

REFERENCE TITLE: building permits; conditions; qualifications

State of Arizona
House of Representatives
Fifty-sixth Legislature
First Regular Session
2023

HB 2659

Introduced by
Representatives Sun: Aguilar, Austin, Bravo, Cano, Contreras L, Contreras
P, De Los Santos, Gutierrez, Hernandez A, Hernandez C, Hernandez L,
Hernandez M, Longdon, Mathis, Ortiz, Pawlik, Peshlakai, Quiñonez, Salman,
Sandoval, Schwiebert, Seaman, Stahl Hamilton, Terech, Travers, Tsosie,
Senator Fernandez

AN ACT

**AMENDING TITLE 9, CHAPTER 4, ARTICLE 6.4, ARIZONA REVISED STATUTES, BY
ADDING SECTION 9-469; AMENDING TITLE 11, CHAPTER 2, ARTICLE 9, ARIZONA
REVISED STATUTES, BY ADDING SECTION 11-324; RELATING TO BUILDING PERMITS.**

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 9, chapter 4, article 6.4, Arizona Revised
3 Statutes, is amended by adding section 9-469, to read:

4 9-469. Building permits; qualifications; conditions;
5 enforcement; violation; classification; definition

6 A. THE ISSUANCE OF A CITY OR TOWN BUILDING PERMIT FOR CONSTRUCTING,
7 RECONSTRUCTING, INSTALLING, DEMOLISHING, MAINTAINING OR REPAIRING ANY
8 COMMERCIAL BUILDING ESTIMATED TO COST AT LEAST \$250,000 OR A RESIDENTIAL
9 BUILDING WITH AT LEAST FIVE UNITS IS CONDITIONED ON THE CONTRACTOR
10 COMPLYING WITH THE FOLLOWING QUALIFICATIONS AND CONDITIONS AT ALL TIMES
11 DURING THE PERFORMANCE OF WORK ON THE PROJECT:

12 1. THE CONTRACTOR HAS NOT BEEN SUSPENDED FROM PERFORMING
13 CONSTRUCTION WORK BY ANY FEDERAL, STATE OR LOCAL GOVERNMENT AGENCY OR
14 AUTHORITY IN THE PREVIOUS THREE YEARS.

15 2. THE CONTRACTOR HAS NOT BEEN FOUND WITHIN THE PAST THREE YEARS BY
16 A COURT OR GOVERNMENTAL AGENCY IN VIOLATION OF ANY LAW RELATING TO
17 PROVIDING WORKERS' COMPENSATION INSURANCE COVERAGE, MISCLASSIFICATION OF
18 EMPLOYEES AS INDEPENDENT CONTRACTORS, PAYMENT OF EMPLOYER PAYROLL TAXES,
19 EMPLOYEE INCOME TAX WITHHOLDING, WAGE AND HOUR LAWS, PROMPT PAYMENT LAWS
20 OR PREVAILING WAGE LAWS.

21 3. THE CONTRACTOR MAINTAINS APPROPRIATE WORKERS' COMPENSATION
22 INSURANCE AS REQUIRED BY TITLE 23, CHAPTER 6 AND PROVIDES DOCUMENTARY
23 PROOF OF THE COVERAGE TO THE CITY OR TOWN TO BE MAINTAINED AS A PUBLIC
24 RECORD.

25 4. THE CONTRACTOR PROPERLY CLASSIFIES EMPLOYEES AS EMPLOYEES RATHER
26 THAN INDEPENDENT CONTRACTORS AND TREATS THEM ACCORDINGLY FOR PURPOSES OF
27 MINIMUM WAGE, OVERTIME, WORKERS' COMPENSATION INSURANCE COVERAGE,
28 UNEMPLOYMENT TAXES, SOCIAL SECURITY TAXES AND STATE AND FEDERAL INCOME TAX
29 WITHHOLDING.

30 5. THE CONTRACTOR MAINTAINS DETAILED PAYROLL RECORDS AND PROVIDES
31 THE RECORDS ON THE REQUEST OF THE CITY OR TOWN, ATTORNEY GENERAL OR COUNTY
32 ATTORNEY WITHIN FIVE DAYS AFTER THE REQUEST IS MADE.

33 6. THE CONTRACTOR COMPLIES WITH TITLE 23, CHAPTER 2, ARTICLE 7
34 RELATING TO PAYMENT OF WAGES.

35 7. THE CONTRACTOR PAYS CONTRIBUTIONS TO THE UNEMPLOYMENT
36 COMPENSATION FUND ESTABLISHED BY SECTION 23-701.

37 B. IF A PERSON FAILS TO COMPLY WITH THIS SECTION:

38 1. THE PERMIT IS SUSPENDED BY OPERATION OF LAW AND ALL CONSTRUCTION
39 WORK ON THE ENTIRE PROJECT MUST IMMEDIATELY CEASE AND DESIST ON ISSUANCE
40 OF A STOP WORK ORDER ISSUED BY THE CITY OR TOWN OR ITS DESIGNEE.

41 2. THE CITY OR TOWN OR ITS DESIGNEE SHALL ISSUE A STOP WORK ORDER
42 WITH RESPECT TO ALL CONSTRUCTION WORK ON THE ENTIRE PROJECT UNTIL THE
43 VIOLATION IS REMEDIED. IF THE CITY OR TOWN OR ITS DESIGNEE DETERMINES
44 THAT THE VIOLATION HAS BEEN REMEDIED, THE CITY OR TOWN OR ITS DESIGNEE

1 SHALL WITHDRAW THE STOP WORK ORDER AND CONSTRUCTION ON THE PROJECT MAY
2 PROCEED.

3 C. THE APPLICANT FOR THE PERMIT DESCRIBED IN THIS SECTION IS
4 RESPONSIBLE FOR ENSURING THAT ALL CONTRACTORS PERFORMING CONSTRUCTION WORK
5 ON THE PROPERTY COMPLY WITH THE QUALIFICATIONS AND CONDITIONS REQUIRED BY
6 THIS SECTION FOR THE DURATION OF THE WORK ON THE PROJECT.

7 D. THE ATTORNEY GENERAL SHALL ENFORCE THIS SECTION AND MAY REFER
8 ENFORCEMENT TO THE COUNTY ATTORNEY IN THE COUNTY WHERE THE VIOLATION
9 OCCURS. NOTWITHSTANDING ANY OTHER LAW, ANY FINES GENERATED FROM AN
10 ENFORCEMENT ACTION DUE TO A VIOLATION OF THIS SECTION MAY REMAIN WITH THE
11 ATTORNEY GENERAL OR WITH THE COUNTY ATTORNEY WHO BROUGHT THE ENFORCEMENT
12 ACTION.

13 E. A PERSON IS GUILTY OF A CLASS 6 FELONY FOR EACH VIOLATION OF
14 SUBSECTION A OF THIS SECTION.

15 F. FOR THE PURPOSES OF THIS SECTION, "CONTRACTOR" INCLUDES A
16 CONSTRUCTION MANAGER, GENERAL CONTRACTOR OR OTHER LEAD OR PRIME
17 CONTRACTOR, OR ANY ENTITY FUNCTIONING IN SUCH CAPACITY, AND ANY OTHER
18 CONTRACTOR OR SUBCONTRACTOR OF ANY TIER OR OTHER PERSON THAT IS ENGAGED TO
19 PERFORM THE CONSTRUCTION WORK ON THE PROPERTY THAT IS THE SUBJECT OF THE
20 PERMIT.

21 Sec. 2. Title 11, chapter 2, article 9, Arizona Revised Statutes,
22 is amended by adding section 11-324, to read:

23 11-324. Building permits; conditions; qualifications;
24 enforcement; violation; classification; definition

25 A. THE ISSUANCE OF A COUNTY BUILDING PERMIT FOR CONSTRUCTING,
26 RECONSTRUCTING, INSTALLING, DEMOLISHING, MAINTAINING OR REPAIRING ANY
27 COMMERCIAL BUILDING ESTIMATED TO COST AT LEAST \$250,000 OR A RESIDENTIAL
28 BUILDING WITH AT LEAST FIVE UNITS IS CONDITIONED ON THE CONTRACTOR
29 COMPLYING WITH THE FOLLOWING QUALIFICATIONS AND CONDITIONS AT ALL TIMES
30 DURING THE PERFORMANCE OF WORK ON THE PROJECT:

31 1. THE CONTRACTOR HAS NOT BEEN SUSPENDED FROM PERFORMING
32 CONSTRUCTION WORK BY ANY FEDERAL, STATE OR LOCAL GOVERNMENT AGENCY OR
33 AUTHORITY IN THE PREVIOUS THREE YEARS.

34 2. THE CONTRACTOR HAS NOT BEEN FOUND WITHIN THE PAST THREE YEARS BY
35 A COURT OR GOVERNMENTAL AGENCY IN VIOLATION OF ANY LAW RELATING TO
36 PROVIDING WORKERS' COMPENSATION INSURANCE COVERAGE, MISCLASSIFICATION OF
37 EMPLOYEES AS INDEPENDENT CONTRACTORS, PAYMENT OF EMPLOYER PAYROLL TAXES,
38 EMPLOYEE INCOME TAX WITHHOLDING, WAGE AND HOUR LAWS, PROMPT PAYMENT LAWS
39 OR PREVAILING WAGE LAWS.

40 3. THE CONTRACTOR MAINTAINS APPROPRIATE WORKERS' COMPENSATION
41 INSURANCE AS REQUIRED BY TITLE 23, CHAPTER 6 AND PROVIDES DOCUMENTARY
42 PROOF OF THE COVERAGE TO THE COUNTY TO BE MAINTAINED AS A PUBLIC RECORD.

43 4. THE CONTRACTOR PROPERLY CLASSIFIES EMPLOYEES AS EMPLOYEES RATHER
44 THAN INDEPENDENT CONTRACTORS AND TREATS THEM ACCORDINGLY FOR PURPOSES OF
45 MINIMUM WAGE, OVERTIME, WORKERS' COMPENSATION INSURANCE COVERAGE,

1 UNEMPLOYMENT TAXES, SOCIAL SECURITY TAXES AND STATE AND FEDERAL INCOME TAX
2 WITHHOLDING.

3 5. THE CONTRACTOR MAINTAINS DETAILED PAYROLL RECORDS AND PROVIDES
4 THE RECORDS ON THE REQUEST OF THE COUNTY, ATTORNEY GENERAL OR COUNTY
5 ATTORNEY WITHIN FIVE DAYS AFTER THE REQUEST IS MADE.

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16 IS REMEDIED. IF THE COUNTY OR ITS DESIGNEE DETERMINES THAT THE VIOLATION
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35 PERFORM THE CONSTRUCTION WORK ON THE PROPERTY THAT IS THE SUBJECT OF THE
36 PERMIT.