

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

PREAMBLE

<u>1. Article, Part, or Section Affected</u>	<u>Rulemaking Action</u>
R4-30-106	Amend
R4-30-247	Amend

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

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

Implementing statutes: § 32-101, § 32-122.02(A)(5)

3. Citations to all related notices published in the *Register* as specified in R1-1-409(A) that pertain to the record of the proposed rule:

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

4. The agency’s contact person who can answer questions about the rulemaking:

Name: Kurt Winter, Communications Manager

Address: 1110 W. Washington, Ste. 240., Phoenix, AZ 85007

Telephone: (602) 364-4930

Fax: (602) 364-4931

E-mail: Kurt.winter@azbtr.gov

Web site: 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 An agency’s justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:

The Board hopes that by removing its ability to accept ‘cash’ in payment for fees from A.A.C. R4-30-106, it will remove staff’s temptation to steal it. The Board proposes adding clarifying language to the home inspector rule, A.A.C. R4-30-247, informing home inspectors and the public that home inspectors cannot avoid the requirement of obtaining, maintaining and providing the Board with proof of the required financial assurance by placing a license on inactive status. In addition, this proposed rulemaking makes clerical changes to A.A.C. R4-30-247 in keeping with recent statutory changes to A.R.S. § 32-122.02(A)(5).

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. 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 of this state:

Both proposed rules changes will positively impact the public. Removing the ability of the agency to accept cash for services provided will ensure that the funds the public pays the Board will not be stolen. The public will also benefit from the clarification to the home inspector rule meant to inform everyone that a home inspector cannot avoid the statutory responsibility to hold financial assurance by placing a license on inactive status.

8. 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 a vast majority, pay for Board services with credit cards or personal checks. Other payment methods, such as cashier's check, will remain available to the public to use at the Board. Similarly, certified home inspectors are already aware of the statutory requirement to obtain and maintain financial assurance (professional liability insurance/bond) to protect the public. The proposed clarification to the rule simply makes it clear that a home inspector cannot place a certificate on 'inactive' status to avoid maintaining that financial assurance.

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

Name: Melissa Cornelius, Executive Director
Address: 1110 W. Washington, Ste. 240, Phoenix, AZ 85007
Telephone: (602) 364-4930
Fax: (602) 364-4931
E-mail: Melissa.cornelius@azbtr.gov

10. 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:

The Board will hold a meeting of its Home Inspector Rules and Standards Committee starting at 9:30, at its offices, on Nov. 19, 2019, at which time, members of the public can express their thoughts, concerns and comments about the proposed clarification to the home inspector financial assurance rule. The Board will also

accept written and/or oral comments about both rules at its office, 1110 W. Washington, Ste. 240, Phoenix, AZ 85007 between 8:00 a.m. and 5:00 p.m., Monday through Friday, for thirty (30) days from the date of this Notice is published in the Register.

11. 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.

12. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:

Not applicable

13. The full text of the rules follows:

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.

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 pursuant 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. 18-24 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. A home inspector cannot avoid the requirement of obtaining, maintaining and providing to the Board proof of required financial assurance by placing his or her license on inactive status.
- F. 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.