

REFERENCE TITLE: technical registration; home inspector complaints

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

HB 2855

Introduced by
Representative Kolodin

AN ACT

AMENDING SECTION 32-128, ARIZONA REVISED STATUTES; RELATING TO THE STATE BOARD OF TECHNICAL REGISTRATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 32-128, Arizona Revised Statutes, is amended to
3 read:
4 32-128. Disciplinary action; letter of concern; judicial
5 review
6 A. The board may take the following disciplinary actions, in
7 combination or alternatively:
8 1. Revocation of a certification or registration.
9 2. Suspension of a certification or registration for a period of
10 not more than three years.
11 3. Imposition of an administrative penalty of not more than ~~two~~
12 ~~thousand dollars~~ \$2,000 for each violation of this chapter or rules
13 adopted pursuant to this chapter.
14 4. Imposition of restrictions on the scope of the registrant's
15 practice.
16 5. Imposition of peer review and professional education
17 requirements.
18 6. Imposition of probation requirements that are best adapted to
19 protect the public safety, health and welfare and that may include a
20 requirement for restitution payments to professional services clients or
21 to other persons suffering economic loss resulting from violations of this
22 chapter or rules adopted pursuant to this chapter.
23 7. Issuance of a letter of reprimand informing a person regulated
24 under this chapter of a violation of this chapter or rules adopted by the
25 board.
26 B. The board may issue a letter of concern if the board believes
27 there is insufficient evidence to support disciplinary action against the
28 registrant or home inspector but sufficient evidence for the board to
29 notify the registrant or home inspector of the board's concern. A letter
30 of concern is a public document.
31 C. The board may take disciplinary action against the holder of a
32 certificate or registration under this chapter who is charged with the
33 commission of any of the following acts:
34 1. Fraud or misrepresentation in obtaining a certificate of
35 qualification, whether in the application or qualification examination.
36 2. Gross negligence, incompetence, bribery or other misconduct in
37 the practice of the profession.
38 3. Aiding or abetting an unregistered or uncertified person to
39 evade this chapter or knowingly combining or conspiring with an
40 unregistered or uncertified person, or allowing one's registration or
41 certification to be used by an unregistered or uncertified person or
42 acting as agent, partner, associate or otherwise of an unregistered or
43 uncertified person, with intent to evade this chapter.
44 4. Violation of this chapter or board rules.

1 5. Failing to pay a collaborating registered professional within
2 seven calendar days after the registrant receives payment from a client
3 unless specified otherwise contractually between the prime professional
4 and the collaborating registered professional. For the purposes of this
5 paragraph, "collaborating registered professional" means a registered
6 professional with whom the prime professional has a contract to perform
7 professional services.

8 D. The board may make investigations, employ investigators and
9 expert witnesses, appoint members of advisory committees and conduct
10 hearings to determine whether a disciplinary action should be taken
11 against the holder of a certificate or registration under this chapter.

12 E. An investigation may be initiated on receipt of an oral or
13 written complaint. The board, on its own motion, may direct the executive
14 director to file a verified complaint charging a person with a violation
15 of this chapter or board rules and shall give notice of the hearing
16 pursuant to title 41, chapter 6, article 10. The executive director shall
17 then serve on the accused, by either personal service or certified mail, a
18 copy of the complaint together with notice setting forth the charge or
19 charges to be heard and the time and place of the hearing, which shall not
20 be less than thirty days after the service or mailing of notice.

21 F. A person who has been notified of charges pending against the
22 person shall file with the board an answer in writing to the charges not
23 more than thirty days after service of the complaint and notice of
24 hearing. If a person fails to answer in writing, it is deemed an
25 admission by the person of the act or acts charged in the complaint and
26 notice of hearing. The board may then take disciplinary action pursuant
27 to this chapter without a hearing.

28 G. A disciplinary action may be informally settled by the board and
29 the accused either before or after initiation of hearing proceedings.

30 H. On its determination that any person has violated this chapter
31 or a rule adopted pursuant to this chapter, the board may assess the
32 person with its reasonable costs and expenses, including attorney fees,
33 incurred in conducting the investigation and administrative hearing. All
34 monies collected pursuant to this subsection shall be deposited, pursuant
35 to sections 35-146 and 35-147, in the technical registration fund
36 established by section 32-109 and shall only be used by the board to
37 defray its expenses in connection with investigation related training,
38 disciplinary investigations and hearings. Notwithstanding section
39 35-143.01, these monies may be spent without legislative appropriation.

40 I. The board shall immediately notify the clerk of the board of
41 supervisors of each county in the state of the suspension or revocation of
42 a certificate or of the reissuance of a suspended or revoked certificate.

43 J. Except as provided in section 41-1092.08, subsection H, final
44 decisions of the board are subject to judicial review pursuant to title
45 12, chapter 7, article 6.

1 K. NOTWITHSTANDING ANY OTHER LAW, IN A COMPLAINT AGAINST A HOME
2 INSPECTOR RELATING TO A HOME INSPECTION REPORT:

3 1. IF THE BOARD FINDS THAT THE HOME INSPECTION REPORT LACKS WORDS
4 FROM THE STANDARD OF PRACTICE TO DESCRIBE A COMPONENT AND USES DIFFERENT
5 WORDS DESCRIBING THE SAME COMPONENT, THE BOARD MUST ALLOW THE HOME
6 INSPECTOR TO REWRITE THE HOME INSPECTION REPORT TO INCLUDE WORDS FROM THE
7 STANDARD OF PRACTICE.

8 2. THE BOARD SHALL TEACH HOME INSPECTORS HOW TO WRITE HOME
9 INSPECTION REPORTS.

10 3. ONLY AN EGREGIOUS COMPLAINT SHOULD PROCEED TO A BOARD ACTION.

11 4. A CONSENT AGREEMENT NEEDS TO BE NEGOTIATED BY THE BOARD AND THE
12 HOME INSPECTOR IF THE COMPLAINT RESULTS IN BOARD ACTION THAT PROCEEDS TO A
13 CONSENT AGREEMENT.

14 5. A HOME INSPECTOR MAY BE REPRESENTED BY AN ATTORNEY.