

# CLIENT ALERT

May 31, 2019

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## CONSTRUCTION

### RECENT STATUTORY CHANGES GOVERNING THE ARIZONA REGISTRAR OF CONTRACTORS

by J. Gregory Cahill

The Arizona Registrar of Contractors ("Registrar") has internally amended its regulations multiple times over the last few years. On April 29, 2019, the Arizona Legislature [amended the statutes governing the Registrar](#) for the first time since 1981. While many of the changes are relatively minor (e.g., location of rules, clarification of language, etc.), the statutes have been harmonized and updated to be consistent with industry practice. These changes become effective in August 2019.

Significant changes include:

- **A.R.S. §32-1104(C) Posting of Applicant List** - An applicant's name and address as well as the names, addresses, and capacities of all individuals required to sign the application (per A.R.S. §32-1122) must be posted. While the Registrar must post this information for at least twenty days, the Registrar does not have to wait twenty days to issue a license if the applicant otherwise meets all necessary licensing requirements.
- **A.R.S. §32-1121(E) Joint Ventures** - A joint venture does not need to be separately licensed as long as at least one of its members is licensed and in good standing. Only the licensed member may perform contracting work (e.g., bidding, supervising, etc.) and such work must be within the scope of that member's license.
- **A.R.S. §32-1122(D) License Prohibition** - The Registrar may issue a license without requiring a 1-year waiting period for an applicant who has previously been denied a license or has had a license revoked.
- **A.R.S. §32-1123.01 Biennial License Renewal** - The Registrar may exempt a licensee from the biennial licensing renewal requirement (grant a 1-year license) if a contractor can demonstrate a real and immediate hardship.
- **A.R.S. §32-1125(C) Renewal of License / Qualifying Party Exemption** - A licensee may be exempt from having a qualifying party if the licensee has held a valid and active license for five years, has not transferred fifty percent or more of its stock or interest, and has not committed a violation of §32-1154 that has not been remedied.
- **A.R.S. §32-1132 Residential Recovery Fund / Eligible Claimants** - Individuals, Trusts, and LLCs are eligible claimants if they own property damaged by a licensed residential contractor and occupy or intend to occupy the property as a primary residence. For LLCs and Trusts to be an eligible claimant, all members of the LLC or Trust must occupy or intend to occupy the property as a primary residence and no member of the LLC or Trust may have received a payout from the fund within the preceding two years. Planned Communities and Unit Owners Associations are eligible claimants if the builder has transferred control of the common elements to the Association and the common elements were damaged by a licensed residential contractor. A Lessee is an eligible claimant if the Lessee directly contracted with a contractor (or indirectly contracted with a subcontractor), actually occupies or intends to occupy the property as a primary residence, and the property was damaged by a licensed residential contractor.
- **A.R.S. §32-1132 Residential Recovery Fund / Eligibility Timing** - In order to be eligible for a payout, the claimant must have been damaged by a contractor which was licensed at the time the contract was signed, first payment was made, or work first commenced.
- **A.R.S. §32-1132 Residential Recovery Fund / Statute of Limitations** - A claim for payment must be submitted within two years of the termination of all proceedings connected with an administrative complaint (or a civil lawsuit).
- **A.R.S. §32-1154 Grounds for Suspension or Revocation of License** - Violation of applicable building code is grounds for discipline as is attempting to evade the Registrar's requirements by aiding and abetting, acting with, or conspiring with a licensed or unlicensed person to evade the Registrar's requirements.
- **A.R.S. §32-1155 Complaints and Answers** - The Registrar may in its discretion accept a late answer if its lateness is due to excusable neglect.

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