

REFERENCE TITLE: ROC; contractors; licensing; administrative decisions

State of Arizona  
House of Representatives  
Fifty-sixth Legislature  
Second Regular Session  
2024

# HB 2077

Introduced by  
Representative Hendrix

## AN ACT

AMENDING SECTIONS 32-1104 AND 32-1133.01, ARIZONA REVISED STATUTES;  
REPEALING SECTION 32-1151.02, ARIZONA REVISED STATUTES; AMENDING SECTIONS  
32-1161, 41-1080.01 AND 41-1092.08, ARIZONA REVISED STATUTES; RELATING TO  
THE REGISTRAR OF 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  
6 for in this chapter, shall:

7 1. Maintain an office in Phoenix and in such other cities and towns  
8 in ~~the~~ THIS state as the registrar deems advisable and necessary.

9 2. Maintain a complete indexed record of all applications and  
10 licenses THAT ARE issued, renewed, terminated, ~~cancelled~~ CANCELED, revoked  
11 or suspended under this chapter, including timely notation of any judicial  
12 disposition on appeal, for a period of ~~not less than~~ AT LEAST seven years.

13 3. Furnish a certified copy of any license issued or an affidavit  
14 that no license exists or that a license has been ~~cancelled~~ CANCELED or  
15 suspended, including information as to the status on appeal of such a  
16 cancellation or suspension, on receipt of the prescribed fee. ~~, and~~ That  
17 certified copy or affidavit shall be received in all courts and elsewhere  
18 as prima facie evidence of the facts stated ~~therein~~ IN THE CERTIFIED COPY  
19 OR AFFIDAVIT. The registrar shall also furnish certified copies of  
20 license bonds or cash deposit certificates on receipt of the prescribed  
21 fee. Fees charged pursuant to this paragraph are \$10 per hour, except  
22 that the minimum fee charged pursuant to this paragraph is \$10.

23 4. Employ such deputies, investigators and assistants WHO ARE  
24 subject to title 41, chapter 4, article 4, and procure such equipment and  
25 records, as are necessary to enforce this chapter. With respect to the  
26 enforcement of section 32-1164, the registrar or the registrar's  
27 investigators are vested with the authority to issue a citation to any  
28 violators of this chapter in accordance with section 13-3903. When the  
29 registrar or the registrar's investigators conduct investigations they are  
30 authorized to receive criminal history record information from the  
31 department of public safety and other law enforcement agencies.

32 5. Make rules the registrar deems necessary to effectually carry  
33 out the provisions and intent of this chapter. Such rules shall include  
34 the adoption of minimum standards for good and workmanlike construction.  
35 In adopting such rules of minimum standards, the registrar shall be guided  
36 by established usage and procedure as found in the construction business  
37 in this state. If the rules of minimum standards adopted by the registrar  
38 are in any manner inconsistent with a building or other code of this  
39 state, ~~OR~~ OR a county, city or other political subdivision or local  
40 authority of this state, compliance with such code shall constitute good  
41 and workmanlike construction for the purposes of this chapter.

42 6. Apply the following to proposed rule changes:

43 (a) The registrar of contractors, at the time the registrar files  
44 notice of proposed rule change with the secretary of state in compliance

1 with title 41, chapter 6, shall mail to each trade association that  
2 qualifies in accordance with subdivision (b) of this paragraph, and any  
3 other individual holding a bona fide contractor's license who qualifies in  
4 accordance with subdivision (b) of this paragraph, a copy of the notice of  
5 proposed rule change.

6 (b) Every trade association in this state allied with the  
7 contracting business that files a written request that a notice be mailed  
8 to it and shows that the association has an interest in the rules of the  
9 registrar of contractors shall receive a copy ~~thereof~~ OF THE NOTICE OF  
10 PROPOSED RULE CHANGE, as set forth in subdivision (a) of this paragraph.  
11 Such filing of a request may be made every two years, and ~~it~~ shall  
12 contain information as to the nature of the association and its mailing  
13 address. Any duly licensed contractor who files a written request shall  
14 receive a copy of the proposed rule changes in accordance with this  
15 paragraph. Each such request may be made every two years.

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

19 8. Refer criminal violations of this chapter to the appropriate law  
20 enforcement agency or prosecuting authority.

21 B. The registrar may develop and institute programs to do any of  
22 the following:

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

25 2. Assist in resolving disputes in an informal process before a  
26 reportable written complaint is filed. The registrar must notify the  
27 licensed contractor in an alleged dispute before a written complaint is  
28 filed and allow the contractor the opportunity to be present at any  
29 inspection regarding the alleged dispute. The registrar must give the  
30 contractor at least five days' notice before the inspection. Issues in  
31 the alleged dispute under this section shall not be limited in number and  
32 shall not be considered formal written complaints. The homeowner reserves  
33 the right to deny access to the contractor under this informal complaint  
34 process. The registrar must notify the contractor and the homeowner in  
35 writing of the registrar's findings within five days after the date of the  
36 inspection. The registrar may not post any information regarding the  
37 informal complaint process as part of a licensee's record on the  
38 registrar's website.

39 3. Develop, manage, operate and sponsor ~~construction related~~  
40 CONSTRUCTION-RELATED programs THAT ARE designed to benefit the public in  
41 conjunction with other private and public entities.

42 ~~C. The registrar shall publicly post a list of applicants for a~~  
43 ~~contractor license on its website for at least twenty days, commencing on~~  
44 ~~the day designated by the registrar. The registrar shall issue a license~~

1 ~~if the applicant meets all requirements regardless of the twenty-day~~  
2 ~~posting period. The registrar shall furnish copies of the posting list on~~  
3 ~~written request. A reasonable charge, not to exceed \$2 per month, may be~~  
4 ~~made for compilation, printing and postage for the posting list. The list~~  
5 ~~shall contain the following information:~~

6 ~~1. The name and address of the applicant.~~

7 ~~2. The names, addresses and official capacity of all persons~~  
8 ~~required to sign the application under section 32-1122.~~

9 ~~D.~~ C. The registrar may accept voluntary gifts, grants or matching  
10 monies from public agencies or enterprises for the conduct of programs  
11 that are authorized by this section or that are consistent with the  
12 purpose of this chapter.

13 Sec. 2. Section 32-1133.01, Arizona Revised Statutes, is amended to  
14 read:

15 32-1133.01. Administrative recovery; statute of limitations

16 A. Notwithstanding any other provision in this chapter, if a  
17 contractor license has been revoked or suspended as a result of an order  
18 to remedy a violation of this chapter, the registrar may order payment  
19 from the residential contractors' recovery fund to remedy the violation.

20 B. The registrar must serve the contractor with a notice setting  
21 forth the amount claimed or to be awarded.

22 C. If the contractor contests the amount or propriety of the  
23 payment, the contractor must respond in writing within ten days after the  
24 date of service by requesting a hearing to determine the amount or  
25 propriety of the payment. The contractor's failure to respond in writing  
26 within ten days after the date of service may be deemed a waiver by the  
27 contractor of the right to contest the amount claimed or to be awarded.  
28 **THE CONTRACTOR REQUESTING A HEARING UNDER THIS SECTION BEARS THE BURDEN OF**  
29 **PROOF AT THE HEARING.**

30 D. Service of the notice required by subsection B of this section  
31 may be made by personal service to the contractor or by mailing a copy of  
32 the notice by certified mail with postage prepaid to the contractor's  
33 latest address of record on file in the registrar's office.

34 E. If service is made by certified mail, it is effective five days  
35 after the notice is mailed. Except as provided in section 41-1092.08,  
36 subsection H, the contractor or claimant may seek judicial review of the  
37 registrar's final award pursuant to title 12, chapter 7, article 6.

38 F. A claimant to the residential contractors' recovery fund  
39 pursuant to this section must show that the claimant has proceeded against  
40 any existing bond covering the residential contractor.

41 G. A claim for payment from the residential contractor's recovery  
42 fund must be submitted within two years after all proceedings, reviews and  
43 appeals connected with the registrar's final order terminate.

1           Sec. 3. Repeal  
2           Section 32-1151.02, Arizona Revised Statutes, is repealed.

3           Sec. 4. Section 32-1161, Arizona Revised Statutes, is amended to  
4 read:

5           32-1161. Rights of contractor after suspension of license

6           A. After suspending the license on any of the grounds set forth in  
7 section 32-1154, the registrar shall renew ~~it~~ THE LICENSE on proof of  
8 compliance by the contractor with provisions of the judgment relating to  
9 renewal of the license, or in the absence of a judgment or provisions  
10 therein as to renewal, on A proper showing that all loss caused by the act  
11 or omission for which the license was suspended has been fully satisfied.

12           B. After suspending the license pursuant to section 32-1154, the  
13 licensee may perform, without compensation, warranty work or other  
14 corrective work.

15           C. After revoking a license on any of the grounds set forth in  
16 section 32-1154, the REGISTRAR MAY NOT ISSUE A NEW license ~~may not be~~  
17 ~~renewed or reissued~~ TO ANY PERSON THAT IS NAMED ON THE REVOKED LICENSE for  
18 one year after final determination of revocation and then only on A proper  
19 showing that all loss caused by the act or omission for which the license  
20 was revoked has been fully satisfied. For the purposes of this  
21 subsection, a proper showing may be made by demonstrating, to the  
22 satisfaction of the registrar, that the licensee exhausted all reasonable  
23 means to remedy the underlying loss caused by the act or omission.

24           Sec. 5. Section 41-1080.01, Arizona Revised Statutes, is amended to  
25 read:

26           41-1080.01. Licensing fees; waiver; annual report;  
27 definitions

28           A. Except for an individual who applies for a license pursuant to  
29 title 36, chapter 4, article 10 or chapter 28.1, an agency shall waive any  
30 fee charged for an initial license for any of the following individuals if  
31 the individual is applying for that specific license in this state for the  
32 first time:

33           1. Any individual applicant whose family income does not exceed two  
34 hundred percent of the federal poverty guidelines.

35           2. Any active duty military service member's spouse.

36           3. Any honorably discharged veteran who has been discharged not  
37 more than two years before application.

38           4. ANY ACTIVE DUTY MILITARY SERVICE MEMBER WHO IS WITHIN ONE YEAR  
39 FROM DISCHARGE.

40           5. ANY ACTIVE MEMBER OF THE MILITARY RESERVE FORCES.

41           B. On or before March 1 of each year, the department of  
42 administration shall report to the president of the senate, the speaker of  
43 the house of representatives, the joint legislative budget committee and  
44 the governor's office of strategic planning and budgeting the total number

1 of waived licensing fees by each agency. The report shall specify for  
2 which purpose the fee was waived pursuant to this section.

3 C. For the purposes of this section, "agency" and "license" have  
4 the same meanings prescribed in section 41-1080.

5 Sec. 6. Section 41-1092.08, Arizona Revised Statutes, is amended to  
6 read:

7 41-1092.08. Final administrative decisions; review; exception

8 A. The administrative law judge of the office shall issue a written  
9 decision within twenty days after the hearing is concluded. The written  
10 decision shall contain a concise explanation of the reasons supporting the  
11 decision, including the findings of fact and conclusions of law. The  
12 administrative law judge shall serve a copy of the decision on all parties  
13 to the contested case or appealable agency action. On request of the  
14 agency, the office shall also transmit to the agency the record of the  
15 hearing as described in section 12-904, except as provided in section  
16 41-1092.01, subsection F.

17 B. Within thirty days after the date the office sends a copy of the  
18 administrative law judge's decision to the head of the agency, executive  
19 director, board or commission, the head of the agency, executive director,  
20 board or commission may review the decision and accept, reject or modify  
21 it. If the head of the agency, executive director, board or commission  
22 declines to review the administrative law judge's decision, the agency  
23 shall serve a copy of the decision on all parties. If the head of the  
24 agency, executive director, board or commission rejects or modifies the  
25 decision, the agency head, executive director, board or commission must  
26 file with the office, except as provided in section 41-1092.01,  
27 subsection F, and serve on all parties a copy of the administrative law  
28 judge's decision with the rejection or modification and a written  
29 justification setting forth the reasons for the rejection or modification  
30 of each finding of fact or conclusion of law. If there is a rejection or  
31 modification of a conclusion of law, the written justification shall be  
32 sent to the president of the senate and the speaker of the house of  
33 representatives.

34 C. A board or commission whose members are appointed by the  
35 governor may review the decision of the agency head, as provided by law,  
36 and make the final administrative decision.

37 D. Except as otherwise provided in this subsection, if the head of  
38 the agency, the executive director or a board or commission does not  
39 accept, reject or modify the administrative law judge's decision within  
40 thirty days after the date the office sends a copy of the administrative  
41 law judge's decision to the head of the agency, executive director, board  
42 or commission, as evidenced by receipt of such action by the office by the  
43 thirtieth day, the office shall certify the administrative law judge's  
44 decision as the final administrative decision. If the board or commission

1 meets monthly or less frequently, if the office sends the administrative  
2 law judge's decision at least thirty days before the next meeting of the  
3 board or commission and if the board or commission does not accept, reject  
4 or modify the administrative law judge's decision at the next meeting of  
5 the board or commission, as evidenced by receipt of such action by the  
6 office within five days after the meeting, the office shall certify the  
7 administrative law judge's decision as the final administrative decision.

8 E. For the purposes of subsections B and D of this section, a copy  
9 of the administrative law judge's decision is sent on personal delivery of  
10 the decision or five days after the decision is mailed to the head of the  
11 agency, executive director, board or commission.

12 F. The decision of the agency head is the final administrative  
13 decision unless one of the following applies:

14 1. The agency head, executive director, board or commission does  
15 not review the administrative law judge's decision pursuant to  
16 subsection B of this section or does not reject or modify the  
17 administrative law judge's decision as provided in subsection D of this  
18 section, in which case the administrative law judge's decision is the  
19 final administrative decision.

20 2. The decision of the agency head is subject to review pursuant to  
21 subsection C of this section.

22 3. The licensee accepts the administrative law judge's decision  
23 concerning the appeal of a licensing decision as final pursuant to  
24 subsection I of this section.

25 G. If a board or commission whose members are appointed by the  
26 governor makes the final administrative decision as an administrative law  
27 judge or on review of the decision of the agency head, the decision is not  
28 subject to review by the head of the agency.

29 H. A party may appeal a final administrative decision pursuant to  
30 title 12, chapter 7, article 6, except as provided in section 41-1092.09,  
31 subsection B and except that if a party has not requested a hearing on  
32 receipt of a notice of appealable agency action pursuant to section  
33 41-1092.03, the appealable agency action is not subject to judicial  
34 review. The license is not stayed during the appeal unless the affected  
35 party that has appealed applies to the superior court for an order  
36 requiring a stay pending final disposition of the appeal as necessary to  
37 prevent an imminent and substantial endangerment to public health or the  
38 environment. The court shall determine the matter under the standards  
39 applicable for granting preliminary injunctions.

40 I. Except for a licensing decision concerning the administrative  
41 completeness of an application submitted by a licensee or a licensing  
42 decision where the agency, executive director, board or commission has  
43 determined that the licensee poses a threat of grave harm or danger to the  
44 public or has acted with complete disregard for the well-being of the

1 public in engaging or in being allowed to engage in the licensee's  
2 regulated business activity, for any appealable agency action or contested  
3 case involving a licensing decision, the licensee may accept the decision  
4 not more than ten days after receiving the administrative law judge's  
5 written decision. If the licensee accepts the administrative law judge's  
6 written decision, the decision shall be certified as the final decision by  
7 the office. If the licensee does not accept the administrative law  
8 judge's written decision as the final decision in the matter, the head of  
9 the agency, executive director, board or commission may review the  
10 decision and accept, reject or modify the decision. If the head of the  
11 agency, executive director, board or commission intends to reject or  
12 modify the decision, the parties shall meet and confer, within thirty days  
13 after receiving the administrative law judge's decision pursuant to  
14 subsection A of this section, concerning the agency's proposed  
15 modifications to the findings of fact and conclusions of law. Within  
16 twenty days after conferring, the head of the agency, executive director,  
17 board or commission shall file its final decision in accordance with  
18 subsection B of this section. This subsection does not apply to any  
19 appealable agency actions of:

- 20 1. The department of water resources pursuant to title 45.
- 21 2. THE REGISTRAR OF CONTRACTORS ESTABLISHED BY TITLE 32,  
22 CHAPTER 10.

23 J. This section does not apply to the Arizona peace officer  
24 standards and training board established by section 41-1821.