



## **NOTICES OF SUPPLEMENTAL PROPOSED RULEMAKING**

This section of the *Arizona Administrative Register* contains Notices of Supplemental Proposed Rulemakings.

After an agency has filed a Notice of Proposed Rulemaking and it is published in the *Register*, an agency may decide to make substantial changes to the rule after it is proposed. The agency prepares a Notice of Supplemental Proposed Rulemaking with these proposed changes. When filed, the notice is published under the deadline schedule in the back of the *Register*.

The Notice of Supplemental Proposed Rulemaking shall be published in the *Register* before holding any oral proceedings (A.R.S. § 41-1022).

The Office of the Secretary of State is the filing office and publisher of these rules. Questions about the interpretation of the proposed rules should be addressed to the agency that promulgated the rules. Refer to item #4 below to contact the person charged with the rulemaking and item #11 for the close of record and information related to public hearings and oral comments.

**NOTICE OF SUPPLEMENTAL PROPOSED RULEMAKING**  
**TITLE 4. PROFESSIONS AND OCCUPATIONS**  
**CHAPTER 30. BOARD OF TECHNICAL REGISTRATION**

[R20-113]

## **PREAMBLE**

1. Citations to the agency's Notice of Rulemaking Docket Opening, the Notice of Proposed Rulemaking, and any other Notices of Supplemental Rulemaking (if applicable) as published in the Register as specified in R1-409(A). A list of any other related notices published in the Register as specified in R1-1409(A):

**Notice of Rulemaking Docket Opening: 25 A.A.R. 3291, November 8, 2019**

Notice of Proposed Rulemaking: 25 A.A.R. 3477, December 6, 2019

- | <u>2. Article, Part, or Section Affected (as applicable)</u> | <u>Rulemaking Action</u> |
|--|--------------------------|
| R4-30-106  | Amend                    |
| R4-30-247  | Amend                    |

3. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):

Authorizing statutes: A.R.S. §§ 32-106(A)(1), (9); 32-106(F); 32-111(D)(7) and 32-121

Authorizing statutes: A.R.S. §§ 32-100(1), (3), 32-100(1), .  
Implementing statutes: A.R.S. §§ 32-101 and 32-122.02(A)(5)

- 4. The agency's contact person who can answer questions about the rulemaking:**

Name: Kurt Winter, Communications Manager

**Address:** Board of Technical Registration  
1110 W. Washington, Suite 240  
Phoenix, AZ 85007

Telephone: (602) 364-4930

Fax: (602) 364-4931

E-mail: Kurt.winter@azbtr.gov

Web site: [www.azbtr.gov](http://www.azbtr.gov)

- 5. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking;**

R4-30-106 requires that Board fees be paid by cash, check, money order or credit card payments. The Board has experienced circumstances in which not all forms of payment established in rule could actually be accepted and processed. In addition, the Board has been the victim of theft of cash by an employee during a period of time when appropriate controls for cash acceptance were lacking. The Board has researched the fee payment statutes and rules for Title 32 boards and other agencies, and found that 21 of the 28 boards and agencies do not define type of payment in statute or rule, giving those agencies the ability to adapt to circumstances that may be outside of the agency's control. The Board intends to amend the rule to be consistent with the 21 agencies that do not define type of payment in law.

In addition, the Board has received requests for clarification related to the financial assurance home inspectors are required to obtain and retain per A.R.S. § 32-122.02 in the event a home inspector applies to place the certification on inactive status. The statute does not waive the financial assurance requirement for home inspectors who choose to put a certificate on inactive status. However, the Board recognizes a home inspector may choose inactive status either for a limited period of time, or as a permanent retirement vehicle. The Board's proposed rule requires a home inspector who chooses to place a certificate in inactive status to retain the financial assurance for at least two years from the date the inactive application is approved. The rule amendment is intended to keep the public welfare intent of the financial assurance in place for a reasonable period of time, but allow a home inspector to enter retirement without a permanent burden of financial assurance.



- 6. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

The Board did not rely on any studies related to this rulemaking.

- 7. An explanation of the substantial change which resulted in the supplemental notice:**

The proposed rulemaking struck the payment option of cash from the rule. The supplemental rulemaking does not strike cash from being an option for payment and does not specify a form of payment to be consistent with Title 32 agencies in general.

The proposed rulemaking clarified that statute requires a home inspector to maintain financial assurance when placing a certification on inactive status. The supplemental rulemaking specifies a period of time during which documentation of financial assurance must be retained after a certificate is placed on inactive status.

- 8. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision:**

The proposed amendments will not diminish a previous grant of authority of a political subdivision of the state.

- 9. The preliminary summary of the economic, small business, and consumer impact:**

The Board does not anticipate any negative economic impact upon the public as a result of this rulemaking. The Board's customers usually, and in the majority, pay for Board services with credit cards or personal checks. The Board absorbs the credit card fee, offsetting any financial burden to the payor. A person who chooses to make payment by money order or cashier's check or who would need to purchase a money order or cashier's check, if cash is not being accepted, will incur a minor fee for the service.

Home inspectors are required by statute to bear the burden of obtaining and retaining financial assurance (professional liability insurance/bond) to protect the public. The rulemaking does not add to the burden and provides a two-year termination option if the home inspector permanently retires the certificate. Without this rulemaking, a home inspector who maintains a license by placing it on inactive status would be required by statute to retain the financial assurance permanently. This rule will financially benefit retired home inspectors.

- 10. The agency's contact person who can answer questions about the economic, small business and consumer impact statement:**

Name: Patrice Pritzl, Deputy Director  
Address: Board of Technical Registration  
1110 W. Washington, Ste. 240  
Phoenix, AZ 85007  
Telephone: (602) 364-4955  
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E-mail: patrice.pritzl@azbtr.gov

- 11. The time, place, and nature of the proceedings to make, amend, repeal, or renumber the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**

Written comment can be submitted to the Board office at 1110 W. Washington, Suite 240, Phoenix, AZ 85007 between 8:00 a.m. and 5:00 p.m., Monday through Friday, for 30 days from the date of this published notice in the *Register*. The Board will schedule opportunity for oral comment if a request is submitted within that time-frame.

- 12. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:**

- a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**

Not applicable

- b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:**

Not applicable

- c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:**

No one submitted an analysis to the Board regarding either of these rules.

- 13. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:**  
Not applicable

- 14. The full text of the rules follows:**

**TITLE 4. PROFESSIONS AND OCCUPATIONS**  
**CHAPTER 30. BOARD OF TECHNICAL REGISTRATION**

**ARTICLE 1. GENERAL PROVISIONS**

Section  
R4-30-106. Fees

**ARTICLE 2. REGISTRATION PROVISIONS**

Section

R4-30-247. Home Inspector Certification

**ARTICLE 1. GENERAL PROVISIONS****R4-30-106. Fees**

- A. The Board shall charge the following fees:
  - 1. A computer generated list of registrants for a non-commercial purpose is \$0.25 per name, with a maximum fee of \$300.00.
  - 2. A computer generated list of registrants for a commercial purpose is \$0.25 per name, with a minimum fee of \$250.00.
  - 3. The photocopy fee is \$1.00 for up to three pages followed by a \$0.25 fee for each additional page.
  - 4. The replacement certificate fee for registrants and certificate holders is \$10.00 per certificate.
  - 5. The recording medium copy fee is \$15.00 per recording.
  - 6. The local examination review fee is \$30.00 per hour.
  - 7. The returned check fee is \$25.00 per check.
  - 8. The verification of registration or certification fee is \$25.00 per verification.
  - 9. The laminated pocket card fee is \$10.00 per card.
- B. A person paying fees shall remit them in United States dollars, ~~in the form of cash, check, money order, or credit card~~. If a check is returned for insufficient funds, repayment, including payment of the returned check charge, shall be made in the form of ~~cash, money order, or certified check~~.
- C. Upon written request, the Board shall waive renewal fees for registrants whose registration is in inactive status.
- D. Application fee refunds are not allowed after the application has been assigned an application number and processing commences.

**ARTICLE 2. REGISTRATION PROVISIONS****R4-30-247. Home Inspector Certification**

- A. An applicant for certification as a home inspector shall submit an original completed application package that contains the following:
  - 1. Evidence of successful completion, within two years before the date of application, of the National Home Inspector Examination as administered by the Examination Board of Professional Home Inspectors;
  - 2. The information in subsections (B) and (C);
  - 3. A completed fingerprint card;
  - 4. Applicable fees;
  - 5. Evidence of successful completion of 84 hours of classroom training or an equivalent course conducted by an educational facility that is licensed by the Arizona State Board for Private Postsecondary Education, or accredited by the Distance Education Accrediting Commission, or by an accrediting agency approved by the United States Department of Education. The course of study shall encompass all of following major content areas:
    - a. Structural Components,
    - b. Exterior,
    - c. Roofing,
    - d. Plumbing,
    - e. Heating,
    - f. Cooling,
    - g. Electrical,
    - h. Insulation and Ventilation,
    - i. Interiors,
    - j. Fireplaces and Solid Fuel-Burning Devices,
    - k. Swimming Pools & Spas, and
    - l. Professional Practice;
  - 6. Evidence of completion of 30 parallel inspections. The 30 parallel inspections and home inspection report shall meet the standards in R4-30-301.01 and be retained by the applicant for at least two years from the date of application. The applicant shall conduct these inspections on separate residential dwelling units and shall list them on a log provided by the Board. The log shall include, with respect to each inspection, the address of the property, the date of the inspection, and the name and certification number of the supervising home inspector. The Board may hold the applicant's package for a period of one year based solely on the need for time to permit the applicant to complete the required parallel inspections. All timeframes promulgated under A.R.S. Title 41, Chapter 6, Article 7.1 are suspended during this period.
- B. A certified home inspector is not required to inspect a pool and/or spa as part of a home inspection. If a certified home inspector conducts a pool and/or spa inspection, it shall be conducted in accordance with the "Standards of Professional Practice for the Inspection of Swimming Pools & Spas for Arizona Home Inspectors," ("Standards") adopted and published by the Board on February 28, 2012. Copies of the Standards are available at the Board's office.
- C. The application package shall contain the following:
  - 1. Name, residence address, mailing address if different from residence address, and telephone number;
  - 2. Date of birth and Social Security number of the applicant;
  - 3. Citizenship or legal residence;
  - 4. A detailed explanatory statement regarding:
    - a. Any disciplinary action, including suspension and revocation, taken by any state or jurisdiction on any professional or occupational registration, license, or certification held by the applicant in any state or jurisdiction;
    - b. Refusal of any professional or occupational registration, license, or certification by any state or jurisdiction;



- c. Any pending disciplinary action in any state or jurisdiction on any professional or occupational registration, license, or certification held by the applicant;
  - d. Any alias or other name used by the applicant;
  - e. Any conviction for a felony or misdemeanor, other than a minor traffic violation.
5. Documentation of absolute discharge from sentence at least five years before the date of application if an applicant has been convicted of one or more felonies; evidence of having a valid fingerprint clearance card issued according to Title 41, Chapter 12, Article 3.1;
6. State or jurisdiction in which any professional or occupational registration, license or certification is held; type of registration, license, or certification; number; year granted, and how registration, license, or certification was granted (that is, by examination, education, experience, or reciprocity); June 30, 2018 Page 18 Supp. 18-2 4 A.A.C. 30 *Arizona Administrative Code* Title 4, Ch. 30 Board of Technical Registration
7. The current status of any application for any type of professional or occupational registration, license, or certification pending in another state or jurisdiction;
8. A release authorizing the Board to investigate the applicant's education, experience, and moral character and repute;
9. Certification that the information provided to the Board is accurate, true, and complete;
10. Copy of one home inspection report that meets the standards in R4-30-301.01 and reports on at least one immediate major repair as defined in the standards, along with the Report Checklist Supplement; and
11. Sworn statement or statements by the supervising certified home inspector or inspectors that the parallel inspections conducted by the applicant meet the standards in R4-30-301.01.
- D. The Board staff shall review all applications and, if necessary, refer completed applications to the Home Inspector Rules and Standards Committee or a certified home inspector evaluator for evaluation. If the application is complete and in the proper form, the Board staff, committee, or evaluator is satisfied that all statements on the application are true, and the applicant is eligible in all other aspects to be certified as a home inspector, the Board staff, committee, or evaluator shall recommend that the Board certify the applicant. If the evidence is not clear and convincing of qualification for certification, the matter shall be reviewed by the committee and the committee may request additional information regarding any issue upon which the applicant has not established qualification by clear and convincing evidence.
- E. A certified home inspector shall notify the Board in writing within five business days of any loss of, or change in, financial assurance. The Board shall suspend the certificate holder's certification immediately and prohibit further home inspections until current proof of financial assurance is provided to the Board. The Board shall revoke a certificate if the certificate holder fails to provide proof of financial assurance within 90 days of loss of financial assurance or lapse of policy. All certified home inspectors shall provide proof of financial assurance at the time of each annual certification renewal. The Board shall not renew a home inspector certification unless the financial assurance is in full force and effect.
- F. A home inspector who places a home inspector certificate on inactive status shall retain the proof of financial assurance for at least two years after the date that the certificate becomes inactive. A home inspector who fails to retain financial assurance for the required two years is subject to suspension and revocation of the home inspection certificate according to subsection (E). In order to reactivate an inactive home inspection certificate, a home inspector shall provide proof of financial assurance to the Board with the application for reactivation. An inactive home inspector certification shall not qualify for reactivation until proof of financial assurance has been submitted to the Board.
- FG. In order to reactivate an inactive home inspector certificate, a home inspector who has not practiced as a certified home inspector during that time in another state requiring registration for the previous five years shall take and pass the National Home Inspector Examination.