House Engrossed

State of Arizona
House of Representatives
Forty-sixth Legislature
Second Regular Session
2004

CHAPTER 248

HOUSE BILL 2301

AN ACT

AMENDING SECTIONS 32-1104, 32-1122 AND 32-1132, 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 32-1104, Arizona Revised Statutes, is amended to
3 read:
4 32-1104. Powers and duties
5 A. The registrar, in addition to other duties and rights provided for
6 in this chapter, shall:
7 1. Maintain an office in Phoenix and in such other cities and towns
8 in the state as the registrar deems advisable and necessary.
9 2. Maintain a complete indexed record of all applications and licenses
10 issued, renewed, terminated, cancelled, revoked or suspended under this
11 chapter, including timely notation of any judicial disposition on appeal, for
12 a period of not less than seven years.
13 3. Furnish a certified copy of any license issued or an affidavit that
14 no license exists or that a license has been cancelled or suspended including
15 information as to the status on appeal of such cancellation or suspension,
16 upon receipt of the prescribed fee, and such certified copy shall be received
17 in all courts and elsewhere as prima facie evidence of the facts stated
18 therein. The registrar shall also furnish certified copies of license bonds
19 or cash deposit certificates upon receipt of the prescribed fee. Fees
20 charged pursuant to this paragraph shall be at a rate of ten dollars per
21 hour, except that the minimum fee charged pursuant to this paragraph shall
22 be ten dollars.
23 4. Employ such deputies, investigators and assistants and procure such
24 equipment and records as are necessary to enforce this chapter. With respect
25 to the enforcement of section 32-1164, the registrar or the registrar's
26 investigators are vested with the authority to issue a citation to any
27 violators of this chapter in accordance with section 13-3903. When the
28 registrar or the registrar's investigators conduct investigations they are
29 authorized to receive criminal history record information from the department
30 of public safety and other law enforcement agencies.
31 5. Make rules the registrar deems necessary to effectually carry out
32 the provisions and intent of this chapter. Such rules shall include the
33 adoption of minimum standards for good and workmanlike construction. In the
34 adoption of such rules of minimum standards, the registrar shall be guided
35 by established usage and procedure as found in the construction business in
36 this state. If the rules of minimum standards adopted by the registrar are
37 in any manner inconsistent with a building or other code of the state, a
38 county, city or other political subdivision or local authority of the state,
39 compliance with such code shall constitute good and workmanlike construction
40 for the purposes of this chapter.
41 6. Apply the following to proposed rule changes:
42 (a) The registrar of contractors shall, at the time The registrar
43 files notice of proposed rule change with the secretary of state in
44 compliance with title 41, chapter 6, mail to each trade association that
45 qualifies in accordance with subdivision (b) of this paragraph, and any other

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

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

7. Prepare and furnish decals and business management books when deemed advisable by the registrar. A reasonable fee may be charged for such decals and business management books.

B. The registrar may develop and institute programs to do ~~both~~ ANY of the following:

1. Educate the public and contractors licensed pursuant to this chapter regarding statutes, rules, policies and operations of the agency.

2. Assist in the resolution of disputes before a reportable written complaint is filed.

3. DEVELOP, MANAGE, OPERATE AND SPONSOR CONSTRUCTION RELATED PROGRAMS DESIGNED TO BENEFIT THE PUBLIC IN CONJUNCTION WITH OTHER PRIVATE AND PUBLIC ENTITIES.

C. 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. 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. 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. A reasonable charge of not to exceed two dollars per month may be made for compilation, printing and postage for such posting lists.

D. THE REGISTRAR MAY ACCEPT VOLUNTARY GIFTS, GRANT 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.

1 Sec. 2. Section 32-1122, Arizona Revised Statutes, is amended to read:
2 32-1122. Qualifications for license
3 A. A contractor's license shall be issued only by act of the registrar
4 of contractors. The registrar shall:
5 1. Classify and qualify applicants for a license.
6 2. If necessary, change the license classification of a licensee in
7 the case of a title reclassification, with or without a bond rider for the
8 purpose of continuing liability on the bond.
9 3. Conduct investigations the registrar deems necessary.
10 4. Establish written examinations if deemed necessary to protect the
11 health and safety of the public.
12 B. To obtain or renew a license under this chapter, the applicant
13 shall:
14 1. Submit to the registrar of contractors a verified application on
15 forms that are prescribed by the registrar of contractors and that contain
16 the following information and shall advise the registrar of any change in the
17 information within thirty days:
18 (a) A designation of the classification of license that is sought by
19 the applicant.
20 (b) If the applicant is an individual, the applicant's name and
21 address.
22 (c) If the applicant is a partnership, the names and addresses of all
23 partners with a designation of any limited partners.
24 (d) If the applicant is a corporation, an association or any other
25 organization, the names and addresses of the president, vice-president, if
26 any, secretary and treasurer or the names and addresses of the functional
27 equivalent of these officers, the directors and the owners of twenty-five per
28 cent or more of the stock or beneficial interest.
29 (e) The name and address of the qualifying party.
30 (f) If the applicant is a corporation, evidence that the corporation
31 is in good standing with the corporation commission.
32 (g) The address or location of the applicant's place of business and
33 the mailing address if it is different from the applicant's place of
34 business.
35 (h) The applicant's current privilege license number issued pursuant
36 to section 42-5005.
37 (i) Proof that the applicant has complied with the statutes or rules
38 governing workers' compensation insurance.
39 2. Submit the appropriate bond and fee required under this chapter.
40 C. To obtain a contractor's license under this chapter other than a
41 residential contractor's license, the applicant shall submit a detailed
42 statement of current financial condition containing information required by
43 the registrar of contractors on a form furnished by or acceptable to the
44 registrar of contractors. Notwithstanding any other law, a swimming pool

1 contractor shall also submit a detailed statement of current financial
2 condition as required by this subsection.
3 D. To obtain or renew a license under this chapter, each person shall
4 be of good character and reputation. Lack of good character and reputation
5 may be established by showing that a person has engaged in contracting
6 without a license or committed any act that, if committed or done by any
7 licensed contractor, would be grounds for suspension or revocation of a
8 contractor's license or by showing that the person was named on a
9 contractor's license that was suspended or revoked in another state.
10 E. To obtain a license under this chapter, a person shall not have had
11 a license refused or revoked, within one year before the person's
12 application, or shall not have engaged in the contracting business, nor shall
13 the person have submitted a bid without first having been licensed within one
14 year before the person's application, nor shall a person act as a contractor
15 between the filing of the application and actual issuance of the
16 license. The registrar may find any of those actions or circumstances to be
17 excusable if there was reasonable doubt as to the need for licensure or the
18 actions of the applicant did not result in an unremedied hardship or danger
19 or loss to the public. A person who has been convicted of contracting
20 without a license is not eligible to obtain a license under this chapter for
21 one year after the date of the last conviction.
22 F. Before a license is issued, the qualifying party shall:
23 1. Have had a minimum of four years' practical or management trade
24 experience, at least two of which must have been within the last ten years,
25 dealing specifically with the type of construction, or its equivalent, for
26 which the applicant is applying for a license. Technical training in an
27 accredited college or university or in a manufacturer's accredited training
28 program may be substituted for a portion of such experience, but in no case
29 may credited technical training exceed two years of the required four years'
30 experience. The registrar of contractors may reduce the four years'
31 practical or management experience requirement if in the registrar's opinion
32 it has been conclusively shown by custom and usage in the particular industry
33 or craft involved that the four year requirement is excessive. The registrar
34 may waive the work experience documentation and verification or the
35 examination requirement if the records reflect that the qualifying party is
36 currently or has previously been a qualifying party for a licensee in this
37 state in the same classification within the preceding five years.
38 2. Successfully show, by written examination TAKEN NOT MORE THAN TWO
39 YEARS BEFORE APPLICATION, if required, qualification in the kind of work for
40 which the applicant proposes to contract, the applicant's general knowledge
41 of the building, safety, health and lien laws of the state, administrative
42 principles of the contracting business and the rules adopted by the registrar
43 of contractors pursuant to this chapter, demonstrate knowledge and
44 understanding of construction plans and specifications applicable to the
45 particular industry or craft and of the standards of construction work and

1 techniques and practices in the particular industry or craft and demonstrate
2 a general understanding of other related construction trades, in addition to
3 any other matters as may be deemed appropriate by the registrar to determine
4 that the qualifying party meets the requirements of this chapter. The
5 registrar shall maintain multiple versions of examinations for each type of
6 license that requires an examination.
7 G. No license shall be issued to a minor, to any partnership in which
8 one of the partners is a minor or to any corporation in which a corporate
9 officer is a minor.
10 H. Before receiving, renewing and holding a license pursuant to this
11 chapter, the registrar may require a license applicant or licensee to submit
12 to the registrar a full set of fingerprints and the fees required in section
13 41-1750. The registrar shall submit the fingerprints and fees to the
14 department of public safety for the purpose of obtaining a state and federal
15 criminal records check pursuant to section 41-1750 and Public Law
16 92-544. The department of public safety may exchange this fingerprint data
17 with the federal bureau of investigation.
18 Sec. 3. Section 32-1132, Arizona Revised Statutes, is amended to read:
19 32-1132. Residential contractors' recovery fund
20 A. The residential contractors' recovery fund is established, to be
21 administered by the registrar, from which any person injured by an act,
22 representation, transaction or conduct of a residential contractor licensed
23 pursuant to this chapter that is in violation of this chapter or the rules
24 adopted pursuant to this chapter may be awarded in the county where the
25 violation occurred an amount of not more than thirty thousand dollars for
26 damages sustained by the act, representation, transaction or conduct. An
27 award from the fund is limited to the actual damages suffered by the claimant
28 as a direct result of the contractor's violation but shall not exceed an
29 amount necessary to complete or repair a residential structure or
30 appurtenance within residential property lines. ACTUAL DAMAGES SHALL NOT BE
31 ESTABLISHED BY BIDS SUPPLIED BY OR THE VALUE OF WORK PERFORMED BY A PERSON
32 OR ENTITY THAT IS NOT LICENSED PURSUANT TO THIS CHAPTER AND THAT IS REQUIRED
33 TO BE LICENSED PURSUANT TO THIS CHAPTER. If the claimant has paid a deposit
34 or down payment and no actual work is performed or materials are delivered,
35 the award of actual damages shall not exceed the exact dollar amount of the
36 deposit or down payment plus interest at the rate of ten per cent a year from
37 the date the deposit or down payment is made or not more than thirty thousand
38 dollars, whichever is less. Interest shall not be paid from the fund on any
39 other awards under this chapter unless ordered by a court of competent
40 jurisdiction. An award from the fund shall not be available to persons
41 injured by an act, representation, transaction or conduct of a residential
42 contractor who was not licensed pursuant to this chapter or whose license was
43 in an inactive status, expired, cancelled, revoked, suspended or not issued
44 at the time of the contract. No more than the maximum individual award from
45 the fund shall be made on any individual residence or to any injured person.

1 Notwithstanding any other provision of law, monies in the residential
2 contractors' recovery fund shall not be directly awarded for attorney fees
3 or costs except in contested cases appealed to the superior court.
4 B. Except as provided in section 32-1152, subsection C, every person
5 making application for a contractor's license or for renewal of a
6 contractor's license to engage in residential contracting shall pay an
7 assessment of not more than six hundred dollars during the biennial license
8 period for deposit in the fund. In the event that the registrar does not
9 issue the license, this assessment shall be returned to the applicant.

APPROVED BY THE GOVERNOR MAY 19, 2004.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 19, 2004.

Passed the House March 15, 2004, by the following vote: 54 Ayes, 4 Nays, 2 Not Voting

Jake Flake
Speaker of the House

Norman L. Moore
Chief Clerk of the House

Passed the Senate May 12, 2004, by the following vote: 26 Ayes, 0 Nays, 4 Not Voting

Ken Bennett
President of the Senate

Charmin Billington
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this 13th day of May, 2004, at 2:38 o'clock P M.

Jennifer Ybarra
Secretary to the Governor

Approved this 19 day of May, 2004, at 1:00 o'clock P. M.

Jd Napolitano
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State this 19 day of May, 2004, at 2:52 o'clock P M.

Janice K. Brewer
Secretary of State

H.B. 2301