

## **IS YOUR CONTRACTOR LICENSED?**

**by**

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In response to the ever-booming construction market in Arizona, the issue of unlicensed contracting has become more conspicuous. So what really is so important about having a license? For starts, unless covered by one of few exemptions, it is a crime to perform contracting in Arizona without a license. Specifically, under A.R.S. § 32-1164, it is a misdemeanor. In addition, under A.R.S. § 12-1165 it is a misdemeanor merely to advertise to perform contracting services where a license is required and the advertiser is unlicensed.

The importance of proper licensing is four-fold. First, it is the law. Second, licensing give some assurance that the contractor has met at least the minimal knowledge, skill level, and financial responsibility as required by the Registrar of Contractors. Third, licensing provides at least a nominal financial consumer safety net via license bonds or other securities on deposit with the Registrar of Contractors and /or access to the Residential Recovery Fund. Fourth, licensing brings contractors under the regulatory authority of the Registrar of Contractors.

Regarding who requires a license, what often surprises people is how broadly “contractor” is defined. The commonly understood definition is a person who builds improvements on real property. However, here is how A.R.S. § 32-1101 defines “contractor”:

"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.

According to the plain language of the statute, merely offering to bid a job is an act of contracting that falls under the auspice of the Registrar of Contractors. So, before seeking to bid a job or to be the recipient of a bid, make certain a proper license is in place.

As for exemptions, A.R.S. § 32-1121 provides 16 categories of persons who are not required to be licensed. The most common of these includes the “handyman” exemption. Specifically, any person who performs contracting that does not require a permit and who charges an aggregate price of less than \$750.00 does not require a license. Likewise gardeners, contrasted with landscapers, do not need to be licensed. Think of this as the “mow, blow, and go” guy, versus the landscaper who installs and maintains drip lines and who moves dirt and plants foliage. Other examples of exemption from licensing include materials suppliers or manufacturers who do not perform installation of their product; residential owner-builders; and waged employees of licensed contractors.

The implications to a consumer dealing with an unlicensed contractor are caveat emptor in its truest sense. Unlicensed contractors do not have bonds and tend not to have insurance. Oftentimes, the unlicensed contractor is formerly a licensed contractor who lost their license and /or a person who cannot obtain a license. In either instance, consumers should be wary of unlicensed contractors. Likewise, the Registrar of Contractors has limited ability to regulate unlicensed contractors, and at least in the context of residential construction, an aggrieved consumer will have no access to the Recovery Fund.

If you are uncertain of the status of a contractor’s license, contact your lawyer or go to the Registrar of Contractor’s website at [www.azroc.gov](http://www.azroc.gov).

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