Senate Engrossed House Bill

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KEN BENNETT
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CHAPTER 187

HOUSE BILL 2176

AN ACT

AMENDING SECTIONS 32-101, 32-122.06, 32-1101, 32-1121, 32-1136, 32-1152, 32-1154 AND 32-1155, ARIZONA REVISED STATUTES; RELATING TO THE REGISTRAR OF CONTRACTORS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 32-101, Arizona Revised Statutes, is amended to read:

32-101. Purpose; definitions

A. The purpose of this chapter is to provide for the safety, health and welfare of the public through the promulgation and enforcement of standards of qualification for those individuals registered or certified and seeking registration or certification pursuant to this chapter.

B. In this chapter, unless the context otherwise requires:

1. "Advertising" includes business cards, signs or letterhead provided by a person to the public.

2. "Alarm" or "alarm system":

(a) Means any mechanical or electrical device that is designed to emit an audible alarm or transmit a signal or message if activated and that is used to detect an unauthorized entry into a building or other facility or alert other persons of the occurrence of a medical emergency or the commission of an unlawful act against a person or in a building or other facility.

(b) Includes a silent, panic, holdup, robbery, duress, burglary, medical alert or proprietor alarm that requires emergency personnel to respond.

(c) Does not include a telephone call diverter or a system that is designed to report environmental and other occurrences and that is not designed or used to alert or cause other persons to alert public safety personnel.

3. "Alarm agent":

(a) Means a person, whether an employee, an independent contractor or otherwise, who acts on behalf of an alarm business and who tests, maintains, services, repairs, sells, rents, leases or installs alarm systems ~~other than an alarm system located on the person's own property or the property of the person's employer~~.

(b) DOES NOT INCLUDE ANY ACTION BY A PERSON THAT:

(i) IS PERFORMED IN CONNECTION WITH AN ALARM SYSTEM LOCATED ON THE PERSON'S OWN PROPERTY OR THE PROPERTY OF THE PERSON'S EMPLOYER.

(ii) IS ACTING ON BEHALF OF AN ALARM BUSINESS WHOSE WORK DUTIES DO NOT INCLUDE VISITING THE LOCATION WHERE AN ALARM SYSTEM INSTALLATION OCCURS.

4. "Alarm business":

(a) Means any person who, either alone or through a third party, engages in the business of either of the following:

(i) Providing alarm monitoring services.

(ii) Selling, leasing, renting, maintaining, repairing or installing a nonproprietor alarm system or service.

(b) Does not include any of the following:

(i) A person or company that purchases, rents or uses an alarm that is affixed to a motor vehicle.

(ii) A person who owns or conducts a business of selling, leasing, renting, installing, maintaining or monitoring an alarm that is affixed to a motor vehicle.

(iii) A person who installs a nonmonitored proprietor alarm for a business that the person owns, is employed by or manages.

(iv) The installation or monitoring of fire alarm systems.

(v) An alarm system that is operated by a city or town.

5. "Alarm subscriber" means any person who:

(a) Leases, rents or purchases any monitored alarm system or service from an alarm business.

(b) Leases or rents an alarm system.

(c) Contracts with an alarm business for alarm monitoring, installation, repair or maintenance services.

6. "Architect" means a person who, by reason of knowledge of the mathematical and physical sciences and the principles of architecture and architectural engineering acquired by professional education and practical experience, is qualified to engage in the practice of architecture as attested by registration as an architect.

7. "Architect-in-training" means a candidate for registration as a professional architect who is a graduate of a school approved by the board or who has five years or more of education or experience, or both, in architectural work which meets standards specified by the board in its rules. In addition, the candidate shall have passed the architect-in-training examination.

8. "Architectural practice" means any professional service or creative work requiring architectural education, training and experience, and the application of the mathematical and physical sciences and the principles of architecture and architectural engineering to such professional services or creative work as consultation, evaluation, design and review of construction for conformance with contract documents and design, in connection with any building, planning or site development. A person shall be deemed to practice or offer to practice architecture who in any manner represents that the person is an architect, or is able to perform any architectural service or other services recognized by educational authorities as architecture.

9. "Assayer" means a person who analyzes metals, ores, minerals, or alloys in order to ascertain the quantity of gold or silver or any other substance present in them. A person employed on a full-time basis as an assayer by an employer engaged in the business of developing, mining or treating ores or other minerals shall not be deemed to be engaged in assaying practice for the purposes of this chapter if the person engages in assaying practice exclusively for and as an employee of such employer and does not

represent that the person is available and is not represented as being available to perform any assaying services for anyone other than the person's employer.

10. "Assayer-in-training" means a candidate for registration as a professional assayer who is a graduate of a school and curriculum approved by the board or who has four years or more of education or experience, or both, in assaying work which meets standards specified by the board in its rules. In addition, the candidate shall have passed the assayer-in-training examination.

11. "Assaying practice" means any professional service or work requiring assaying education, training and experience and the application of special knowledge of the mineral sciences to such service or work as consultation and the evaluation of minerals. A person is deemed to practice or offer to practice assaying who in any manner represents that the person is an assayer or is able to perform any assaying service or other services recognized by educational authorities as assaying.

12. "Board" means the state board of technical registration.

13. "Certified remediation specialist" means a person who has been certified by the board to perform, supervise and review environmental remediations if the use of a certified remediation specialist is specifically authorized by title 49 and rules adopted pursuant to title 49.

14. "Controlling person":

(a) Means a person who is designated by an alarm business.

(b) Does not include an alarm agent.

15. "Drug laboratory site remediation firm" means a firm that is licensed by the registrar of contractors pursuant to chapter 10 of this title and that performs remediation of residual contamination from the manufacture of methamphetamine, ecstasy or LSD or the storage of chemicals or equipment used in manufacturing methamphetamine, ecstasy or LSD. For the purposes of this paragraph:

(a) "Ecstasy" has the same meaning prescribed in section 13-3401, paragraph 6 and includes any of the precursor chemicals, regulated chemicals, other substances or equipment used in the unlawful manufacture of the dangerous drug.

(b) "LSD" has the same meaning prescribed in section 13-3401, paragraph 6 and includes any of the precursor chemicals, regulated chemicals, other substances or equipment used in the unlawful manufacture of the dangerous drug.

(c) "Methamphetamine" has the same meaning prescribed in section 13-3401, paragraph 6 and includes any of the precursor chemicals, regulated chemicals, other substances or equipment used in the unlawful manufacture of the dangerous drug.

16. "Engineer" means a person who, by reason of special knowledge of the mathematical and physical sciences and the principles and methods of

engineering analysis and design acquired by professional education and practical experience, is qualified to practice engineering as attested by registration as a professional engineer.

17. "Engineering practice" means any professional service or creative work requiring engineering education, training and experience and the application of special knowledge of the mathematical, physical and engineering sciences to such professional services or creative work as consultation, research investigation, evaluation, planning, surveying as defined in paragraph 27, subdivisions (d) and (e) of this subsection, design, location, development, and review of construction for conformance with contract documents and design, in connection with any public or private utility, structure, building, machine, equipment, process, work or project. Such services and work include plans and designs relating to the location, development, mining and treatment of ore and other minerals. A person shall be deemed to be practicing or offering to practice engineering if the person practices any branch of the profession of engineering, or by verbal claim, sign, advertisement, letterhead, card or any other manner represents that the person is a professional engineer, or is able to perform or does perform any engineering service or other service recognized by educational authorities as engineering. A person employed on a full-time basis as an engineer by an employer engaged in the business of developing, mining and treating ores and other minerals shall not be deemed to be practicing engineering for the purposes of this chapter if the person engages in the practice of engineering exclusively for and as an employee of such employer and does not represent that the person is available and is not represented as being available to perform any engineering services for persons other than the person's employer.

18. "Engineer-in-training" means a candidate for registration as a professional engineer who is a graduate in an approved engineering curriculum of four years or more of a school approved by the board or who has had four years or more of education or experience, or both, in engineering work which meets standards specified by the board in its rules. In addition, the candidate shall have passed the engineer-in-training examination.

19. "Firm" means any individual or partnership, corporation or other type of association, including the association of a nonregistrant and a registrant who offers to the public professional services regulated by the board.

20. "Geological practice" means any professional service or work requiring geological education, training and experience, and the application of special knowledge of the earth sciences to such professional services as consultation, evaluation of mining properties, petroleum properties and groundwater resources, professional supervision of exploration for mineral natural resources including metallic and nonmetallic ores, petroleum and groundwater, and the geological phases of engineering investigations.

21. "Geologist" means a person, not of necessity an engineer, who by reason of special knowledge of the earth sciences and the principles and methods of search for and appraisal of mineral or other natural resources acquired by professional education and practical experience is qualified to practice geology as attested by registration as a professional geologist. A person employed on a full-time basis as a geologist by an employer engaged in the business of developing, mining or treating ores and other minerals shall not be deemed to be engaged in geological practice for the purposes of this chapter if the person engages in geological practice exclusively for and as an employee of such employer and does not represent that the person is available and is not represented as being available to perform any geological services for persons other than the person's employer.

22. "Geologist-in-training" means a candidate for registration as a professional geologist who is a graduate of a school approved by the board or who has had four years or more of education or experience, or both, in geological work which meets standards specified by the board in its rules. In addition, the candidate shall have passed the geologist-in-training examination.

23. "Home inspection" means a visual analysis for the purposes of providing a professional opinion of the building, any reasonably accessible installed components and the operation of the building's systems, including the controls normally operated by the owner, for the following components of a residential building of four units or less:

(a) Heating system.
(b) Cooling system.
(c) Plumbing system.
(d) Electrical system.
(e) Structural components.
(f) Foundation.
(g) Roof covering.
(h) Exterior and interior components.
(i) Site aspects as they affect the building.
(j) Pursuant to rules adopted by the board, swimming pool and spa.

24. "Home inspection report" means a written report that is prepared for compensation, that is issued after a home inspection and that clearly describes and identifies the inspected systems, structures and components of a completed dwelling and any visible major defects found to be in need of immediate major repair and any recommendations for additional evaluation by appropriate persons.

25. "Home inspector" means an individual who is certified pursuant to this chapter as a home inspector and who engages in the business of performing home inspections and writing home inspection reports.

26. "Home inspector-in-training" means a candidate for certification as a home inspector who has completed a course of study approved by the board

and who is participating in a training program that complies with standards recommended by the home inspector rules and standards committee and approved by the board.

27. "Land surveying practice" means the performance of one or more of the following professional services:

(a) Measurement of land to determine the position of any monument or reference point which marks a property line, boundary or corner for the purpose of determining the area or description of the land.

(b) Location, relocation, establishment, reestablishment, setting, resetting or replacing of corner monuments or reference points which identify land boundaries, rights-of-way or easements.

(c) Platting or plotting of lands for the purpose of subdividing.

(d) Measurement by angles, distances and elevations of natural or artificial features in the air, on the surface and immediate subsurface of the earth, within underground workings and on the surface or within bodies of water for the purpose of determining or establishing their location, size, shape, topography, grades, contours or water surface and depths, and the preparation and perpetuation of field note records and maps depicting these features.

(e) Setting, resetting or replacing of points to guide the location of new construction.

28. "Land surveyor" means a person who by reason of knowledge of the mathematical and physical sciences, principles of land surveying and evidence gathering acquired by professional education or practical experience, or both, is qualified to practice land surveying as attested by registration as a land surveyor. A person employed on a full-time basis as a land surveyor by an employer engaged in the business of developing, mining or treating ores or other minerals shall not be deemed to be engaged in land surveying practice for purposes of this chapter if the person engages in land surveying practice exclusively for and as an employee of such employer and does not represent that the person is available and is not represented as being available to perform any land surveying services for persons other than the person's employer.

29. "Land surveyor-in-training" means a candidate for registration as a professional land surveyor who is a graduate of a school and curriculum approved by the board, or who has four years or more of education or experience, or both, in land surveying work which meets standards specified by the board in its rules. In addition, the candidate shall have passed the land surveyor-in-training examination.

30. "Landscape architect" means a person who, by reason of professional education or practical experience, or both, is qualified to engage in the practice of landscape architecture as attested by registration as a landscape architect.

31. "Landscape architect-in-training" means a candidate for registration as a professional landscape architect who is a graduate of a school approved by the board or who has had four years or more of education or experience, or both, in landscape architectural work which meets standards specified by the board in its rules. In addition, the candidate shall have passed the landscape architect-in-training examination.

32. "Landscape architectural practice" means the performance of professional services such as consultations, investigation, reconnaissance, research, planning, design or responsible supervision in connection with the development of land and incidental water areas where, and to the extent that, the dominant purpose of such services is the preservation, enhancement or determination of proper land uses, natural land features, ground cover and planting, naturalistic and aesthetic values, the settings of and approaches to buildings, structures, facilities or other improvements, natural drainage and the consideration and the determination of inherent problems of the land relating to erosion, wear and tear, light or other hazards. This practice shall include the location and arrangement of such tangible objects and features as are incidental and necessary to the purposes outlined in this paragraph but shall not include the making of cadastral surveys or final land plats for official recording or approval, nor mandatorily include planning for governmental subdivisions.

33. "Monitored alarm" means a device that is designed for the detection of an entry on any premises and that if activated generates a notification signal.

34. "On-site supervisor" means the employee of a drug laboratory site remediation firm who is authorized to oversee on-site workers in the performance of their duties.

35. "On-site worker" means an employee of a drug laboratory site remediation firm who has on-site duties or who handles contaminated materials, chemicals or contaminated equipment.

36. "Person" means any individual, firm, partnership, corporation, association or other organization.

37. "Principal" means an individual who is an officer of the corporation or is designated by a firm as having full authority and responsible charge of the services offered by the firm.

38. "Proprietor alarm" means any alarm or alarm system that is owned by an alarm subscriber who has not contracted with an alarm business.

39. "Registrant" means a person registered or certified by the board.

40. "Registration" means a registration or certification issued by the board.

Sec. 2. Section 32-122.06, Arizona Revised Statutes, is amended to read:

32-122.06. Certification of alarm agents; fingerprinting; fee

A. Each alarm agent shall apply for an alarm agent certification and a renewal certification card from the board. The board shall issue or deny an alarm agent certification card or a renewal certification card within ten business days after receiving the application. All alarm agent certificates issued pursuant to this article are valid for two years from the date of issuance.

B. In order to obtain an alarm agent certificate, a person shall submit an application and pay a fee as determined by the board. The person shall submit a completed fingerprint card and a fingerprint background check fee to the board. On receipt of the application and each year thereafter on the anniversary of the initial certification for as long as the person is an alarm agent, the board shall submit the alarm agent's fingerprints 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. The department of public safety may exchange this fingerprint data with the federal bureau of investigation. THIS SUBSECTION DOES NOT APPLY IF THE ALARM AGENT IS ALSO THE CONTROLLING PERSON AND HAS COMPLIED WITH SECTION 32-122.05. For as long as the person is an alarm agent:

1. The person shall submit a fingerprint background check fee to the board annually on the anniversary of the person's initial certification.

2. The board shall keep and maintain the fingerprint card.

C. A person shall apply for an alarm agent certificate within five working days after being employed by an alarm business. A person may not work as an alarm agent until the application is processed and approved unless under the direct supervision of a certified alarm agent.

D. An alarm agent shall physically possess the agent's alarm agent certification card when performing or authorizing the performance of any task pursuant to this chapter.

E. An alarm agent certificate card becomes the personal property of the person to whom it is issued. The person shall retain possession of the card.

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

32-1101. Definitions

A. In this chapter, unless the context otherwise requires:

1. "Advertisement" means any written or oral publication, dissemination, solicitation or circulation ~~which~~ 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.

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) 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.

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) 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.

~~5.~~ 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.

~~6.~~ 7. "Registrar" means the registrar of contractors.

~~7.~~ 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) Connect such residential structure to utility service lines, metering devices or sewer lines.

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

B. "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.

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

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

Sec. 4. Section 32-1121, Arizona Revised Statutes, is amended to read:

32-1121. <u>Persons not required to be licensed; penalties; applicability</u>

A. 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 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.

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. 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. 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.

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

property for the purpose of sale or rent and who contract for such a project with a general contractor or specialty contractors licensed pursuant to this chapter. To qualify for the exemption under this paragraph, the licensed contractors' names and license numbers shall be included in all sales documents.

7. Architects or engineers who are engaging in their professional practice as defined in chapter 1 of this title and who hire or offer to hire the services of a contractor for preconstruction activities relating to investigation and discovery, including:

(a) Subsurface utility location and designation services.

(b) Potholing.

(c) Drilling for any of the following:

(i) Soil samples.

(ii) Rock samples.

(iii) Pavement samples.

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

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

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.

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.

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.

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

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

17. ALARM AGENTS AS DEFINED IN SECTION 32-101.

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.

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

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:

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 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.

Sec. 5. Section 32-1136, Arizona Revised Statutes, is amended to read:

32-1136. Statute of limitations; recovery from fund

A. An action for a judgment ~~which~~ 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. When any injured person commences action for a judgment ~~which~~ 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. The registrar ~~may~~ at any time MAY intervene in and defend any such action.

B. When any injured person recovers a valid judgment against any residential contractor for such act, representation, transaction or conduct ~~which~~ THAT is in violation of this chapter or the rules adopted pursuant to this chapter, the injured person, ~~may~~ 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. 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 ~~upon~~ ON

receipt of a consent to payment signed on behalf of the registrar. 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 ~~subsection B of~~ this ~~section~~ SUBSECTION. If the court receives written objections by the registrar, the court shall not direct payment from the fund without affording the registrar a reasonable opportunity to present and support his objections.

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

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

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

2. Has obtained a judgment ~~which~~ 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. Has proceeded against any existing bond covering the residential contractor and has not collected ~~upon~~ ON such bond an amount of thirty thousand dollars or more~~, except when the award is made pursuant to subsection E of this section or section 32-1154~~.

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

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

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.

Sec. 6. Section 32-1152, Arizona Revised Statutes, is amended to read:

32-1152. Bonds

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

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:

1. General commercial building contractors and subclassifications of general commercial contractors shall furnish a surety bond or cash deposit in an amount ~~which shall be~~ THAT IS determined as follows:

(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.

(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. Specialty commercial contractors shall furnish a surety bond or cash deposit in an amount ~~which shall be~~ THAT IS determined as follows:

(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.

(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.

(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.

(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.

(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.

(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 two thousand five hundred dollars.

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. The applicant at his option may post a single surety bond or cash deposit ~~which shall be~~ THAT IS the sum of the bonds or deposits determined under this subsection for all such licenses.

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. 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 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 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.

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.

C. Dual licensed contractors and residential contractors shall also 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. This bond shall be subject to the limitations on the amounts that may be awarded to individual claimants as established in section 32-1132.

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

D. The surety bonds shall be executed by the contractor as principal with a corporation duly authorized to transact surety business in this state. Evidence of a surety bond shall be submitted to the registrar in a form acceptable to the registrar. The contractor ~~may~~ 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. Such cash bond monies shall be deposited, pursuant to sections 35-146 and 35-147, in the contractors' cash bond fund. The state treasurer shall invest and divest monies in the fund as provided by section 35-313, and monies earned from investment shall be credited to the state general fund. 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. The cash deposit may be withdrawn two years after the filing of a commercial surety bond as a replacement to the cash deposit.

E. 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. 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. 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. 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. 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. The surety bond or cash deposit shall be subject to claims until the full amount thereof is exhausted. The court may award reasonable ~~attorney's~~ ATTORNEY fees in a judgment against a contractor's surety bond or cash deposit. 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. 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's~~ 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. 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. Any such payments shall be based on priority of written claims received by the corporate surety ~~prior to~~ BEFORE court OR REGISTRAR action. If more than one cash deposit exists, the judgment against the

contractor shall state which cash deposit shall be used to satisfy the judgment. 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 for payment shall be based ~~upon~~ ON the time of filing with the registrar. ~~Upon~~ 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. 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. Failure to so notify the registrar at the time of filing suit may result in the cash deposit being withdrawn by the licensee ~~prior to~~ BEFORE judgment pursuant to subsection D of this section.

F. When a corporate surety cancels a bond, the surety, ~~shall~~ not less than thirty days ~~prior to~~ BEFORE the effective date of the cancellation, SHALL give the principal and the registrar a written notice of the cancellation. 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. 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. 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. 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.

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.

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

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.

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 ~~which~~ THAT was the cause of such disciplinary action for a violation of this chapter.

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.

Sec. 7. Section 32-1154, Arizona Revised Statutes, is amended to read:

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

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 ~~which~~ 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.

5. Failure to pay income taxes, withholding taxes or any tax imposed by title 42, chapter 5, articles 1 and 4 and incurred in the operation of the licensed business.

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

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

8. Conviction of a felony.

9. 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.

10. 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.

11. 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.

12. 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.

13. Failure in any material respect to comply with this chapter.

14. 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.

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

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

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

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

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

20. Subsequent discovery of facts ~~which~~ 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.

21. Having a person named on the license who is OR WAS named on any other license in this state or in another state ~~which~~ 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.

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

(a) Not performed at the required location.

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

23. 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. The written directive shall set forth the time within which the contractor is to complete the remedial action. The time permitted for compliance shall not be less than fifteen days from the date of issuance of the directive. 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.

24. 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.

B. 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 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.

C. 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.

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

23 of this section. Civil penalties collected pursuant to this subsection shall be deposited in the residential contractors' recovery fund. 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 may be issued to an entity consisting of a person, AS DEFINED IN SECTION 32-1101, SUBSECTION A, PARAGRAPH 6, WHO IS associated with the contractor, ~~as defined in section 32-1101, subsection A, paragraph 5,~~ unless payment of any outstanding civil penalty is tendered.

E. The registrar shall impose a civil penalty of not to exceed one thousand dollars on a contractor for each violation of subsection A, paragraph 18 of this section. Civil penalties collected pursuant to this subsection shall be deposited in the residential contractors' recovery fund. 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 may be issued to an entity consisting of a person, AS DEFINED IN SECTION 32-1101, SUBSECTION A, PARAGRAPH 6, WHO IS associated with the contractor, ~~as defined in section 32-1101, subsection A, paragraph 5,~~ unless payment of any outstanding civil penalty is tendered.

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

Sec. 8. Section 32-1155, Arizona Revised Statutes, is amended to read:

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

A. ~~Upon~~ ON the filing of a written complaint with the registrar charging a licensee with the commission, within two years ~~prior to~~ BEFORE the date of filing the complaint, of an act that is cause for suspension or revocation of a license, the registrar after investigation, IN ITS SOLE DISCRETION, may issue a citation directing the licensee, within ten days after service of the citation ~~upon~~ ON the licensee, to appear by filing with the registrar the licensee's written answer to the citation and complaint showing cause, if any, why the licensee's license should not be suspended or revoked. Service of citation ~~upon~~ 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 the citation and complaint shall be complete at the time of personal service or five days after deposit in the mail. 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.

B. 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.

C. 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:

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.

D. NOTWITHSTANDING SUBSECTION C OF THIS SECTION, THE REGISTRAR MAY INVESTIGATE THE COMPLAINT WITHOUT WAITING FIFTEEN DAYS.

APPROVED BY THE GOVERNOR MAY 7, 2013.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 8, 2013.

Passed the House February 28, 20 13

by the following vote: 57 Ayes,

0 Nays, 3 Not Voting

Speaker of the House

Chief Clerk of the House

Passed the Senate April 25, 20 13

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

_____ day of _____, 20_____

at _____ o'clock _____M.

_____
Secretary to the Governor

Approved this _____day of

_____

at _____o'clock _____M.

_____
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this _____ day of _____, 20_____

at _____ o'clock _____M.

_____
Secretary of State

H.B. 2176

HOUSE CONCURS IN SENATE AMENDMENTS AND FINAL PASSAGE

May 2, 2013,

by the following vote: 57 Ayes,

1 Nays, 2 Not Voting

Speaker of the House

Cheryl Laubs

Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

2 day of May, 2013,

at 3:30 o'clock P M.

Lindsay Scornavacco

Secretary to the Governor

Approved this 7th day of

May, 2013,

at 1:51 o'clock P. M.

Janice K. Brewer

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 8th day of May, 2013,

at 9:01 o'clock a M.

Ken Bennett

Secretary of State

H.B. 2176