

RECENT AMENDMENTS TO THE REGISTRAR'S STATUTE

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In July 2000, the most recent amendments to the Registrar of Contractors' statutes took effect. Two of these amendments may prove to be the most significant.

The first is the amendment to A.R.S. § 32-1151, which broadens what constitutes contracting without a license. Previously, owners might accept bids from contractors even though the contractor did not then have the correct license for the work. The owner would be satisfied as long as the contractor obtained the correct license before the contract was executed. Under the newly amended statute, a contractor is prohibited from submitting a bid or responding to a request for qualifications is prohibited *unless* the contractor is properly licensed. This amendment could be used by unsuccessful bidders on public projects in contesting the low bid of a contractor who did not hold the correct license.

The second significant amendment involves the hearing process for claims submitted to the Registrar. Previously, when a complaint alleged defective workmanship, the remedy available to the complainant was an order suspending the contractor's license unless certain corrective work was performed. Now, the hearing officer may recommend, and the Registrar may award, damages in the form of restitution. By definition, restitution damages are limited to those damages, which would "restore" the parties to their pre-breach status. In practice, the hearing officers and Registrar may see this amendment as an invitation to award full breach of contract damages. The risk to contractors that the Registrar may award damages means that contractors defending against a Registrar's complaint must be even more diligent in presenting their defense, and may want to give more thought to avoiding or settling a Registrar's complaint before the hearing.