

**§32-1154. Grounds for suspension or revocation of license; continuing jurisdiction; civil penalty; recovery fund award**

A. The holder of a license or any person listed on a license pursuant to this chapter shall not commit any of the following acts or omissions:

1. Abandonment of a contract or refusal to perform after submitting a bid on work without legal excuse for the abandonment or refusal.

2. Departure from or disregard of plans or specifications or any building codes of the state or any political subdivision of the state in any material respect which is prejudicial to another without consent of the owner or the owner's duly authorized representative and without the consent of the person entitled to have the particular construction project or operation completed in accordance with such plans and specifications and code.

3. Violation of any rule adopted by the registrar.

4. Failure to comply with the statutes or rules governing social security, workers' compensation or unemployment insurance.

5. Failure to pay income taxes, withholding taxes or any tax imposed by title 42, chapter 5, articles 1 and 4 and incurred in the operation of the licensed business.

6. Misrepresentation of a material fact by the applicant in obtaining a license.

7. The doing of a wrongful or fraudulent act by the licensee as a contractor resulting in another person being substantially injured.

8. Conviction of a felony.

9. Failure in a material respect by the licensee to complete a construction project or operation for the price stated in the contract, or in any modification of the contract.

10. Aiding or abetting a licensed or unlicensed person to evade this chapter, knowingly combining or conspiring with a licensed or unlicensed person, allowing one's license to be used by a licensed or unlicensed person or acting as agent, partner, associate or otherwise of a licensed or unlicensed person with intent to evade this chapter.

11. Failure by a licensee or agent or official of a licensee to pay monies in excess of seven hundred fifty dollars when due for materials or services rendered in connection with the licensee's operations as a contractor when the licensee has the capacity to pay or, if the licensee lacks the capacity to pay, when the licensee has received sufficient monies as payment for the particular construction work project or operation for which the services or materials were rendered or purchased.

12. Failure of a contractor to comply with any safety or labor laws or codes of the federal government, state or political subdivisions of the state.

13. Failure in any material respect to comply with this chapter.

14. Knowingly entering into a contract with a contractor for work to be performed for which a license is required with a person not duly licensed in the required classification.

15. Acting in the capacity of a contractor under any license issued under this chapter in a name other than as set forth upon the license.

16. False, misleading or deceptive advertising whereby any member of the public may be misled and injured.

17. Knowingly contracting beyond the scope of the license or licenses of the licensee.

18. Contracting or offering to contract or submitting a bid while the license is under suspension or while the license is on inactive status.

19. Failure to notify the registrar in writing within a period of fifteen days of any disassociation of the person who qualified for the license. Such licensee shall have sixty days from the date of such disassociation to qualify through another person.

20. Subsequent discovery of facts which if known at the time of issuance of a license or the renewal of a license would have been grounds to deny the issuance or renewal of a license.

21. Having a person named on the license who is named on any other license in this state or in another state which is under suspension or revocation unless the prior revocation was based solely on a violation of this paragraph.

22. Continuing a new single family residential construction project with actual knowledge that a pretreatment wood-destroying pests or organisms application was either:

(a) Not performed at the required location.

(b) Performed in a manner inconsistent with label requirements, state law or rules.

23. Failure to take appropriate corrective action to comply with this chapter or with rules adopted pursuant to this chapter without valid justification within a reasonable period of time after receiving a written directive from the registrar. The written directive shall set forth the time within which the contractor is to complete the remedial action. The time permitted for compliance shall not be less than fifteen days from the date of issuance of the directive. A license shall not be revoked or suspended nor shall any other penalty be imposed for a violation of this paragraph until after a hearing has been held.

24. Prohibit, threaten to prohibit, retaliate, threaten to retaliate or otherwise intimidate any contractor or materialman from serving a preliminary notice pursuant to section 33-992.01.

B. The registrar may on the registrar's own motion, and shall on the written complaint of any person, investigate the acts of any contractor within this state and may temporarily suspend, with or without imposition of specific conditions in addition to increased surety bond or cash deposit requirements, or permanently revoke any or all licenses issued under this chapter if the holder of the license issued pursuant to this chapter is guilty of or commits any of the acts or omissions set forth in subsection A of this section.

C. The expiration, cancellation, suspension or revocation of a license by operation of law or by decision and order of the registrar or a court of law or the voluntary surrender of a license by a licensee shall not deprive the registrar of jurisdiction to proceed with any investigation of or action or disciplinary proceeding against such licensee, or to render a decision suspending or revoking such a license, or denying the renewal or right of renewal of such license.

D. The registrar may impose a civil penalty of not to exceed five hundred dollars on a contractor for each violation of subsection A, paragraph 23 of this section. Civil penalties collected pursuant to this subsection shall be deposited in the residential contractors' recovery fund. The failure by the licensee to pay any civil penalty imposed under this subsection results in the automatic revocation of the license thirty days after the effective date of the order providing for the civil penalty. No future license may be issued to an entity consisting of a person associated with the contractor, as defined in section 32-1101, subsection A, paragraph 5, unless payment of any outstanding civil penalty is tendered.

E. Notwithstanding any other provisions in this chapter, if a contractor's license

has been revoked or has been suspended as a result of an order to remedy a violation of this chapter, and the contractor refuses or is unable to comply with the order of the registrar to remedy the violation, the registrar may order payment from the residential contractors' recovery fund to remedy the violation. The registrar shall serve the contractor with a notice setting forth the amount claimed or to be awarded. If the contractor contests the amount or propriety of the payment, the contractor shall respond within ten days of the date of service by requesting a hearing to determine the amount or propriety of the payment. Failure by the contractor to respond in writing within ten days of the date of service shall be deemed a waiver by the contractor of the right to contest the amount claimed or to be awarded. Service may be made by personal service to the contractor or by mailing a copy of the notice by registered mail with postage prepaid to the contractor's latest address of record on file in the registrar's office. If service is made by registered mail, it is effective five days after the notice is mailed. Except as provided in section 41-1092.08, subsection H, the contractor or injured person may seek judicial review of the registrar's final award pursuant to title 12, chapter 7, article 6.

**§32-1155. Filing of complaint; resolution of complaint; service of notice; failure to answer**

A. Upon the filing of a written complaint with the registrar charging a licensee with the commission, within two years prior to the date of filing the complaint, of an act which is cause for suspension or revocation of a license, the registrar after investigation may issue a citation or upon written request of the complainant may issue a citation directing the licensee, within ten days after service of the citation upon him, to appear by filing with the registrar his written answer to the complaint showing cause, if any, why his license should not be suspended or revoked. Service of citation upon the licensee shall be fully effected by mailing a true copy thereof, together with a true copy of the complaint, by registered mail in a sealed envelope with postage prepaid and addressed to the licensee at his latest address of record in the registrar's office. Service of the citation shall be complete at the time of the deposit in the mail.

B. Failure of the licensee to answer shall be deemed an admission by him of his commission of the act or acts charged in the complaint and thereupon the registrar may forthwith suspend or revoke his license.