was not licensed pursuant to this

chapter or whose license was in an inactive status, expired, cancelled, revoked, suspended or not issued at the time of the contract.

No more than the maximum individual award from the fund shall be made on any individual residence or to any injured person.

Limitation on maximum individual award

Notwithstanding any other provision of law, monies in the residential contractors' recovery fund shall not be directly awarded for attorney fees or costs except in contested cases appealed to the superior court.

Limitation on attorney fees & costs

**§ 32-1132(B)** Except as provided in section 32-1152, subsection C, every person making application for a contractor's license or for renewal of a contractor's 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 fund.

Assessment of \$600 every 2 years

In the event that the registrar does not issue the license, this assessment shall be returned to the applicant.

Return of assessment if the license is not issued

### **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.

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

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 per cent 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 injured persons which may result in collection from the recovery fund.

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

Notwithstanding section 32-1135, the registrar may expend interest monies from the fund to increase public awareness of the fund. This expenditure shall not exceed fifty thousand dollars in any fiscal year.

**§ 32-1134(B)**

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

Satisfaction of unpaid claims based on the priority of filing certified copy of court order

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 the time of filing a certified copy of the court order with the registrar.

**A.R.S. § 32-1135  
Deposit of assessments**

Assessments to be held in trust

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

Investment & divestment of monies in the recovery fund

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.

**A.R.S. § 32-1136**  
**Statute of limitations; recovery from fund**

**§ 32-1136(A)**

An action for a judgment that may subsequently result in an order for collection from the fund shall not be commenced later than two years from 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

When any injured person commences action for a judgment that may result in collection from the fund, the injured person shall notify the registrar in writing to this effect at the time of the commencement of the action.

Notice to Registrar required at commencement of civil action

The registrar at any time may intervene in and defend any such action.

Registrar's right to intervene at any time

**§ 32-1136(B)**

When any injured person recovers a valid judgment against any residential contractor for such act, representation, transaction or conduct that is in violation of this chapter or the rules adopted pursuant to this chapter, the injured person, 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 limitations stated in this article.

After obtaining a valid judgment and providing notice to Registrar, injured person may apply to court for order directing payment from fund

If the injured person failed to give notice to the registrar at the time of commencement of the action as required by subsection A of this section, the court may direct payment out of the fund on receipt of a consent to payment signed on behalf of the registrar.

Registrar's consent to payment after injured person fails to give notice

If the injured person has given notice to the registrar as required by subsection A of this section, 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 after injured person gives notice

If the court receives written objections by the registrar, the court shall not direct payment from the fund without

Registrar's right to present & support written objections

affording the registrar a reasonable opportunity to present and support his objections.

Prohibition against spouse of residential contractor being the injured person

The injured person shall not be the spouse of the residential contractor or the personal representative of the spouse of the residential contractor.

**§ 32-1136(C)**

Summary proceeding on the application; injured person required to show:

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

**§ 32-1136(D)**

1. Statutory notice was provided

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

2. Final judgment was obtained

2. Has obtained a judgment that has become final, as provided in subsection B of this section, stating the amount and the amount owing at the date of the application.

3. \$30,000 was not collected from any bond

3. Has proceeded against any existing bond covering the residential contractor and has not collected on such bond an amount of thirty thousand dollars or more.

4. No known property or assets applicable toward satisfaction of the judgment

4. Is not aware of any personal or real property or other assets of the debtor that can be applied in satisfaction of the judgment.

Court's order for payment after the hearing

The court shall 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 injured person by subsection D of this section.

**§ 32-1136(E)**

Recovery limits applicable after Sept. 1, 2002

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

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

If the injured person has recovered a portion of his loss from sources other than the fund, the registrar, if the award is made pursuant to section 32-1154, or the court shall deduct the amount recovered from other sources from the amount of actual damages suffered pursuant to section 32-1132,



subsection A and direct the difference, not to exceed thirty thousand dollars, to be paid from the fund.

**§ 32-1136(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. § 32-1137  
Notice of authorized payment to injured person**

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

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

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

1. Payment is subject to repayment if the judgment is reversed
2. Injured person is responsible for responding to an appeal
3. Postponement of acceptance is not a waiver of the injured person'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**

Limit of \$200,000 per license

The liability of the fund shall not exceed two hundred thousand dollars for any one residential contractor's license.

**§ 32-1139(A)**

Pro rata shares of the common liability in cases exceeding \$200,000

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.

On payment from the recovery fund, a license is automatically suspended by operation of law; full repayment with 10% interest

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.

**§ 32-1139(B)**

Other licenses suspended because of a person named on the automatically suspended license

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.

Statutory assignment of rights to Registrar for recovery against the responsible residential contractor

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.

**§ 32-1139(C)**

**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

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

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.

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

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.

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

Duty to immediately notify Registrar when 50% or more of ownership is transferred

A corporation, association or other organization which is a licensed contractor shall immediately notify the registrar of any transfer of ownership of fifty per cent or more of the stock or beneficial interest in the company.

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

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

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

**§ 32-1151.02(A)**

contracting without a license after having been issued a civil citation pursuant to section 32-1166.

The list shall be published on the registrar's web site.

Publication of list on website

**§ 32-1151.02(B)** The registrar shall remove a person 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, 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:

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

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

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

(b) If estimated annual volume is between \$5 million and \$10 million: bond or deposit of \$35,000 to \$75,000

(c) If estimated annual volume is between \$1 million and \$5 million: bond or deposit of \$15,000 to \$50,000

(d) If estimated annual volume is between \$500,000 and \$1 million: bond or deposit of \$10,000 to \$25,000

(e) If estimated annual volume is between \$150,000 and \$500,000: bond or deposit of \$5,000 to \$15,000

(f) If estimated annual volume is less than \$150,000: bond or deposit of \$5,000

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

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

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

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

(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.

2. Amounts for specialty commercial contractors:

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

- |   |  |
|---|--|
| <p>(a) If the estimated annual volume of construction work of the applicant is ten million dollars or more, the applicant shall furnish a surety bond or cash deposit of not less than thirty-seven thousand five hundred dollars or more than fifty thousand dollars.</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 five million dollars and less than ten million dollars, the applicant shall furnish a surety bond or cash deposit of not less than seventeen thousand five hundred dollars or more than thirty-seven thousand five hundred dollars.</p>            | <p>(b) If estimated annual volume is between \$5 million and \$10 million: bond or deposit of \$17,500 to \$37,500</p> |
| <p>(c) If the estimated annual volume of construction work of the applicant is more than one million dollars and less than five million dollars, the applicant shall furnish a surety bond or cash deposit of not less than seven thousand five hundred dollars or more than twenty-five thousand dollars.</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 five hundred thousand dollars and less than one million dollars, the applicant shall furnish a surety bond or cash deposit of not less than five thousand dollars or more than seventeen thousand five hundred dollars.</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 one hundred fifty thousand dollars and less than five hundred thousand dollars, the applicant shall furnish a surety bond or cash deposit of not less than two thousand five hundred dollars or more than seven thousand five hundred dollars.</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 one hundred</p>  | <p>(f) If estimated annual volume is less than \$150,000: bond or deposit of \$2,500</p>                               |

fifty thousand dollars, the applicant shall furnish a surety bond or cash deposit of two thousand five hundred dollars.

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

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 shall be 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.

Applicant may post a single bond or deposit

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.

4. General dual licensed contractors & subclassifications furnish a single bond or cash deposit based on amounts from ¶ 1 and ¶ 5 of this subsection

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.

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

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

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

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 fifteen thousand dollars and not less than five thousand dollars.

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

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.

Liability under the bond or cash deposit shall be limited to the amount established for each commercial or residential license and is subject to the limitations 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 seven thousand five hundred dollars and not less than one thousand dollars.
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 two hundred thousand dollars solely for actual damages suffered by persons injured as described in section 32-1131.

1. Furnish additional bond or deposit of \$200,000 for "persons injured" as described in § 32-1131

This bond shall be subject to the limitations 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 32-1132.

2. Participate in recovery fund & pay assessment prescribed by § 32-1132

**§ 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

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

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.

Cash bond monies deposited in contractors' cash bond fund

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

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

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

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.

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

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

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

**§ 32-1152(E)**

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 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.

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 persons injured as defined in section 32-1131.

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 “persons injured” 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 persons injured as described in section 32-1131.

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

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 shall be 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

No suit may 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 shall be 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 shall be conditioned so that the total aggregate liability of the surety or cash deposit for all claims, including reasonable attorney fees, shall be 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 surety pays before a court or the Registrar acts, the bond amount is reduced by the amount of the good-faith payment

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.

Payments must be based on priority of written claims

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

Judgment must identify a specific cash deposit

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

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

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

Priority of payment based on time of filing

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

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

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.

Prohibition against naming Registrar, Treasurer, or State of Arizona in action against 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 shall not name as a defendant in the action the registrar, the treasurer or the state.

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

Failure to so 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.

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

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.

**§ 32-1152(F)**

30-day notice by certified mail

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

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 shall be 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

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

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

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.

1. Applicant's or qualifying party's license is suspended or revoked, or bond or deposit was previously increased, due to disciplinary action

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

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.

3. Bonds required by § 32-1152(H) are in addition to any other bonds required

3. The bonds required by this subsection shall be 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.

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

Alternatives to a cash deposit:

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

**§ 32-1152.01(A)**

1. Certificate of deposit assigned to Registrar

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

2. Investment certificate or share account assigned to Registrar

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.

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

The terms and conditions surrounding each of such types of security shall be prescribed by the registrar.

**§ 32-1152.01(B)**

## **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; recovery fund award; summary suspension**

#### **§ 32-1154(A)**

The holder of a license or any person listed on a license pursuant to this chapter shall not commit any of 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 plans or specifications or any building codes of the state or any political subdivision of the state 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.
3. Violation of any rule adopted by the registrar.
4. Failure to comply with the statutes or rules governing social security, workers' compensation or unemployment insurance.

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

1. Abandoning a contract or refusing to perform a bid without legal excuse
2. Disregarding or departing from plans, specifications, or building codes without the necessary consent
3. Violating any rule of the Registrar
4. Failing to comply with the law governing social security, workers' compensation, or unemployment insurance

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| 5. Misrepresenting a material fact in obtaining a license  | 5. Misrepresentation of a material fact by the applicant in obtaining a license.  |
| 6. As a contractor, doing a fraudulent act that results in a person's substantial injury   | 6. The doing of a fraudulent act by the licensee as a contractor resulting in another person being substantially injured.   |
| 7. Being convicted of a felony   | 7. Conviction 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   | 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. Aiding or abetting any person to evade Chapter 10; evading Chapter 10 by combining or conspiring with any person knowingly or recklessly; allowing one's license to be used by another; acting on another's behalf with intent to evade Chapter 10. | 9. Aiding or abetting a licensed or unlicensed person to evade this chapter, knowingly or recklessly combining or conspiring with a licensed or unlicensed person, allowing one's license to be used by a licensed or unlicensed person or acting as agent, partner, associate or otherwise of a licensed or unlicensed person with intent to evade this chapter.   |
| 10. Failing to pay, when due, more than \$750 for materials or services rendered for a licensee's operations as a contractor, either when the licensee has capacity to pay, or when the licensee has received payment for the project or operation     | 10. Failure by a licensee or agent or official of a licensee to pay monies in excess of seven hundred fifty dollars when due for materials or services rendered in connection with the licensee's operations as a contractor when the licensee has the capacity to pay or, if the licensee lacks the capacity to pay, when the licensee has received sufficient monies as payment for the particular construction work project or operation for which the services or materials were rendered or purchased. |
| 11. Failing to comply with any safety or labor laws  | 11. Failure of a contractor to comply with any safety or labor laws or codes of the federal government, state or political subdivisions of the state.   |
| 12. Failing to comply in a material respect with Chapter 10  | 12. Failure in any material respect to comply with this chapter.  |
| 13. Knowingly contracting with a person not duly licensed  | 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.

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| <p>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.</p> <p>15. False, misleading or deceptive advertising whereby any member of the public may be misled and injured.</p> <p>16. Knowingly contracting beyond the scope of the license or licenses of the licensee.</p> <p>17. Contracting or offering to contract or submitting a bid while the license is under suspension or while the license is on inactive status.</p> <p>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.</p> <p style="padding-left: 40px;">Such licensee shall have sixty days from the date of such disassociation to qualify through another person.</p> <p>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.</p> <p>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.</p> <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 style="padding-left: 40px;">(a) Not performed at the required location.</p> | <p>14. Acting as a contractor in a name other than the one on the license. <i>See</i> also A.A.C. R4-9-109.</p> <p>15. Advertising in a way that may mislead or injure the public</p> <p>16. Knowingly contracting beyond a licensee's scope</p> <p>17. Contracting, offering to contract, or bidding while a license is suspended or inactive</p> <p>18. Failing to notify Registrar in writing within 15 days of the qualifying party's disassociation</p> <p style="padding-left: 40px;">Licensee has 60 days to replace the qualifying party</p> <p>19. After the issuance or renewal of a license, having facts discovered that would have been grounds denying either the license or its renewal</p> <p>20. Having a person named on a license when that person was 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)</p> <p>21. Continuing a new single-family residential project with actual knowledge that a pretreatment application for wood-destroying pests was either:</p> <p style="padding-left: 40px;">(a) Not performed at a required location</p> |
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(b) Not performed in a required manner

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

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

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.

Written directive must provide contractor a timeframe for completing remedial action

The written directive shall set forth the time within which the contractor is to complete the remedial action.

Written directive must provide contractor at least 15 days for compliance

The time permitted for compliance shall not be less than fifteen days from the date of issuance of the directive.

Hearing must be held before the license is disciplined or a penalty imposed for violating § 32-1154(A)(22)

A license shall not be revoked or suspended nor shall any other penalty be imposed for a violation of this paragraph until after a hearing has been held.

23. Prohibiting, retaliating, threatening, or intimidating a contractor or materialman from serving a preliminary 20-day notice

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.

24. Failing to comply with Solar Energy Devices Act

24. For contractors as defined in section 32-1101, failure to comply with title 44, chapter 11, article 11.

Registrar's authority & duty to investigate the acts of any contractor in Arizona; Registrar's authority to temporarily suspend or permanently revoke licenses

The registrar may on the registrar's own motion, and shall 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 accordance with any applicable building codes and professional industry standards, investigate the acts of any contractor within this state and may temporarily suspend, with or without imposition of specific conditions in addition to increased surety bond 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

**§ 32-1154(B)**

chapter is guilty of or commits any of the acts or omissions set forth in subsection A of this section.

For the purposes of this subsection:

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 contractor's excavation of or other development or improvement to land if the registrar investigates the contractor's actions under this subsection.
2. "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.

Definitions for § 32-1154(B)(1):

1. Definition of "construction contract"

2. Definition of "owner"

**§ 32-1154(C)** Pursuant to this chapter, the registrar shall temporarily suspend or permanently revoke the 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 or revocation of a license for unpaid tax debts

**§ 32-1154(D)** 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 shall not deprive the registrar of jurisdiction to proceed with any investigation of or action or disciplinary proceeding against such licensee, or to render a decision suspending or revoking such a license, or denying the renewal or right of renewal of such license.

Duration of the Registrar's jurisdiction even after expiration, cancellation, suspension, revocation, or voluntary surrender of license

Registrar's authority to impose a civil penalty of \$500 or less for each violation of § 32-1154(A)(22)

The registrar may impose a civil penalty of not to exceed five hundred dollars on a contractor for each violation of subsection A, paragraph 22 of this section.

**§ 32-1154(E)**

Civil penalties collected under § 32-1154(E) deposited in recovery fund

Civil penalties collected pursuant to this subsection shall be deposited in the residential contractors' recovery fund.

Automatic revocation of license for failure to pay a § 32-1154(E) civil penalty within 30 days

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.

No future license issued to anyone associated with penalized contractor until payment of civil penalty is tendered

No future license may be issued to an entity consisting of a person, as defined in section 32-1101, who is associated with the contractor, unless payment of any outstanding civil penalty is tendered.

Registrar's authority to impose a civil penalty of \$1,000 or less for each violation of § 32-1154(A)(17)

The registrar shall impose a civil penalty of not to exceed one thousand dollars on a contractor for each violation of subsection A, paragraph 17 of this section.

**§ 32-1154(F)**

Civil penalties collected under § 32-1154(F) deposited in recovery fund

Civil penalties collected pursuant to this subsection shall be deposited in the residential contractors' recovery fund.

Automatic revocation of license for failure to pay a § 32-1154(F) civil penalty within 30 days

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.

No future license issued to anyone associated with penalized contractor until payment of civil penalty is tendered

No future license may be issued to an entity consisting of a person, as defined in section 32-1101, who is associated with the contractor, unless payment of any outstanding civil penalty is tendered.

Registrar's authority to order a payment from the recovery fund to remedy a contractor's violation

Notwithstanding any other provisions in this chapter, if a contractor's license has been revoked or has been 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.

**§ 32-1154(G)**

Registrar's duty to provide contractor with notice of amount claimed or to be awarded

The registrar shall serve the contractor with a notice setting forth the amount claimed or to be awarded.

If the contractor contests the amount or propriety of the payment, the contractor shall respond within ten days of the date of service by requesting a hearing to determine the amount or propriety of the payment.

Contractor's right to contest the payment; requirement to respond within 10 days of notice

Failure by the contractor to respond in writing within ten days of the date of service shall be deemed a waiver by the contractor of the right to contest the amount claimed or to be awarded.

Failure to respond timely to notice of payment is waiver of contractor's right to contest the payment

Service may be made by personal service to the contractor or by mailing a copy of the notice by registered 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

If service is made by registered mail, it is effective five days after the notice is mailed.

Effective date of service

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

Right to seek judicial review of Registrar's final award

An applicant to the residential contractors' recovery fund pursuant to this subsection must show that the applicant has proceeded against any existing bond covering the residential contractor and has not collected on the bond in an amount of thirty thousand dollars or more.

Applicant's duty to show: (1) attempt to collect from existing bond and (2) failure to collect \$30,000 or more

### **A.R.S. § 32-1155**

#### **Filing of complaint; resolution of complaint; service of notice; failure to answer; prohibited citations**

#### **§ 32-1155(A)**

On the filing of a written complaint with the registrar charging a licensee with the commission, within two years before the date of filing the complaint, 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's sole discretion to issue a citation for a cause for discipline, committed within 2 years of written complaint's filing; contractor's duty to appear by filing a written answer within 10 days of citation's service

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.

Service of citation by personal service or by registered mail

Service of citation on the licensee shall be fully effected by personal service or by mailing a true copy thereof, together with a true copy of the complaint, by registered 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.

Service of citation completed at personal service or 5 days after deposit in mail

Service of the citation and complaint shall be complete at the time of personal service or five days after deposit in the mail.

For new home or new building construction: 2-year statute of limitations in § 32-1155(A) starts at earlier of close of escrow or actual occupancy; otherwise: 2-year limitation starts at a specific project's completion

The two-year period prescribed by this subsection shall commence on the earlier of the close of escrow or actual occupancy for new home or other new building construction and otherwise shall commence on completion of the specific project.

Contractor's admission resulting from a failure to answer within 10 days after service; Registrar's authority to suspend or revoke contractor's license

Failure of the licensee to answer within ten days after service shall 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.

**§ 32-1155(B)**

Prohibition against Registrar's issuance of a citation in workmanship cases when:

The registrar shall 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:

**§ 32-1155(C)**

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

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.

Registrar's authority to investigate before 15 days elapse

Notwithstanding subsection C of this section, the registrar may investigate the complaint without waiting fifteen days.

**§ 32-1155(D)**

**A.R.S. § 32-1155.01**  
**Arbitration process; applicability**

**§ 32-1155.01(A)**

Notwithstanding title 41, chapter 6, article 10 and any other provision of this article, if a person files a written complaint with the registrar pursuant to section 32-1155 and any party to the complaint disputes the registrar's corrective work order, within thirty calendar days after the corrective work order is made, the complaint, at the sole discretion of the registrar, may be referred to arbitration if the cost of repairs is five thousand dollars or less.

Registrar may refer case to arbitration if repairs are \$5,000 or less

If the cost of repairs is more than five thousand dollars, the contesting parties, within thirty calendar days after the corrective work order, may opt into arbitration if all of the parties agree.

If repairs are more than \$5,000, parties may opt into arbitration

For the purposes of this subsection, the estimated cost of repairs shall be determined at the time of investigation by the registrar.

Registrar determines cost of repairs at time of investigation

If either party disputes the cost of the repairs, the party objecting shall submit to the registrar within ten calendar days two separate bids from qualified contractors on the cost of the repairs.

If party disputes cost of repairs, objecting party must submit 2 bids within 10 calendar days

Failure to provide two bids within this time will result in the party's waiving their right to object to mandatory arbitration.

Failure to provide bids within 10 days is waiver of right to object

**§ 32-1155.01(B)**

The registrar shall serve the parties notice whether the matter has been referred to arbitration within ten calendar days after a request for arbitration has been received.

Registrar serves notice of arbitration within 10 calendar days

If the matter has been referred to arbitration, the notice also shall identify the arbitrator selected by the registrar, who shall be a member in good standing of the construction law section of the state bar of Arizona.

Notice identifies arbitrator, who must be member in good standing of construction law section of Arizona state bar

Service shall be made by personal service or by mailing a copy of the notice by certified mail to the licensee's latest address of record on file in the registrar's office.

Method of service

Effective date of service by certified mail	If service is made by certified mail, it is effective five calendar days after the notice is mailed.	
Right to remove arbitrator	Section 12-3012 applies and the parties have the right to remove an arbitrator at any time on discovery of grounds set forth in section 12-3011, subsection B.	<b>§ 32-1155.01(C)</b>
Notice of new arbitrator	If an arbitrator is removed pursuant to this subsection, the registrar shall notify the parties of the new arbitrator selected within seven calendar days.	
Arbitrator's immunity	The arbitrator has immunity as prescribed in section 12-3014.	
Licensee's right to post bond within 14 days	The licensee may post a bond in the amount of the estimated cost of repairs within fourteen calendar days after service of the registrar's notice referring the matter to arbitration.	<b>§ 32-1155.01(D)</b>
Registrar may not suspend or revoke licensee that has posted such a bond	The registrar may not suspend or revoke any of the licenses held by a licensee that posts a bond in the amount of the claim subject to arbitration.	
Arbitration governed by A.R.S. § 12-3015	The arbitration process is governed by section 12-3015.	<b>§ 32-1155.01(E)</b>
Certain statutes in Title 12 apply	Except as otherwise provided in this section, sections 12-3010, 12-3016 and 12-3017 apply to arbitrations under this section.	<b>§ 32-1155.01(F)</b>
Arbitration hearing held within 60 calendar days	The arbitration hearing shall be held within sixty calendar days after the registrar's notice referring the matter to arbitration.	<b>§ 32-1155.01(G)</b>
Arbitrator may extend the deadline to hold the hearing for 30 calendar days	The arbitrator may extend the deadline to hold the hearing for an additional thirty calendar days on agreement of the parties or for good cause shown.	
Prohibitions against rulings by arbitrator	The arbitrator is prohibited from ordering the suspension or revocation of any license, awarding monetary damages, assessing civil penalties or awarding any legal fees or costs in any amount.	<b>§ 32-1155.01(H)</b>
Arbitrator issues a recommended order within 15 calendar days	The arbitrator shall issue a recommended order with findings of fact and conclusions of law including necessary	<b>§ 32-1155.01(I)</b>



repairs no later than fifteen calendar days after the close of the arbitration hearing.

The arbitrator shall serve a copy of the recommended order to each party to the arbitration proceeding as well as the registrar by personal service or by mailing a copy of the recommended order by certified mail to the licensee's latest address of record on file in the registrar's office.

Arbitrator serves copy of the recommended order

If service is made by certified mail, it is effective five calendar days after the notice is mailed.

Effective date of service by certified mail

The arbitrator's recommended order shall become an order of the registrar, subject to acceptance, modification or rejection by the registrar, within twenty calendar days from the date of the arbitrator's recommended order.

Registrar may accept, modify, or reject arbitrator's recommended order

The registrar's order becomes final thirty calendar days after the date of an order by the registrar.

Registrar order final after 30 calendar days

The arbitrator or registrar shall not grant requests to rehear the matter.

No rehearing

A party waives any objection that a [sic] order was not timely made unless the party gives notice of the objection to the registrar before receiving notice of the order.

Waiver of objection if notice of objection not given before receiving notice of the order

**§ 32-1155.01(J)**

Notwithstanding any other provision in this chapter, before an order of the registrar becomes final pursuant to subsection I of this section, if a contractor fails to comply with the order:

If contractor fails to comply with order:

1. The registrar may order that the cash bond posted pursuant to subsection D of this section be discharged within twenty-five calendar days.

1. Registrar may order bond discharged

The complainant is not eligible for any additional award from the residential contractors' recovery fund pursuant to section 32-1132 and may not seek the same award, claim or remedy through civil court.

Complainant not eligible for additional award

2. If a bond is not posted by the licensee pursuant to subsection D of this section, the registrar may suspend

2. Registrar may suspend or revoke license

or revoke the licensee's license by operation of law and order payment from the recovery fund for claimants who are eligible.

Method of determining compliance:

Compliance with the order shall be determined by the following:

**§ 32-1155.01(K)**

1. Complainant fails to notify Registrar within 10 days

1. If a complainant fails to notify the registrar within ten calendar days of the order becoming final, the respondent shall be deemed to have complied with the order.

2. Complainant notifies Registrar

2. If a complainant notifies the registrar of contractors that the respondent has failed to comply with the order, the registrar shall make a final determination of compliance.

Applicability of section

This section applies to all complaints filed with the registrar on or after the effective date of this section.

**§ 32-1155.01(L)**

### **A.R.S. § 32-1156 Hearings**

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

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

**§ 32-1156(A)**

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

In a hearing or rehearing conducted pursuant to this section a corporation may be represented by a corporate officer or employee who is not a member of the state bar if:

**§ 32-1156(B)**

1. Officer or employee is specifically authorized to represent corporation

1. The corporation has specifically authorized the officer or employee to represent it.

2. Representation is not officer or employee's primary duty

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

### **A.R.S. § 32-1156.01 Restitution**

Administrative law judge's authority to recommend restitution

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.

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

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| <b>§ 32-1157(A)</b> | 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  |
| <b>§ 32-1157(B)</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> |
| <b>§ 32-1157(C)</b> | By order of the court or by stipulation of the parties to the action, the record may be shortened or supplemented.  | Record shortened or supplemented by order or by stipulation   |
| <b>§ 32-1157(D)</b> | 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.  | If appellant is successful party: appellant is entitled to recover monies paid for transcriptions or copies   |

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

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| <b>§ 32-1158(A)</b> | 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: <ol style="list-style-type: none"><li>1. The name of the contractor and the contractor's business address and license number.</li></ol> | <p>Contracts for more than \$1,000, must contain in writing:</p> <p>1. Contractor's name, address, and license number</p> |
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| 2. Owner's name & mailing address; jobsite's address or legal description      | 2. The name and mailing address of the owner and the jobsite address or legal description.   |
| 3. Date of contract  | 3. The date the parties entered into the contract.   |
| 4. Estimated completion date   | 4. The estimated date of completion of all work to be performed under the contract.  |
| 5. Description of work   | 5. A description of the work to be performed under the contract.   |
| 6. Total amount to be paid, including all applicable taxes                     | 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.  |
| 7. Amount of advance deposit paid or scheduled                                 | 7. The dollar amount of any advance deposit paid or scheduled to be paid to the contractor by the owner.   |
| 8. Amount of any progress payments & stages when those payments due            | 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. Notice of property owner's right to file a written complaint with Registrar | 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.   |

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

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.

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

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.

When Purchaser Dwelling Actions Act applies: ¶ 9 not applicable

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

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

When a contractor and an owner sign a contract, the contractor shall provide the owner with a legible copy of all

**§ 32-1158(B)**

documents signed and a written and signed receipt for and in the true amount of any cash paid to the contractor by the owner.

**§ 32-1158(C)**

The requirements of this section are not prerequisites to the formation or enforcement of a contract.

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.

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

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 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.

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

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
- (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.

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

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

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.

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

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,

**§ 32-1158.01(B)**

paragraph 2 of this section may be changed in any manner agreed to by the parties to the contract.

**§ 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 denied your claim to pay for the goods and services to be provided under this contract."
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."
3. A copy of a repair estimate that contains the following disclosures:
  - (a) A precise description and location of all damage claimed on the repair estimate.

1. Notice of right to cancel within 72 hours of insurer's denial of claim
2. Notice of right to cancel within 4 business days of signature for any reason
3. Copy of a repair estimate containing:
  - (a) Description & location of damages

- |  |  |
|--|--|
| (b) For roof work: a detailed description & square footage                             | (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.                  |
| (c) Specification of any damages excluded from repair estimate; reason for exclusion   | (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.                  |
| (d) Statement regarding pre-estimate inspection & whether roof was physically accessed | (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. |
| (e) No assurances were made that an insurance policy will cover a claimed loss         | (e) That a contractor has made no assurances that the claimed loss will be covered by an insurance policy.   |
| (f) Notice that policyholder must pay for work not paid for by insurer                 | (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.                           |

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

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.

**§ 32-1158.02(B)**

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

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

**§ 32-1158.02(C)**

Cancellation must be evidenced by written notice to the address stated in 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 notice need only indicate in writing an intent not to be bound by the 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.



<b>§ 32-1158.02(D)</b>	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
<b>§ 32-1158.02(E)</b>	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
<b>§ 32-1158.02(F)</b>	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
<b>§ 32-1158.02(G)</b>	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
<b>§ 32-1158.02(H)</b>	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
<b>§ 32-1158.02(I)</b>	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
	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. Specification of any damages excluded from repair estimate; reason for exclusion
5. Statement regarding pre-estimate inspection & whether roof was physically accessed
6. No assurances were made that an insurance policy will cover a claimed loss

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.
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.
6. A provision stating that the contractor has made no assurances that the claimed loss will be covered by an insurance policy.

Contractor prohibited from beginning work until insurer approves or denies claim; exception: work necessary to prevent further loss

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.

**§ 32-1158.02(J)**

Unlicensed person prohibited from bringing suit to recover monies from homeowner

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.

**§ 32-1158.02(K)**

Prohibition against contractor acting on owner's behalf to negotiate settlement of claim or loss; prohibition against contractor making assurances of insurance-policy coverage

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.

**§ 32-1158.02(L)**

Contractor permitted to communicate with insurer in claim dispute if:

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

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

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

§ 32-1158.02 does not prohibit the following persons from negotiating with 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 company regarding a claim related to the owner's property.
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)

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

Contrary to public policy & void: agreements to indemnify, hold harmless, or defend a promisee for sole negligence of promisee or promisee's agents

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.

**§ 32-1159(A)**

§ 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

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(B)**

§ 32-1159 is applicable to all contracts entered by private parties

This section applies to all contracts entered into between private parties.

**§ 32-1159(C)**

§ 32-1159 is inapplicable to:

This section does not apply to:

1. Agreements in which the state or a political subdivision is a party
2. Agreements entered into by agricultural improvement districts

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.

Definitions for § 32-1159(D):

In this section:

**§ 32-1159(D)**

1. Definition of "architect-engineer professional service contract"

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

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(B)**

No implied warranty created, nor any limitation period extended, by § 32-1160

This section does not create an implied warranty or extend any limitation period.

**§ 32-1160(C)**

§ 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

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.

Definition of “contractor” for § 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.

**§ 32-1160(D)**

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

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

After suspension of the license upon any of the grounds set forth in section 32-1154, the registrar shall renew it upon 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, upon proper showing that all loss caused by the act or omission for which the license was suspended has been fully satisfied.

**§ 32-1161(A)**

Despite suspension of license, contractor’s right to perform warranty or corrective work without compensation

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

**§ 32-1161(B)**

**§ 32-1161(C)** After revocation of a license upon any of the grounds set forth in section 32-1154, the license shall 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

### **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:

1. Any act specified in section 32-1154, subsection A, paragraph 6 or 9.
2. Acting in the capacity of a contractor within the meaning of this chapter without a license.

Designation of the following acts as class 1 misdemeanors:

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

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.

**A.R.S. § 32-1165  
Advertising; effect of; classification**

Designation of advertising for unlicensed services as a class 1 misdemeanor; exception: advertising authorized under § 32-1121(A)(14)(c)

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

**A.R.S. § 32-1166  
Injunctive relief; civil penalty**

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

In addition to all other remedies, when it appears to the registrar, either upon complaint or otherwise, that any person, firm, partnership, corporation, association or other organization, or a combination of any of them, has engaged in or is engaging in any act of contracting, practice or transaction which constitutes a violation of this chapter, or any rule or order of the registrar, the registrar may serve upon such person, firm, partnership, corporation, association or other organization not currently licensed under this chapter, by certified mail or by personal service, a cease and desist order requiring the person, firm, partnership, corporation, association or other organization

**§ 32-1166(A)**



to cease and desist immediately, upon receipt of the notice, from engaging in such act, practice or transaction.

In conjunction with the cease and desist order, the registrar may issue a citation for a violation.

Each citation shall be in writing and shall clearly describe the violation for which the citation was issued.

Each citation shall contain an order to cease and desist and an assessment of a civil penalty in an amount of at least two hundred dollars for each violation but not more than two thousand five hundred dollars for the multiple violations committed on the same day.

If after the issuance of a citation by the registrar, the person or organization receiving the citation fails to cease and desist in the violation or violations described in the citation, the registrar may assess an additional civil penalty of up to two thousand five hundred dollars for each day the violation or violations continue.

The registrar shall adopt rules covering the assessment of a civil penalty that give due consideration to the gravity of the violation and any history of previous violations.

The penalties authorized under this section are separate from, and in addition to, all other remedies either civil or criminal.

**§ 32-1166(B)**

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 shall constitute a separate offense, and the registrar may impose a civil penalty of not to exceed two thousand five hundred dollars for each violation except that for multiple violations committed on the same day the civil penalty shall not exceed two thousand five hundred dollars for all such violations.

Monies collected from civil penalties shall be deposited in the state general fund.

Registrar's authority to issue citations in conjunction with cease & desist orders

Citation must (1) be in writing and (2) clearly describe violation

Citation must contain (1) a cease & desist order and (2) a civil-penalty assessment of at least \$200 per violation, but not to exceed \$2,500 per day

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

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.

Penalties under § 32-1166 separate from & additional to other remedies

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

Monies from civil penalties deposited in state general fund

Registrar's authority to issue citations containing cease & desist orders & civil penalties to unlicensed persons acting as contractors

The registrar of contractors may issue citations containing orders to cease and desist and of 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.

**§ 32-1166(C)**

**A.R.S. § 32-1166.01  
Service of citation**

Citations under § 32-1166.01 may be served (1) personally or (2) by certified mail to last known business or residence address

A citation issued under section 32-1166 may be served personally or by certified mail at the last known business address or residence address of the person cited.

**A.R.S. § 32-1166.02  
Time for issuance of citation**

Registrar's duty to issue citations under § 32-1166 within 90 days of actual discovery of offense by state or political subdivision

A citation under section 32-1166 shall be issued by the registrar within ninety days after actual discovery of the offense by this state or the political subdivision having jurisdiction.

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

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

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.

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

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

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

No fee required for filing Registrar's order

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

**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.

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

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

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

**A.R.S. § 32-1167**  
**Qualifying party's disassociation with licensee; licensee's requalification; penalty**

**§ 32-1167(A)** If a person who qualified for a license ceases for any reason whatsoever to be connected with the licensee, both the licensee and the qualifying party shall notify the registrar in writing within fifteen days after such disassociation.

**§ 32-1167(B)** A licensee shall have sixty days from the date of any such disassociation to qualify through another person.

If the licensee fails to qualify through another person within sixty days, the license is automatically suspended by operation of law at the end of the period until the licensee does qualify through another person.

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

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

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

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

At the request of the registrar, and after the issuance of a citation pursuant to section 32-1104, subsection A, paragraph 4, or a cease and desist order pursuant to section 32-1166, subsection A, 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 requirements of section 32-1151 by those contractors employed on that project.

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

**A.R.S. § 32-1169**  
**Local proof of valid license; violation**

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

Each county, city or other political subdivision or authority of this state or any agency, department, board or commission of this state which 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 utilizes, shall require that each applicant for a building permit file a signed statement that the applicant is currently licensed under this chapter with the applicant's license number.

**§ 32-1169(A)**

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

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

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

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.

**§ 32-1169(B)**

# 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:

Requirements for applicant to qualify as a solar contractor:

1. Submit application forms & pay fee

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

3. Meet all other statutory licensing provisions

Registrar determines time & place of examination

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

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

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

**§ 32-1170.02(B)**

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.

**§ 32-1170.02(C)**

**— End of Chapter 10 in Title 32 —**

# 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.