

House Engrossed

State of Arizona
House of Representatives
Forty-fifth Legislature
First Regular Session
2001

CHAPTER 78

HOUSE BILL 2371

AN ACT

AMENDING SECTIONS 32-1121 AND 32-1124, ARIZONA REVISED STATUTES; RELATING TO CONTRACTORS.

(TEXT OF BILL BEGINS ON NEXT PAGE)



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

2 Section 1. Section 32-1121, Arizona Revised Statutes, is amended to
3 read:

4 32-1121. Persons not required to be licensed; penalties

5 A. This chapter shall not be construed to apply to:

6 1. An authorized representative of the United States government, this
7 state or any county, incorporated city or town, reclamation district,
8 irrigation district or other municipality or political subdivision of this
9 state.

10 2. Trustees of an express trust that is not formed for the purpose of
11 conducting business as a contractor or officers of a court, if they are
12 acting within the terms of their trust or office.

13 3. Public utilities operating under regulation of the corporation
14 commission or construction, repair or operation incidental to discovering or
15 producing petroleum or gas, or the drilling, testing, abandoning or other
16 operation of a petroleum or gas well, if performed by an owner or lessee.

17 4. Any materialman, manufacturer or retailer furnishing finished
18 products, materials or articles of merchandise who does not install or attach
19 such items or installs or attaches such items if the total value of the sales
20 contract or transaction involving such items and the cost of the installation
21 or attachment of such items to a structure does not exceed seven hundred
22 fifty dollars including labor, materials and all other items. The
23 materialman, manufacturer or retailer shall inform the purchaser that the
24 installation may also be performed by a licensed contractor whose name and
25 address the purchaser may request.

26 5. Owners of property who improve such property or who build or
27 improve structures or appurtenances on such property and who do the work
28 themselves, with their own employees or with duly licensed contractors, if
29 the structure, group of structures or appurtenances, including the
30 improvements thereto, are intended for occupancy solely by the owner and are
31 not intended for occupancy by members of the public as the owner's employees
32 or business visitors and the structures or appurtenances are not intended for
33 sale or for rent. In all actions brought under this chapter, proof of the
34 sale or rent or the offering for sale or rent of any such structure by the
35 owner-builder within one year after completion or issuance of a certificate
36 of occupancy is prima facie evidence that such project was undertaken for the
37 purpose of sale or rent. As used in this paragraph "sale" or "rent" includes
38 any arrangement by which the owner receives compensation in money,
39 provisions, chattels or labor from the occupancy or the transfer of the
40 property or the structures on the property.

41 6. Owners of property who are acting as developers and who build
42 structures or appurtenances to structures on their property for the purpose
43 of sale or rent and who contract for such a project with a general contractor
44 licensed pursuant to this chapter and owners of property who are acting as
45 developers, who improve structures or appurtenances to structures on their
46 property for the purpose of sale or rent and who contract for such a project

1 with a general contractor or specialty contractors licensed pursuant to this
2 chapter. To qualify for the exemption under this paragraph, the licensed
3 contractors' names and license numbers shall be included in all sales
4 documents.

5 7. Architects or engineers engaging in their professional practice as
6 defined in chapter 1 of this title, provided they do not engage in the
7 activity of a contractor as defined in sections 32-1101 and 32-1102.

8 8. A person licensed, certified or registered pursuant to chapter 22
9 of this title or a person working under the direct supervision of a person
10 certified or qualified pursuant to chapter 22 of this title to the extent he
11 is engaged in structural pest control.

12 9. The sale or installation of finished products, materials or
13 articles of merchandise which are not fabricated into and do not become a
14 permanent fixed part of the structure. This exemption does not apply if a
15 local building permit is required, if the total price of the finished
16 product, material or article of merchandise including labor is more than
17 seven hundred fifty dollars or if the removal of the finished product,
18 material or article of merchandise causes damage to the structure or renders
19 the structure unfit for its intended use.

20 10. Employees of the owners of condominiums, townhouses, cooperative
21 units or apartment complexes of four units or less or the owners' management
22 agent or employees of the management agent repairing or maintaining
23 structures owned by them.

24 11. Any person who engages in the activities regulated by this chapter,
25 as an employee of an exempt property owner or as an employee with wages as
26 his sole compensation.

27 12. A surety company or companies which are authorized to transact
28 business in this state and which undertake to complete a contract on which
29 they issued a performance or completion bond, provided all construction work
30 is performed by duly licensed contractors.

31 13. Insurance companies which are authorized to transact business in
32 this state and which undertake to perform repairs resulting from casualty
33 losses pursuant to the provisions of a policy, provided all construction work
34 is performed by duly licensed contractors.

35 14. Any person other than a licensed contractor engaging in any work
36 or operation on one undertaking or project by one or more contracts, for
37 which the aggregate contract price, including labor, materials and all other
38 items, is less than seven hundred fifty dollars. The work or operations
39 which are exempt under this paragraph shall be of a casual or minor
40 nature. This exemption does not apply:

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

43 (b) In any case in which the work or construction is only a part of
44 a larger or major operation, whether undertaken by the same or a different
45 contractor, or in which a division of the operation is made in contracts of

1 amounts less than seven hundred fifty dollars for the purpose of evasion of
2 this chapter or otherwise.

3 (c) To a person who utilizes any form of advertising to the public in
4 which his unlicensed status is not disclosed by including the word
5 "~~unlicensed~~" or "~~not licensed~~" WORDS "NOT A LICENSED CONTRACTOR" in the
6 advertisement.

7 15. A person who is licensed, certified or registered pursuant to title
8 41, chapter 16 and who is not otherwise required to be licensed under this
9 chapter or an employee of such person.

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

12 B. A person who is licensed to perform work in a particular trade
13 pursuant to the provisions of this chapter shall not be required to obtain
14 and maintain a separate license for mechanical or structural service work
15 performed within the scope of such trade by such person.

16 C. ANY PERSON WHO DOES NOT HAVE AN EXEMPTION FROM LICENSURE PURSUANT
17 TO SUBSECTION A, PARAGRAPH 14, SUBDIVISION (c) OF THIS SECTION IS SUBJECT TO
18 PROSECUTION FOR A VIOLATION OF SECTION 44-1522. THE ATTORNEY GENERAL MAY
19 INVESTIGATE THE ACT OR PRACTICE AND TAKE APPROPRIATE ACTION PURSUANT TO TITLE
20 44, CHAPTER 10, ARTICLE 7.

21 Sec. 2. Section 32-1124, Arizona Revised Statutes, is amended to read:

22 32-1124. Issuance and display of license; suspension

23 A. Upon receipt by the registrar of the fee required by this chapter
24 and an application furnishing complete information as required by the
25 registrar, the registrar shall notify the applicant within sixty days from
26 the date of the filing of a complete application of the action taken on the
27 application, and if the registrar determines that the applicant is qualified
28 to hold a license in accordance with the provisions of this chapter, the
29 registrar shall issue a license to the applicant permitting the applicant to
30 engage in business as a contractor under the terms of this chapter.

31 B. Licenses issued under this chapter and any renewals shall be signed
32 by the registrar or the registrar's designated representative and by the
33 licensee. The license shall be nontransferable, and satisfactory evidence
34 of possession shall be exhibited by the licensee upon demand. The license
35 number appearing on any licenses held by the licensee shall be PRECEDED BY
36 THE ACRONYM "ROC" AND SHALL BE posted in a conspicuous place on premises
37 where any work is being performed, shall be placed on all written bids
38 submitted by the licensee and shall be placed on all advertising, loan forms,
39 lending institution forms, letterheads and other documents used by the
40 licensee in the conduct of business regulated by this chapter. A violation
41 of the provisions of this subsection relating to posting and placement of
42 license numbers shall be, at the discretion of the registrar, grounds for
43 disciplinary action pursuant to section 32-1154, subsection A, paragraph 13,
44 but not grounds for preventing the award of a contract, voiding an awarded
45 contract, or any other claim or defense against the licensee.

1 C. If an application for a license is denied for any reason provided
2 in this chapter, the application fee paid by the applicant shall be forfeited
3 and deposited pursuant to section 32-1107. A reapplication for a license
4 shall be accompanied by the fee fixed by this chapter.

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

9 E. The registrar may establish procedures to allow a licensee to
10 establish a common expiration or renewal date for all licenses issued to the
11 licensee and may provide for proration of license fees for that purpose.

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

14 1. The licensed entity is dissolved. The dissolution of the licensed
15 entity includes the death of a sole owner, a change to the partnership by
16 either adding or removing a partner, the revocation or dissolution of
17 corporate authority or the dissolution of a limited liability company or
18 limited liability partnership.

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

21 3. The license is obtained or renewed with an insufficient funds
22 check. The license remains suspended until the registrar receives a
23 certified check, a money order or cash as payment for the license fees and
24 assessments.

APPROVED BY THE GOVERNOR APRIL 9, 2001.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 9, 2001.

Passed the House March 19, 2001,

Passed the Senate April 4, 2001,

by the following vote: 38 Ayes,

by the following vote: 27 Ayes,

18 Nays, 4 Not Voting

3 Nays, 0 Not Voting

John Flake
Speaker of the House
Pro Tempore
Norman L. Moore
Chief Clerk of the House

Robert S. Strickland
President of the Senate
Chaimin Bellington
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

5 day of April, 2001,

at 1:50 o'clock P M.

Jandra Ramirez
Secretary to the Governor

Approved this 9~~4~~ day of

April, 2001,

at 11:59 o'clock A M.

Janet Napolitano
Governor of Arizona

H.B. 2371

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State
this 9 day of April, 2001,

at 4:33 o'clock P M.

Robert Taylor
Secretary of State