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**Jane Dee Hull
Secretary of State**

CHAPTER 176
SENATE BILL 1310

AN ACT

AMENDING SECTIONS 32-1101, 32-1102, 32-1105, 32-1122, 32-1124, 32-1126, 32-1131, 32-1134, 32-1152, 32-1152.01 AND 32-1154, ARIZONA REVISED STATUTES; REPEALING SECTIONS 32-1170.03 AND 44-1763, ARIZONA REVISED STATUTES; RELATING TO CONTRACTORS.

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

2 Section 1. Section 32-1101, Arizona Revised Statutes, is amended to
3 read:

4 32-1101. Definitions

5 A. ~~For the purposes of~~ IN this chapter, UNLESS THE CONTEXT OTHERWISE
6 REQUIRES:

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

12 2. "COMMERCIAL CONTRACTOR" IS SYNONYMOUS WITH THE TERMS "COMMERCIAL
13 BUILDER", "INDUSTRIAL BUILDER" AND "PUBLIC WORKS BUILDER" AND MEANS ANY
14 PERSON, FIRM, PARTNERSHIP, CORPORATION, ASSOCIATION OR OTHER ORGANIZATION,
15 OR ANY COMBINATION, THAT, FOR COMPENSATION, UNDERTAKES TO OR OFFERS TO
16 UNDERTAKE TO, PURPORTS TO HAVE THE CAPACITY TO UNDERTAKE TO, SUBMITS A BID
17 TO, DOES HIMSELF OR BY OR THROUGH OTHERS, OR DIRECTLY OR INDIRECTLY
18 SUPERVISES OTHERS, EXCEPT WITHIN RESIDENTIAL PROPERTY LINES, TO:

19 (a) CONSTRUCT, ALTER, REPAIR, ADD TO, SUBTRACT FROM, IMPROVE, MOVE,
20 WRECK OR DEMOLISH ANY BUILDING, HIGHWAY, ROAD, RAILROAD, EXCAVATION OR OTHER
21 STRUCTURE, PROJECT, DEVELOPMENT OR IMPROVEMENT, OR TO DO ANY PART THEREOF.

1 INCLUDING THE ERECTION OF SCAFFOLDING OR ANY OTHER STRUCTURE OR WORK IN
2 CONNECTION WITH THE CONSTRUCTION.

3 (b) CONNECT SUCH STRUCTURE OR IMPROVEMENTS TO UTILITY SERVICE LINES
4 AND METERING DEVICES AND THE SEWER LINE.

5 (c) PROVIDE MECHANICAL OR STRUCTURAL SERVICE FOR ANY SUCH STRUCTURE
6 OR IMPROVEMENTS.

7 ~~2-~~ 3. "Contractor" is synonymous with the term "builder" and means
8 a person, firm, partnership, corporation, association or other organization,
9 or a combination of any of them, that, for compensation, undertakes to or
10 offers to undertake to, ~~or~~ purports to have the capacity to undertake to, ~~or~~
11 submits a bid to, ~~or~~ does himself or by or through others, or directly or
12 indirectly supervises others to:

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

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

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

22 4. "DUAL LICENSED CONTRACTOR" IS SYNONYMOUS WITH THE TERM "COMMERCIAL
23 AND RESIDENTIAL BUILDER" AND MEANS ANY PERSON, FIRM, PARTNERSHIP,
24 CORPORATION, ASSOCIATION OR OTHER ORGANIZATION, OR ANY COMBINATION, THAT
25 UNDERTAKES TO OR OFFERS TO UNDERTAKE TO, PURPORTS TO HAVE THE CAPACITY TO
26 UNDERTAKE TO, SUBMITS A BID TO, DOES HIMSELF OR BY OR THROUGH OTHERS, OR
27 DIRECTLY OR INDIRECTLY SUPERVISES OTHERS UNDER A SINGLE LICENSE ON COMMERCIAL
28 OR RESIDENTIAL PROPERTY TO:

29 (a) CONSTRUCT, ALTER, REPAIR, ADD TO, SUBTRACT FROM, IMPROVE, MOVE,
30 WRECK OR DEMOLISH ANY BUILDING, EXCAVATION OR OTHER STRUCTURE OR IMPROVEMENT,
31 INCLUDING ANY APPURTENANCES, OR TO DO ANY PART THEREOF.

32 (b) CONNECT SUCH STRUCTURE OR IMPROVEMENTS TO UTILITY SERVICE LINES
33 AND METERING DEVICES AND THE SEWER LINE.

34 (c) PROVIDE MECHANICAL OR STRUCTURAL SERVICE FOR ANY SUCH STRUCTURE
35 OR IMPROVEMENTS.

36 ~~3-~~ 5. "Person" means an applicant, an individual, a qualifying party,
37 any partner of a partnership or any officer, director, qualifying party,
38 trustee of a trust ~~or~~, beneficiary of a trust or owner of at least
39 twenty-five per cent of the stock or beneficial interest of a corporation.

40 6. "REGISTRAR" MEANS THE REGISTRAR OF CONTRACTORS.

41 ~~4-~~ 7. "Residential contractor" is synonymous with the term
42 "residential builder" and means a person, firm, partnership, corporation,
43 association or other organization, or a combination of any of them, that
44 undertakes to or offers to undertake to, ~~or~~ purports to have the capacity to

1 undertake to, or submits a bid to, or does himself or by or through others,
2 within residential property lines:

3 (a) Construct, alter, repair, add to, subtract from, improve, move,
4 wreck or demolish any residential structure, such as houses, townhouses,
5 condominiums or cooperative units. Residential structures also include
6 apartment complexes of four units or less and any appurtenances on or within
7 residential property lines.

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

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

12 ~~"Residential contractor" for the purposes of this chapter does not include~~
13 ~~an owner making improvements pursuant to section 32-1121, subsection A,~~
14 ~~paragraph 5.~~

15 B. "Contractor" includes subcontractors, specialty contractors, floor
16 covering contractors, landscape contractors, other than gardeners, and
17 consultants representing themselves as having the ability to supervise or
18 manage a construction project for the benefit of the property owner
19 including, ~~but not limited to,~~ the hiring and firing of specialty
20 contractors, the scheduling of work on the project and the selection and
21 purchasing of construction material.

22 C. FOR THE PURPOSES OF THIS CHAPTER "RESIDENTIAL CONTRACTOR" DOES NOT
23 INCLUDE AN OWNER MAKING IMPROVEMENTS PURSUANT TO SECTION 32-1121, SUBSECTION
24 A, PARAGRAPH 5.

25 ~~E.~~ D. Only contractors as defined in this section are licensed and
26 regulated by this chapter.

27 Sec. 2. Section 32-1102, Arizona Revised Statutes, is amended to read:
28 32-1102. Classification of licenses; contracting business

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

31 1. General COMMERCIAL building contracting, which is engaging in the
32 contracting business ~~other than residential contracting~~ in connection with
33 any structure built, being built or to be built ON COMMERCIAL PROPERTY for
34 the support, shelter and enclosure of persons, animals, chattels or movable
35 property of any kind ~~requiring in its construction the use of more than two~~
36 ~~unrelated construction trades or crafts, or to do or superintend~~
37 SUPERINTENDING the whole or any part thereof, AND which includes the
38 management or direct or indirect supervision of any work performed by a
39 contractor but does not include a person who merely furnishes materials or
40 supplies as provided in section 32-1121 without fabricating them into or
41 consuming them in performing the work of the general contractor.

42 2. GENERAL DUAL LICENSED CONTRACTING, WHICH IS ENGAGING IN THE
43 CONTRACTING BUSINESS IN CONNECTION WITH ANY STRUCTURE BUILT, BEING BUILT OR
44 TO BE BUILT ON RESIDENTIAL OR COMMERCIAL PROPERTY FOR THE SUPPORT, SHELTER

1 AND ENCLOSURE OF PERSONS, ANIMALS, CHATTELS OR MOVABLE PROPERTY OF ANY KIND,
2 OR SUPERINTENDING THE WHOLE OR ANY PART THEREOF, AND WHICH INCLUDES THE
3 MANAGEMENT OR DIRECT OR INDIRECT SUPERVISION OF ANY WORK PERFORMED BY A
4 CONTRACTOR BUT DOES NOT INCLUDE A PERSON WHO MERELY FURNISHES MATERIALS OR
5 SUPPLIES AS PROVIDED IN SECTION 32-1121 WITHOUT FABRICATING THEM INTO OR
6 CONSUMING THEM IN PERFORMING THE WORK OF THE GENERAL CONTRACTOR.

7 ~~2-~~ 3. General engineering contracting, which is engaging in the
8 contracting business other than residential contracting in connection with
9 fixed works requiring specialized engineering knowledge and skills and
10 includes irrigation, drainage, water power, water supply, flood control,
11 inland waterways, harbors, railroads, highways, tunnels, airport runways,
12 sewerage, bridges, ~~earthmoving~~ EARTH MOVING projects, paving and transmission
13 lines.

14 ~~3-~~ 4. GENERAL residential contracting, which is engaging in the
15 contracting business by any general contractor or subcontractor who
16 undertakes to construct, alter, repair, add to, subtract from, improve, move,
17 wreck or demolish any residential structure or appurtenances including
18 swimming pools on or within residential property lines ~~as defined in section~~
19 ~~32-1101.~~

20 ~~4-~~ 5. Specialty COMMERCIAL contracting, which is engaging in the
21 contracting business in the performance of construction work requiring
22 special skill and involving the use of specialized construction trades or
23 crafts other than residential contracting.

24 6. SPECIALTY DUAL LICENSED CONTRACTING, WHICH IS ENGAGING IN THE
25 CONTRACTING BUSINESS IN THE PERFORMANCE OF CONSTRUCTION WORK REQUIRING
26 SPECIAL SKILL AND INVOLVING THE USE OF SPECIALIZED CONSTRUCTION TRADES OR
27 CRAFTS IN RESIDENTIAL AND COMMERCIAL CONTRACTING.

28 ~~5-~~ 7. Specialty residential contracting, which is engaging in the
29 residential contracting business by the performance of construction work
30 requiring special skill and involving the use of specialized construction
31 trades or crafts within residential property lines.

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

33 32-1105. Rule making powers for purposes of classifying and
34 reclassifying contractors

35 A. The registrar may adopt rules ~~and regulations~~ necessary to effect
36 the classification of contractors in a manner consistent with established
37 usage and procedure as found in the construction business, and may limit the
38 field and scope of operations of a licensed contractor within any of the
39 branches of the contracting business, as described in this chapter, to those
40 divisions thereof in which ~~he~~ THE CONTRACTOR is classified and qualified to
41 engage.

42 B. The registrar shall establish ~~new title classifications necessary~~
43 ~~for a reduction in number of existing title classifications~~ BY RULE LICENSE
44 CLASSIFICATIONS FOR DUAL LICENSED CONTRACTORS. A CONTRACTOR CLASSIFIED AS

1 A DUAL LICENSED CONTRACTOR MAY PERFORM EQUIVALENT CONSTRUCTION WORK ON BOTH
2 COMMERCIAL AND RESIDENTIAL PROJECTS UNDER A SINGLE LICENSE. THE REGISTRAR
3 SHALL ADOPT RULES NECESSARY TO ESTABLISH THE SCOPE OF WORK THAT MAY BE DONE
4 UNDER THE DUAL LICENSE CLASSIFICATIONS.

5 C. A licensee may ~~make application~~ APPLY for classification and be
6 classified in more than one classification or division thereof after the
7 licensee meets the ~~qualification~~ QUALIFICATIONS prescribed by the registrar
8 for such additional classification or classifications. A single form of
9 application shall be adopted for all licenses issued by the registrar. ~~An~~
10 ~~applicant may apply for licenses in more than one classification or division~~
11 ~~on the same application form.~~

12 D. Nothing in this chapter shall prohibit a specialty contractor from
13 taking and executing a contract involving the use of two or more crafts or
14 trades if the performance of the work in the crafts or trades other than
15 those in which ~~he~~ THE SPECIALTY CONTRACTOR is licensed is incidental and
16 supplemental to the performance of work in the craft for which the specialty
17 contractor is licensed.

18 Sec. 4. Section 32-1122, Arizona Revised Statutes, is amended to read:
19 32-1122. Qualifications for license; definition

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

- 22 1. Classify and qualify applicants for a license.
- 23 2. If necessary, change the license classification of a licensee in
24 the case of a title reclassification, with or without a bond rider for the
25 purpose of continuing liability on the bond.
- 26 3. Conduct such investigations as ~~he~~ THE REGISTRAR deems necessary.
- 27 4. Establish written examinations if deemed necessary to protect the
28 health and safety of the public.

29 B. To obtain or renew a license under this chapter, the applicant
30 shall:

31 1. Submit to the registrar of contractors a verified application on
32 forms prescribed by the registrar of contractors and containing the following
33 information and shall advise the registrar of any change in such information
34 within thirty days:

35 (a) A designation of the classification of license sought by the
36 applicant.

37 (b) If the applicant is an individual, ~~his~~ THE APPLICANT'S name and
38 address.

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

41 (d) If the applicant is a corporation, an association or any other
42 organization, the names and addresses of the president, vice-president, if
43 any, secretary and treasurer or the names and addresses of the functional

1 equivalent of such officers, the directors and the owners of twenty-five per
2 cent or more of the stock or beneficial interest.

3 (e) The name and address of the qualifying party.

4 (f) If the applicant is a corporation, evidence that the corporation
5 is in good standing with the Arizona corporation commission.

6 (g) The address or location of the applicant's place of business and
7 the mailing address if it is different from the applicant's place of
8 business.

9 (h) The applicant's current privilege license number issued pursuant
10 to section 42-1305.

11 (i) Proof that the applicant has complied with the statutes or rules
12 governing workers' compensation insurance.

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

14 C. To obtain a contractor's license, ~~other than a residential~~
15 ~~contractor~~, under this chapter OTHER THAN A RESIDENTIAL CONTRACTOR'S LICENSE,
16 the applicant shall submit a detailed statement of current financial
17 condition containing information required by the registrar of contractors on
18 a form furnished by or acceptable to the registrar of contractors.
19 Notwithstanding any other provision of law, a swimming pool contractor shall
20 also submit a detailed statement of current financial condition as required
21 by this subsection.

22 D. To obtain OR RENEW a license under this chapter, each person shall
23 be of good character and reputation. Lack of good character and reputation
24 may be established by showing that a person has committed any act which, if
25 committed or done by any licensed contractor, would be grounds for suspension
26 or revocation of a contractor's license OR BY SHOWING THAT THE PERSON WAS
27 NAMED ON A CONTRACTOR'S LICENSE IN ANOTHER STATE THAT WAS SUSPENDED OR
28 REVOKED.

29 E. To obtain a license under this chapter, a person shall not have had
30 a license refused or revoked, within one year prior to ~~his~~ THE PERSON'S
31 application, or shall not have engaged in the contracting business, nor shall
32 ~~he~~ THE PERSON have submitted a bid without first having been licensed within
33 one year prior to ~~his~~ THE PERSON'S application, nor shall a person act as a
34 contractor between the filing of the application and actual issuance of the
35 license. The registrar may find any of those actions or circumstances to be
36 excusable if there was reasonable doubt as to the need for licensure or the
37 actions of the applicant did not result in an unremedied hardship or danger
38 or loss to the public.

39 F. Prior to issuance of a license, the qualifying party shall:

40 1. Have had a minimum of four years' practical or management trade
41 experience, at least two of which must have been within the last ten years,
42 dealing specifically with the type of construction, or its equivalent, for
43 which the applicant is applying for a license. Technical training in an
44 accredited college or university or in a manufacturer's accredited training

1 program may be substituted for a portion of such experience, but in no case
2 may credited technical training exceed two years of the required four years'
3 experience. The registrar of contractors may reduce the four years'
4 practical or management experience requirement if in ~~his~~ THE REGISTRAR'S
5 opinion it has been conclusively shown by custom and usage in the particular
6 industry or craft involved that the four year requirement is excessive. The
7 registrar may waive the work experience documentation and verification or the
8 examination requirement if the records reflect that the qualifying party is
9 currently or has previously been a qualifying party for a licensee in this
10 state in the same classification within the preceding five years.

11 2. Successfully show, by written examination, if required,
12 qualification in the kind of work for which the applicant proposes to
13 contract, ~~his~~ THE APPLICANT'S general knowledge of the building, safety,
14 health and lien laws of the state, administrative principles of the
15 contracting business and the rules adopted by the registrar of contractors
16 pursuant to this chapter, demonstrate knowledge and understanding of
17 construction plans and specifications applicable to the particular industry
18 or craft and of the standards of construction work and techniques and
19 practices in the particular industry or craft and demonstrate a general
20 understanding of other related construction trades, in addition to such other
21 matters as may be deemed appropriate by the registrar to determine that the
22 qualifying party meets the requirements of this chapter. The registrar shall
23 maintain multiple versions of examinations for each type of license which
24 requires an examination.

25 G. No license shall be issued to a minor, to any partnership in which
26 one of the partners is a minor, or to any corporation in which a corporate
27 officer is a minor.

28 Sec. 5. Section 32-1124, Arizona Revised Statutes, is amended to read:
29 32-1124. Issuance and display of license

30 A. Upon receipt by the registrar of the fee required by this chapter
31 and an application furnishing complete information as required by the
32 registrar, ~~and upon the applicant's taking the examination required by~~
33 ~~section 32-1122,~~ the registrar shall notify the applicant, within sixty days
34 from the date of ~~passing the examination and~~ the filing of a complete
35 application of the action taken on ~~his~~ THE application, and if the registrar
36 determines that the applicant is qualified to hold a license in accordance
37 with the provisions of this chapter, ~~he~~ THE REGISTRAR shall issue a license
38 to the applicant permitting ~~him~~ THE APPLICANT to engage in business as a
39 contractor under the terms of this chapter ~~for the one year following the~~
40 application.

41 B. Licenses issued under this chapter and any renewals thereof shall
42 be signed by the registrar or ~~his~~ THE REGISTRAR'S designated representative
43 and by the licensee. The license shall be nontransferable, and satisfactory
44 evidence of possession shall be exhibited by the licensee upon demand. The

1 license number appearing on any licenses held by the licensee shall be posted
2 in a conspicuous place on premises where any work is being performed, shall
3 be placed on all written bids submitted by the licensee and shall be placed
4 on all advertising, loan forms, lending institution forms, letterheads and
5 other documents used by the licensee in the conduct of business regulated by
6 this chapter. A violation of the provisions of this subsection relating to
7 posting and placement of license numbers shall be, at the discretion of the
8 registrar, grounds for disciplinary action pursuant to section 32-1154,
9 subsection A, paragraph 13, but not grounds for preventing the award of a
10 contract, voiding an awarded contract, or any other claim or defense against
11 the licensee.

12 C. If an application for a license is denied for any reason provided
13 in this chapter, ~~or if an applicant, after having been notified to do so,~~
14 ~~fails to appear for the examination therefor within six months from the date~~
15 ~~of filing his application,~~ the application fee paid by the applicant shall
16 be forfeited and transferred to the state treasurer for deposit ~~in the~~
17 ~~general fund~~ PURSUANT TO SECTION 32-1107. A reapplication for a license
18 shall be accompanied by the fee fixed by this chapter.

19 D. On issuance or renewal of a license, the registrar, at the request
20 of a licensee, shall issue a single license certificate showing all
21 contracting licenses held by the licensee which are currently in good
22 standing and their dates of expiration.

23 E. The registrar may establish procedures to allow a licensee to
24 establish a common expiration or renewal date for all licenses issued to
25 ~~a~~ THE licensee and may provide for proration of license fees for that
26 purpose.

27 Sec. 6. Section 32-1126, Arizona Revised Statutes, is amended to read:
28 32-1126. Fees

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

30 1. Application fees for an original biennial license:

31 (a) For general residential contracting AND SUBCLASSIFICATIONS OF
32 GENERAL RESIDENTIAL CONTRACTING, not more than five hundred dollars, ~~and~~.

33 (b) For ~~all other~~ general COMMERCIAL contracting AND
34 SUBCLASSIFICATIONS OF GENERAL COMMERCIAL CONTRACTING, not more than one
35 thousand five hundred dollars.

36 (c) FOR GENERAL DUAL LICENSED CONTRACTING, NOT MORE THAN TWO THOUSAND
37 DOLLARS.

38 ~~2. (d) Application fees for an original biennial license For~~
39 ~~specialty residential contracting, not more than three hundred fifty dollars,~~
40 ~~and.~~

41 (e) For ~~all other~~ specialty COMMERCIAL contracting, not more than one
42 thousand dollars.

43 (f) FOR SPECIALTY DUAL LICENSED CONTRACTING, NOT MORE THAN ONE
44 THOUSAND THREE HUNDRED FIFTY DOLLARS.

3- 2. Biennial renewal fee:

(a) For general residential contracting AND SUBCLASSIFICATIONS OF GENERAL RESIDENTIAL CONTRACTING, not more than three hundred twenty dollars, ~~and.~~

(b) For ~~all other~~ 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.

4- (d) ~~Biennial renewal fee~~ For specialty residential contracting, not more than two hundred seventy dollars, ~~and.~~

(e) For ~~all other~~ specialty COMMERCIAL contracting, not more than nine hundred dollars.

(f) FOR SPECIALTY DUAL LICENSED CONTRACTING, NOT MORE THAN ONE THOUSAND ONE HUNDRED SEVENTY DOLLARS.

B. The registrar may establish reasonable fees for services performed by the registrar relating to reexaminations, processing of applications for change of qualifying party and approval of name changes on licenses.

C. The penalty for failure to apply for renewal of a license within the time prescribed by this chapter shall be fifty dollars.

D. The registrar may establish a separate fee for examination.

E. 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.

Sec. 7. Section 32-1131, Arizona Revised Statutes, is amended to read: 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" means any owner of residential real property which is classified as class five property under section 42-162, subsection A, paragraph 5, ~~subdivision (a)~~ and which is actually occupied or intended to be occupied by the owner as a residence including, ~~but not limited to,~~ 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. Included in this definition are 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.

1 4. "Residential contractor" means a ~~licensed~~ contractor as defined in
2 section 32-1101 who IS LICENSED TO PERFORM WORK ON RESIDENTIAL PROPERTY
3 PURSUANT TO THIS CHAPTER AND WHO engages in residential contracting.

4 Sec. 8. Section 32-1134, Arizona Revised Statutes, is amended to read:
5 32-1134. Powers and duties of registrar

6 A. The registrar shall:

7 1. Maintain the fund at a minimum level of one hundred thousand
8 dollars.

9 2. Fix assessments basing such assessments on an actuarial projection
10 of anticipated claims and an anticipated annual inflation rate of ten per
11 cent.

12 3. Establish claim reserves based on the incurral date of claims and
13 an earned basis of income.

14 4. Cause an examination of the fund to be made every three years.

15 5. File with the department of insurance an annual statement of the
16 condition of the fund, prepared in accordance with generally accepted
17 accounting principles and showing claim reserves.

18 6. Employ accountants and attorneys from monies in the fund, but not
19 to exceed ten thousand dollars in any fiscal year, that are necessary for the
20 performance of the duties prescribed in this section.

21 7. Employ or contract with individuals AND PROCURE EQUIPMENT AND
22 OPERATIONAL SUPPORT, to be paid from OR PURCHASED WITH monies in the fund,
23 but not to exceed ten per cent of the fund in any fiscal year as may be
24 necessary to monitor, process or oppose claims filed by injured persons which
25 may result in collection from the recovery fund.

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

29 Sec. 9. Section 32-1152, Arizona Revised Statutes, is amended to read:
30 32-1152. Bonds

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

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

40 1. General COMMERCIAL BUILDING contractors and subclassifications of
41 general COMMERCIAL contractors ~~are required to~~ SHALL furnish a surety bond
42 or cash deposit in an amount which shall be determined as follows:

43 (a) If the estimated annual volume of construction work of the
44 applicant is ten million dollars or more, the applicant shall furnish a

1 surety bond or cash deposit of not less than fifty thousand dollars or more
2 than one hundred thousand dollars.

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

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

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

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

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

25 2. Specialty COMMERCIAL contractors ~~are required to~~ SHALL furnish a
26 surety bond or cash deposit in an amount which shall be determined as
27 follows:

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

32 (b) If the estimated annual volume of construction work of the
33 applicant is more than five million dollars and less than ten million
34 dollars, the applicant shall furnish a surety bond or cash deposit of not
35 less than seventeen thousand five hundred dollars or more than thirty-seven
36 thousand five hundred dollars.

37 (c) If the estimated annual volume of construction work of the
38 applicant is more than one million dollars and less than five million
39 dollars, the applicant shall furnish a surety bond or cash deposit of not
40 less than seven thousand five hundred dollars or more than twenty-five
41 thousand dollars.

42 (d) If the estimated annual volume of construction work of the
43 applicant is more than five hundred thousand dollars and less than one
44 million dollars, the applicant shall furnish a surety bond or cash deposit

1 of not less than five thousand dollars or more than seventeen thousand five
2 hundred dollars.

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

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

12 ~~3. Applicants who apply for licenses under both residential and~~
13 ~~commercial classifications and whose total estimated annual volume of~~
14 ~~construction work for all licenses held under both residential and commercial~~
15 ~~classifications is three hundred fifty thousand dollars or less have the~~
16 ~~option to have the amounts of the surety bonds or cash deposits required~~
17 ~~under this section determined as follows:~~

18 ~~(a) Applicants for general contracting licenses for both residential~~
19 ~~and commercial categories shall furnish a single surety bond or cash deposit~~
20 ~~in the same amounts based on the combined annual volume of construction work~~
21 ~~as determined under subsection B, paragraph 1 of this section for a general~~
22 ~~contractor.~~

23 ~~(b) Applicants for specialty contracting licenses for both residential~~
24 ~~and commercial classifications in equivalent categories shall furnish a~~
25 ~~single surety bond or cash deposit for the equivalent licenses in the same~~
26 ~~amount based on the combined annual volume of construction work as determined~~
27 ~~under subsection B, paragraph 2 of this section for a specialty contractor.~~
28 ~~If the specialty contracting licenses are not equivalent the amount of the~~
29 ~~surety bond or cash deposit for each license shall be determined as otherwise~~
30 ~~provided in this section.~~

31 ~~(c) An applicant has the option to furnish the surety bond or cash~~
32 ~~deposits as determined in this subsection in a single surety bond or cash~~
33 ~~deposit for all licenses for which the applicant applies under this~~
34 ~~subsection.~~

35 ~~4. 3. The total amount of the surety bond or cash deposit required~~
36 ~~of a licensee who holds more than one license under paragraphs 1 and 2 of~~
37 ~~this subsection shall be the sum of the surety bond or cash deposit required~~
38 ~~for each license based on the estimated annual volume of construction work~~
39 ~~of the applicant allocated to and performed under each license. The~~
40 ~~applicant at his option may post a single surety bond or cash deposit which~~
41 ~~shall be the sum of the bonds or deposits determined under this subsection~~
42 ~~for all such licenses.~~

43 ~~4. GENERAL DUAL LICENSED CONTRACTORS AND SUBCLASSIFICATIONS OF GENERAL~~
44 ~~DUAL LICENSED CONTRACTORS SHALL FURNISH A SINGLE SURETY BOND OR CASH DEPOSIT~~

1 WITH AMOUNTS FOR EACH CLASSIFICATION OF LICENSE THAT ARE DETERMINED BASED ON
2 THE VOLUME OF COMMERCIAL WORK AS DETERMINED UNDER PARAGRAPH 1 OF THIS
3 SUBSECTION AND THE VOLUME OF RESIDENTIAL WORK AS DETERMINED UNDER PARAGRAPH
4 5 OF THIS SUBSECTION. LIABILITY UNDER THE BOND OR CASH DEPOSIT SHALL BE
5 LIMITED TO THE AMOUNT ESTABLISHED FOR EACH COMMERCIAL OR RESIDENTIAL LICENSE
6 AND AS SET FORTH IN SUBSECTION D OF THE SECTION.

7 5. GENERAL residential contractors and subclassifications of GENERAL
8 residential contractors ~~are required to~~ SHALL furnish a surety bond or cash
9 deposit in an amount of not more than fifteen thousand dollars and not less
10 than five thousand dollars.

11 6. SPECIALTY DUAL LICENSED CONTRACTORS SHALL FURNISH A SINGLE SURETY
12 BOND OR CASH DEPOSIT WITH AMOUNTS FOR EACH CLASSIFICATION OF LICENSE THAT ARE
13 DETERMINED BASED ON THE VOLUME OF COMMERCIAL WORK AS DETERMINED UNDER
14 PARAGRAPH 2 OF THIS SUBSECTION AND THE VOLUME OF RESIDENTIAL WORK AS
15 DETERMINED UNDER PARAGRAPH 7 OF THIS SUBSECTION. LIABILITY UNDER THE BOND
16 OR CASH DEPOSIT SHALL BE LIMITED TO THE AMOUNT ESTABLISHED FOR EACH
17 COMMERCIAL OR RESIDENTIAL LICENSE AND AS SET FORTH IN SUBSECTION D OF THIS
18 SECTION.

19 ~~6-~~ 7. Specialty residential contractors ~~are required to~~ SHALL furnish
20 a surety bond or cash deposit in an amount of not more than seven thousand
21 five hundred dollars and not less than one thousand dollars.

22 ~~7-~~ 8. DUAL LICENSED SWIMMING POOL CONTRACTORS AND residential
23 swimming pool general contractors ~~are required to~~ SHALL furnish a surety bond
24 or cash deposit in the same amounts based on the volume of work as determined
25 under paragraph 1 of this subsection for a general COMMERCIAL contractor.

26 C. DUAL LICENSED CONTRACTORS AND residential contractors shall also
27 either:

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

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

35 D. The surety bonds shall be executed by the contractor as principal
36 with a corporation duly authorized to transact surety business in this state.
37 Evidence of a surety bond shall be submitted to the registrar in a form
38 acceptable to the registrar. The contractor may in the alternative establish
39 a cash deposit in the amount of the bond with the state treasurer in
40 accordance with rules adopted by the registrar. The treasurer shall deposit
41 such cash bond funds in a special account to be known as the contractors'
42 cash bond fund. Ninety per cent of such funds shall be invested by the
43 treasurer pursuant to laws governing such deposits. The accrued interest
44 from such investments shall be deposited in the general fund. The remaining

1 ten per cent of such cash bond funds shall be held by the treasurer for the
2 payment of current claims. Such cash deposits may be withdrawn, if there are
3 no outstanding claims against them, two years after the termination of the
4 license in connection with which the cash is deposited. The cash deposit may
5 be withdrawn two years after the filing of a commercial surety bond as a
6 replacement to the cash deposit.

7 E. The bonds or deposit required by subsection B of this section shall
8 be for the benefit of and shall be subject to claims by the registrar of
9 contractors for failure to pay any sum required pursuant to this chapter.
10 The bond or deposit required by subsection B, paragraphs 1 ~~through 4~~, 2 AND
11 3 of this section is for the benefit of and subject to claims by a licensee
12 under this chapter or a lessee, owner or co-owner of nonresidential real
13 property including, but not limited to, a tenant in common or joint tenant,
14 or their successors in interest, who has a direct contract with the licensee
15 against whose bond or deposit the claim is made and who is damaged by the
16 failure of the licensee to build or improve a structure or appurtenance on
17 that real property at the time the work was performed in a manner not in
18 compliance with the requirements of any building or construction code
19 applicable to the construction work under the laws of this state or any
20 political subdivision, or if no such code was applicable, in accordance with
21 the standards of construction work approved by the registrar. The
22 RESIDENTIAL bond or deposit required by subsection B, paragraphs ~~3~~ 4 through
23 ~~7~~ 8 of this section is for the benefit of and subject to claims by any
24 person furnishing labor, materials or construction equipment on a rental
25 basis used in the direct performance of a construction contract involving a
26 residential structure or by persons injured as defined in section 32-1131.
27 The bond or deposit required by subsection C, paragraph 1 of this section is
28 for the benefit of and is subject to claims only by persons injured as
29 described in section 32-1131. The person seeking recovery from the bond or
30 cash deposit shall maintain an action at law against the contractor if
31 claiming against the cash deposit or against the contractor and surety if
32 claiming against the surety bond. If the person seeking recovery is required
33 to give the notice pursuant to section 33-992.01, he is entitled to seek
34 recovery only if he has given such notice and has made proof of service. The
35 surety bond or cash deposit shall be subject to claims until the full amount
36 thereof is exhausted. The court may award reasonable attorney's fees in a
37 judgment against a contractor's surety bond or cash deposit. No suit may be
38 commenced on the bond or for satisfaction from the cash deposit after the
39 expiration of two years following the commission of the act or delivery of
40 goods or rendering of services on which the suit is based, except that time
41 for purposes of claims for fraud shall be measured as provided in section
42 12-543. The surety bond or cash deposit shall be continuous in form and
43 shall be conditioned so that the total aggregate liability of the surety or
44 cash deposit for all claims, including reasonable attorney's fees, shall be

1 limited to the face amount of the surety bond or cash deposit irrespective
2 of the number of years the bond or cash deposit is in force. If the
3 corporate surety desires to make payment without awaiting court action, the
4 amount of any bond filed in compliance with this chapter shall be reduced to
5 the extent of any payment or payments made by the corporate surety in good
6 faith thereunder. Any such payments shall be based on priority of written
7 claims received by the corporate surety prior to court action. If more than
8 one cash deposit exists, the judgment against the contractor shall state
9 which cash deposit shall be used to satisfy the judgment. A certified copy
10 of the judgment shall then be filed with the state treasurer, and such
11 judgment shall specify that it may be satisfied from the contractor's cash
12 deposit. Priority for payment shall be based upon the time of filing with
13 the ~~state treasurer~~ REGISTRAR. Upon receipt of a certified copy of the
14 judgment, the ~~state treasurer~~ REGISTRAR may authorize payment from the cash
15 deposit of the amount claimed or of whatever lesser amount remains on file
16 AND SHALL NOTIFY THE STATE TREASURER OF THIS AUTHORIZATION. On the day of
17 payment the state treasurer shall give written notice of such payment to the
18 registrar of contractors. In any action against a cash deposit, the
19 claimant, at the time of filing suit, may notify the registrar in writing of
20 the action against the cash deposit, but shall not name as a defendant in the
21 action the registrar, the treasurer, or the state. Failure to so notify the
22 registrar at the time of filing suit may result in the cash deposit being
23 withdrawn by the licensee prior to judgment pursuant to subsection D of this
24 section.

25 F. When a corporate surety cancels a bond, ~~he~~ THE SURETY shall not
26 less than thirty days prior to the effective date of the cancellation give
27 the principal and the registrar ~~of contractors~~ a written notice of the
28 cancellation. Notice to the principal shall be by certified mail in a sealed
29 envelope with postage fully prepaid. Proof of notice to the principal shall
30 be made available to the registrar on request. On reduction or depletion of
31 the cash deposit, the registrar shall immediately notify the licensee of said
32 reduction or depletion and that the licensee must replenish the cash deposit
33 or furnish a surety bond on or before thirty days from the date of said
34 reduction or depletion or ~~his~~ THE CONTRACTOR'S license shall be suspended on
35 the thirtieth day without further notice or hearing. Notice to the
36 contractor shall be by certified mail in a sealed envelope with postage fully
37 prepaid thereon, addressed to ~~his~~ THE CONTRACTOR'S latest address of record
38 in the registrar's office. The contractor's license shall be suspended by
39 operation of law on the date the bond is canceled or thirty days from the
40 date of reduction or depletion of the cash deposit unless a replacement bond
41 or cash deposit is on file with the registrar.

42 G. The registrar ~~of contractors~~ and the state treasurer shall have no
43 personal liability for the performance of duties relating to the bonds, cash
44 deposits, certificates of deposit, investment certificates or share accounts

1 required or permitted by this chapter as long as such duties are performed
2 in good faith.

3 H. In the following instances the registrar, after a hearing, may
4 require, as a condition precedent to issuance, renewal, continuation or
5 removal of suspension of a license, a surety bond or cash deposit in an
6 amount and duration to be fixed by the registrar based upon the seriousness
7 of the violations, which shall be not more than ten times the amount required
8 by subsection B of this section:

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

13 2. When either the applicant or qualifying party was an officer,
14 member, partner or qualifying party for a licensee at any time during which
15 cause for disciplinary action occurred resulting in suspension or revocation
16 of such licensee's license and such applicant or qualifying party had
17 knowledge of or participated in the act or omission which was the cause of
18 such disciplinary action for a violation of this chapter.

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

23 Sec. 10. Section 32-1152.01, Arizona Revised Statutes, is amended to
24 read:

25 32-1152.01. Alternatives to cash deposit

26 A. As an alternative to the cash deposit provided for in section
27 32-1152, subsection B, a contractor may substitute any of the following:

28 1. Certificates of deposit ~~payable~~ ASSIGNED to the registrar, issued
29 by banks doing business in this state and insured by the federal deposit
30 insurance corporation.

31 2. Investment certificates or share accounts assigned to the registrar
32 and issued by a savings and loan association doing business in this state and
33 insured by the federal ~~savings and loan~~ DEPOSIT insurance corporation.

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

36 Sec. 11. Section 32-1154, Arizona Revised Statutes, is amended to
37 read:

38 32-1154. Grounds for suspension or revocation of license;
39 continuing jurisdiction; civil penalty; recovery
40 fund award

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

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

1 2. Departure from or disregard of plans or specifications or any
2 building codes of the state or any political subdivision of the state in any
3 material respect which is prejudicial to another without consent of the owner
4 or ~~his~~ THE OWNER'S duly authorized representative and without the consent of
5 the person entitled to have the particular construction project or operation
6 completed in accordance with such plans and specifications and code.

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

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

10 5. Failure to pay income taxes, withholding taxes, or any tax imposed
11 by title 42, chapter 8, and incurred in the operation of the licensed
12 business.

13 6. Misrepresentation of a material fact by the applicant in obtaining
14 a license.

15 7. The doing of a wrongful or fraudulent act by the licensee as a
16 contractor resulting in another person being substantially injured.

17 8. Conviction of a felony.

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

21 10. Aiding or abetting an unlicensed person to evade the provisions of
22 this chapter, knowingly combining or conspiring with an unlicensed person,
23 allowing one's license to be used by an unlicensed person or acting as agent,
24 partner, associate or otherwise of an unlicensed person with intent to evade
25 provisions of this chapter.

26 11. Failure by a licensee or agent or official of a licensee to pay
27 monies in excess of seven hundred fifty dollars when due for materials or
28 services rendered in connection with ~~his~~ THE LICENSEE'S operations as a
29 contractor when ~~he~~ THE LICENSEE has the capacity to pay or, if ~~he~~ THE
30 LICENSEE lacks the capacity to pay, when ~~he~~ THE LICENSEE has received
31 sufficient monies as payment for the particular construction work project or
32 operation for which the services or materials were rendered or purchased.

33 12. Failure of a contractor to comply with any safety or labor laws or
34 codes of the federal government, state or political subdivisions of the
35 state.

36 13. Failure in any material respect to comply with the provisions of
37 this chapter.

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

41 15. Acting in the capacity of a contractor under any license issued
42 under this chapter in a name other than as set forth upon the license.

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

1 17. Knowingly contracting beyond the scope of the license or licenses
2 of the licensee.

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

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

9 20. Subsequent discovery of facts which if known at the time of
10 issuance of a license or the renewal of a license would have been grounds to
11 deny the issuance or renewal of a license.

12 21. Having a person named on the license who is named on any other
13 license IN THIS STATE OR IN ANOTHER STATE which is under suspension or
14 revocation unless the prior revocation was based solely on a violation of
15 this paragraph.

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

19 (a) Not performed at the required location.

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

22 23. Failure to take appropriate corrective action to comply with this
23 chapter or with rules adopted pursuant to this chapter without valid
24 justification within a reasonable period of time after receiving a written
25 directive from the registrar. The written directive shall set forth the
26 time within which the contractor is to complete the remedial action. The
27 time permitted for compliance shall not be less than fifteen days from the
28 date of issuance of the directive. A license shall not be revoked or
29 suspended nor shall any other penalty be imposed for a violation of this
30 paragraph until after a hearing has been held pursuant to the provisions of
31 this article.

32 24. Prohibit, threaten to prohibit, retaliate, threaten to retaliate
33 or otherwise intimidate any contractor or materialman from serving a
34 preliminary notice pursuant to section 33-992.01.

35 B. The registrar may on ~~his~~ THE REGISTRAR'S own motion, and shall on
36 the written complaint of any person, investigate the acts of any contractor
37 within this state and may temporarily suspend, with or without imposition of
38 specific conditions in addition to increased surety bond or cash deposit
39 requirements, or permanently revoke any or all licenses issued under this
40 chapter if the holder of the license issued pursuant to this chapter is
41 guilty of or commits any of the acts or omissions set forth in subsection A
42 of this section.

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

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

6 D. The registrar may impose a civil penalty of not to exceed five
7 hundred dollars on a contractor for each violation of subsection A, paragraph
8 23 of this section. Civil penalties collected pursuant to this subsection
9 shall be deposited in the residential contractors' recovery fund. The
10 failure by the licensee to pay any civil penalty imposed under this
11 subsection results in the automatic revocation of the license thirty days
12 after the effective date of the order providing for the civil penalty. No
13 future license may be issued to an entity consisting of a person associated
14 with the contractor, as defined in section 32-1101, subsection A, paragraph
15 ~~3~~ 5, unless payment of any outstanding civil penalty is tendered.

16 E. Notwithstanding any other provisions in this chapter, if a
17 contractor's license has been revoked or has been suspended as a result of
18 an order to remedy a violation of this chapter, and the contractor refuses
19 or is unable to comply with the order of the registrar to remedy the
20 violation, the registrar may order payment from the residential contractors'
21 recovery fund to remedy the violation. The contractor or injured person may
22 seek judicial review of the registrar's award under title 12, chapter 7,
23 article 6.

24 Sec. 12. Repeal

25 Sections 32-1170.03 and 44-1763, Arizona Revised Statutes, are
26 repealed.

APPROVED BY THE GOVERNOR APRIL 12, 1996

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 12, 1996.