

PLEASE NOTE: In most BUT NOT ALL instances, the page and line numbering of bills on this web site correspond to the page and line numbering of the official printed version of the bills.

House Engrossed

State of Arizona
House of Representatives
Forty-seventh Legislature
First Regular Session
2005

HOUSE BILL 2644

AN ACT

AMENDING SECTIONS 17-211, 26-306, 28-4332, 33-1409, 33-1432, 33-1476.01, 33-1476.02, 33-1485.01, 34-461, 35-192, 36-1639, 41-511.04, 41-1713, 41-2141, 41-2142, 41-2146, 41-2147, 41-2161, 41-2163, 41-2171, 41-3012.14 AND 49-356, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 16, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-2149; AMENDING TITLE 41, CHAPTER 16, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-2169.01; CHANGING THE DESIGNATION OF TITLE 41, CHAPTER 16, ARIZONA REVISED STATUTES, TO "DEPARTMENT OF FIRE, BUILDING AND LIFE SAFETY"; REPEALING TITLE 37, CHAPTER 2.1, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 16, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 6; RELATING TO THE DEPARTMENT OF FIRE, BUILDING AND LIFE SAFETY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 17-211, Arizona Revised Statutes, is amended to
3 read:

4 17-211. Director; selection; removal; powers and duties;
5 employees

6 A. The commission shall appoint a director of the Arizona game and
7 fish department, who shall be the chief administrative officer of the game
8 and fish department. The director shall receive compensation as determined
9 pursuant to section 38-611. The director shall be selected on the basis of
10 administrative ability and general knowledge of wildlife management. The
11 director shall act as secretary to the commission, and shall serve for a term
12 of five years, but may be removed by the commission, after public hearing,
13 for inefficiency, neglect of duty or misconduct in office. If the director
14 is removed, the commission shall make, in its minutes, a complete statement
15 of the proceedings and all charges made against the director, and its
16 findings. The director shall not hold any other office, and shall devote the
17 entire time to the duties of office.

18 B. The commission shall prepare an examination for the post of
19 director to comply with the requirements of this title. The examination
20 shall be conducted at the offices of the commission at the capital to
21 establish an active list of eligible applicants. The director shall be
22 selected from those scoring satisfactory grades and having other qualities
23 deemed advisable by the commission. The commission may call for additional
24 examinations from time to time for selection of a new list of eligible
25 applicants to fill a vacancy.

26 C. The director may appoint employees necessary to carry out the
27 purposes of this title, when funds for the payment of their salaries are
28 appropriated. Department employees shall be located in different sections of
29 the state where their services are most needed. All appointments must be
30 made in accordance with procedures and qualifications established by the
31 commission. Compensation for persons appointed shall be as determined
32 pursuant to section 38-611. The director may dismiss an employee for
33 inefficiency, neglect of duty or misconduct. Such employee shall be entitled
34 to an appeal before the commission after filing a written request for a
35 hearing within thirty days after the date of discharge. The director shall
36 file in the department office a complete statement of charges made against
37 the employee and the findings after such written request is received. If the
38 employee fails to file such request within the thirty-day period, the right
39 of appeal is waived and the action of the director shall be final.

40 D. The director shall:

41 1. Have general supervision and control of all activities, functions
42 and employees of the department.

43 2. Enforce all provisions of this title, including all commission
44 rules.

45 3. Collaborate with the state forester in presentations to legislative
46 committees on issues associated with forest management and wildfire

1 prevention and suppression as provided by section ~~37-622~~ 41-2199.01,
2 subsection B.

3 E. Game rangers and wildlife managers may, in addition to other
4 duties:

5 1. Execute all warrants issued for a violation of this title.

6 2. Execute subpoenas issued in any matter arising under this title.

7 3. Search without warrant any aircraft, boat, vehicle, box, game bag
8 or other package where there is sufficient cause to believe that wildlife or
9 parts of wildlife are possessed in violation of law.

10 4. Inspect all wildlife taken or transported and seize all wildlife
11 taken or possessed in violation of law, or showing evidence of illegal
12 taking.

13 5. Seize as evidence devices used illegally in taking wildlife and
14 hold them subject to ~~the provisions of~~ section 17-240.

15 6. Generally exercise the powers of peace officers with primary duties
16 the enforcement of this title.

17 7. Seize devices that cannot be lawfully used for the taking of
18 wildlife and are being so used and hold and dispose of them pursuant to
19 section 17-240.

20 Sec. 2. Section 26-306, Arizona Revised Statutes, is amended to read:

21 ~~26-306.~~ Powers and duties of the director of emergency
22 management

23 A. The director shall, subject to the approval of the adjutant
24 general:

25 1. Be the administrative head of the division.

26 2. Be the state director for emergency management.

27 3. Make rules necessary for the operation of the division.

28 4. Develop and test plans for meeting any condition constituting a
29 state of emergency or state of war emergency, except those emergency plans
30 specifically assigned by the governor to other state agencies. Such plans
31 shall provide for the effective mobilization and management of personnel and
32 equipment of the state.

33 5. During a state of war emergency, coordinate the emergency
34 activities of all state agencies except the national guard.

35 6. During a state of emergency or a local emergency, coordinate the
36 emergency activities of all state agencies and the national guard.

37 7. Coordinate the use of state personnel, equipment, services and
38 facilities, including communication services, if requested by political
39 subdivisions in support of emergency management activities.

40 8. Coordinate the use of personnel, equipment, services and
41 facilities, including communication services, of one or more political
42 subdivisions in support of any other political subdivision in meeting
43 emergency needs, including search or rescue operations, on the request of the
44 using political subdivision.

1 9. Develop, test and maintain a plan pursuant to section 26-305.01 for
2 response by agencies of this state and its political subdivisions to an
3 accident at a commercial nuclear generating station.

4 10. Every two years submit a recommendation to the legislature in
5 connection with the assessment prescribed by section 26-306.01 with
6 supporting documentation and information.

7 11. Collaborate with the state forester in presentations to legislative
8 committees on issues associated with forest management, wildfire prevention
9 and suppression and wildfire emergency response and management as provided by
10 section ~~37-622~~ 41-2199.01, subsection B.

11 12. Develop, implement and maintain a state hazardous materials
12 emergency response and recovery plan as part of the hazardous materials
13 emergency management program pursuant to section 26-305.02.

14 13. Coordinate the development, implementation and maintenance of
15 standardized curricula for hazardous materials training and education.

16 B. The director may, subject to the approval of the adjutant general:

17 1. Propose, develop, negotiate and consummate contractual arrangements
18 with the federal government, state agencies and political subdivisions for
19 technical, administrative and financial support from the federal, state and
20 local government in connection with the emergency management activities of
21 the state.

22 2. Represent the state at conferences in the development and promotion
23 of the emergency management capability of the state.

24 3. Establish a disaster prevention council to plan for disaster
25 prevention. The council shall consist of the members of the state emergency
26 council and other members as determined by the director. The disaster
27 prevention council shall coordinate the disaster prevention expertise of
28 representatives of federal, state and local business and industry and promote
29 partnerships to substantially reduce property loss from natural and
30 technological disasters.

31 Sec. 3. Section 28-4332, Arizona Revised Statutes, is amended to read:

32 28-4332. Limited exemption; definitions

33 A. The director shall grant an exemption from the new or used house
34 trailer dealer licensing requirements of this chapter if the person claiming
35 the exemption furnishes satisfactory proof to the director of licensure as a
36 dealer under title 41, chapter 16.

37 B. The cash deposit or bond posted by the person pursuant to section
38 41-2179 is subject to the same conditions and inures to the benefit of the
39 same persons as prescribed in sections 28-4362, 28-4405, 28-4406 and 28-4408.

40 C. A new or used house trailer dealer who claims an exemption pursuant
41 to subsection A of this section shall comply with all other requirements
42 applicable to a new or used house trailer dealer licensed under this chapter.
43 The director of the department of transportation may suspend or cancel the
44 license issued pursuant to title 41, chapter 16 pursuant to this chapter. On
45 issuing a final order cancelling or suspending a license issued pursuant to
46 section 41-2176, the director of the department of transportation shall

1 notify the director of the department of FIRE, building and fire LIFE safety
2 who shall require the surrender of the license.

3 D. An exemption granted pursuant to subsection A of this section
4 expires on suspension, revocation or nonrenewal of the license issued
5 pursuant to title 41, chapter 16. The director of the department of FIRE,
6 building and fire LIFE safety shall notify the director of the department of
7 transportation of any such suspension, revocation or nonrenewal.

8 E. For the purposes of this section:

9 1. "House trailer" means a vehicle, other than a motor vehicle, that
10 is built on a chassis designed for being drawn on the highways by a motor
11 vehicle and that is designed for human habitation.

12 2. "Used house trailer dealer" means a person, other than a new house
13 trailer dealer, who buys, sells, exchanges or offers or attempts to negotiate
14 a sale or exchange of an interest in used house trailers or who is engaged in
15 the business of selling used house trailers.

16 Sec. 4. Section 33-1409, Arizona Revised Statutes, is amended to read:
17 33-1409. General definitions

18 Subject to additional definitions which are contained in subsequent
19 articles of this chapter and which apply to those specific articles, and
20 unless the context otherwise requires, in this chapter:

21 1. "Action" includes recoupment, counterclaim, setoff, suit in equity
22 and any other proceeding in which rights are determined, including an action
23 for possession.

24 2. "Anniversary date" means an annual date applying to all tenants
25 stated in the rental agreement on which the landlord may adjust the amount of
26 rent.

27 3. "Appurtenances" means awnings, sheds, porches and other attachments
28 to the mobile home.

29 4. "Building and housing codes" includes any law, ordinance or
30 governmental regulation concerning fitness for habitation, or the
31 construction, maintenance, operation, occupancy, use or appearance of any
32 premises, dwelling unit or mobile home space.

33 5. "Change in use" means either of the following:

34 (a) A change in the use of land from the rental of mobile home spaces
35 in a mobile home park to some other use.

36 (b) The redevelopment of the mobile home park.

37 6. "Compatible" means a mobile home which is in a similar condition as
38 the majority of the other mobile homes in the mobile home park, as determined
39 by the maintenance, condition and overall appearance of the mobile home.

40 7. "Director" means the director of the department of FIRE, building
41 and fire LIFE safety.

42 8. "Dwelling unit" excludes real property used to accommodate a mobile
43 home.

44 9. "Educational program" means a class, workshop or educational
45 convention that primarily instructs attendees on issues dealing with the
46 operation of a mobile home park and that is sponsored by a nonprofit

1 organization whose sole or primary purpose is the advocacy and promotion of
2 the rental mobile home parks industry.

3 10. "Fund" means the mobile home relocation fund.

4 11. "Good faith" means honesty in fact in the conduct or transaction
5 concerned.

6 12. "Guest" means a nonresident, over and above the occupancy limit set
7 for the resident's space under the terms of the rental agreement or by park
8 rules, of a mobile home park who stays at the home of a person with
9 constructive possession of the home with the consent of the resident for one
10 or more nights and not more than thirty days in any twelve month period.

11 13. "Landlord" means the owner, lessor, sublessor or operator, or any
12 combination thereof, of a mobile home park and it also means a manager of the
13 premises who fails to disclose as required by section 33-1432.

14 14. "Mobile home":

15 (a) Means either of the following:

16 (i) A residential structure manufactured on or before June 15, 1976,
17 that is transportable in one or more sections, eight feet or more in body
18 width, over thirty feet in body length with the hitch, built on an integral
19 chassis, designed to be used as a dwelling when connected to the required
20 utilities and not originally sold as a travel trailer or recreational vehicle
21 and which includes the plumbing, heating, air conditioning and electrical
22 systems in the structure.

23 (ii) A manufactured home built after June 15, 1976, originally bearing
24 an appropriate insignia of approval issued by the United States department of
25 housing and urban development.

26 (b) Does not include either of the following:

27 (i) A recreational vehicle such as a motor home, camping trailer, van,
28 fifth wheel trailer or other type of recreational vehicle.

29 (ii) A structure known as a park model trailer that is a structure
30 built on a single chassis, mounted on wheels and designed to be connected to
31 the utilities necessary for the operation of installed fixtures and
32 appliances and that has a gross interior area of not less than three hundred
33 twenty square feet and not more than four hundred square feet when prepared
34 for occupancy.

35 15. "Mobile home park" means any parcel of land that contains four or
36 more mobile home spaces.

37 16. "Mobile home space" means a parcel of land for rent which has been
38 designed to accommodate a mobile home and provide the required sewer and
39 utility connections.

40 17. "Moving expenses" means the cost incurred by the tenant whose
41 mobile home is moved for taking down, transporting and setting up the mobile
42 home with the identical, or substantially similar, improvements as were
43 attached to the tenant's mobile home on the mobile home space from which it
44 was removed but does not include the cost of landscaping or the cost of
45 utility lines, trenching or utility connections located in excess of
46 twenty-five feet from the point of hookup on the mobile home.

1 18. "Organization" includes a corporation, limited liability company,
2 government, governmental subdivision or agency, business trust, estate,
3 trust, partnership or association, two or more persons having a joint or
4 common interest and any other legal or commercial entity which is a landlord,
5 owner, manager or designated agent pursuant to section 33-1432.

6 19. "Owner" means one or more persons, jointly or severally, in whom is
7 vested all or part of the legal title to property or all or part of the
8 beneficial ownership and a right to present use and enjoyment of the
9 premises. The term includes a mortgagee in possession.

10 20. "Park manager" means the person who is primarily responsible for
11 the day-to-day operation of a mobile home park.

12 21. "Person" includes a company, partnership or firm as well as a
13 natural person.

14 22. "Premises" means the mobile home park and its existing facilities
15 and appurtenances, including furniture and utilities where applicable, and
16 grounds, areas and existing facilities held out for the use of tenants
17 generally or whose use is promised to the tenant.

18 23. "Prospective tenant" means a person who desires to become a tenant.

19 24. "Redevelopment of the mobile home park" means that the spaces being
20 redeveloped shall remain vacant for at least one hundred eighty days after
21 the effective date of all change in use notices that are given to the tenants
22 and either of the following applies:

23 (a) A minimum of twenty-five per cent of the spaces in the park, in
24 groups of at least five contiguous spaces, are being changed into an upgraded
25 mobile home park.

26 (b) A minimum of twenty-five of the total number of spaces in the park,
27 in groups of at least five contiguous spaces, are being changed into an
28 upgraded mobile home park.

29 25. "Rent" means payments to be made to the landlord or designated
30 agent in full consideration for the rented premises.

31 26. "Rental agreement" means leases or agreements and valid rules
32 adopted under section 33-1452 embodying the terms and conditions concerning
33 the use and occupancy of a mobile home space and premises, and includes
34 month-to-month tenancies that arise out of the expiration of a written rental
35 agreement pursuant to section 33-1413.

36 27. "Resident" means a person entitled under a rental agreement to
37 occupy a mobile home space to the exclusion of others and does not include a
38 person rendering necessary live-in care under section 33-1413.03.

39 28. "Security" or "security deposit" means any refundable money or
40 property given to assure payment or performance under a rental agreement.

41 29. "Tenant" means a person signing a rental agreement or otherwise
42 agreeing with a landlord for the occupancy of a mobile home space.

43 30. "Visitor" means a nonresident of a mobile home park who stays at
44 the home of a resident with the consent of the resident but does not stay
45 overnight.

46 Sec. 5. Section 33-1432, Arizona Revised Statutes, is amended to read:

1 33-1432. Disclosure of written rental agreement

2 A. The landlord or any person authorized to enter into a rental
3 agreement on the landlord's behalf shall disclose to the tenant in writing
4 before entering into the rental agreement each of the following:

5 1. The name and address of the person authorized to manage the
6 premises.

7 2. The name and address of the owner of the premises.

8 3. If applicable, the name and address of a person authorized to act
9 for and on behalf of the owner for the purpose of service of process and for
10 the purpose of receiving and receipting for notices and demands.

11 4. For a prospective tenant on an initial rental agreement, a written
12 statement that shows the rent increases for the three full calendar years
13 immediately preceding the prospective initial rental agreement date. This
14 information shall be for basic space rental only and does not apply to other
15 fees such as late charges, guest fees and utility charges. The landlord may
16 disclose the rent history with calculations that fairly describe the rent
17 history and that are made in any manner that reasonably informs the
18 prospective tenant of the history of basic space rent in the mobile home park
19 during that period. The disclosure calculation may be made in January of
20 each year by adding the dollar amounts or percentage amounts for aggregate
21 rental increases that became effective in the prior calendar year for every
22 space in the park and dividing that number by the total number of occupied
23 revenue spaces for which rent was or could have been increased. This average
24 amount of rental increase or average percentage of rental increase shall be
25 posted at the rental office for three years. Disclosure calculations made
26 pursuant to this section shall be made to the best of the landlord's ability.

27 B. The information required to be furnished by this section shall be
28 kept current and refurnished to the tenant upon the tenant's request except
29 that any successor landlord shall not be required to provide average rent
30 disclosures relating to previous landlords.

31 C. When there is a new owner or operator this section extends to and
32 is enforceable against any successor landlord, owner or manager.

33 D. A person who fails to comply with subsection A, paragraph 1, 2 or 3
34 or subsection B becomes an agent of each person who is a landlord for the
35 following purposes:

36 1. Service of process and receiving and receipting for notices and
37 demands.

38 2. Performing the obligations of the landlord under this chapter and
39 under the rental agreement and expending or making available for the purpose
40 all rent collected from the premises.

41 E. The landlord or any person authorized to enter into a rental
42 agreement on the landlord's behalf shall post in a conspicuous place a copy
43 of the current utility rates unless the tenant is charged directly by the
44 utility company.

45 F. Each tenant shall be notified, in writing, of any rent increase at
46 least ninety days prior to the increase by first class or certified mail or

1 by personal delivery. The mobile home parks hearing officer has jurisdiction
2 to determine whether notices have been served properly and in a timely
3 manner.

4 G. Before entering into a rental agreement, the landlord or any person
5 authorized to enter into the rental agreement shall provide to the
6 prospective tenant a concise written summary of the Arizona mobile home parks
7 residential landlord and tenant act that is approved by the director of the
8 department of FIRE, building and fire LIFE safety annually by November 1 and
9 that includes any legislative changes made in the preceding year. The
10 director of the department of FIRE, building and fire LIFE safety shall post
11 the approved summary on the department's web site. The landlord shall
12 provide the summary to the tenant at no cost to the tenant. The summary
13 shall include information regarding where a complete copy of the act may be
14 obtained or reviewed, including listing the secretary of state's web site.
15 This subsection does not apply to renewal of rental agreements. The
16 secretary of state shall post the act on the secretary of state's web site.

17 H. The landlord shall make available to all tenants a concise written
18 summary of the Arizona mobile home parks residential landlord and tenant act
19 that is approved by the director of the department of FIRE, building and fire
20 LIFE safety annually by November 1 and that includes any legislative changes
21 made in the preceding year. The summary shall include information regarding
22 where a complete copy of the act may be obtained or reviewed, including
23 listing the secretary of state's web site. The director of the department of
24 FIRE, building and fire LIFE safety shall post the approved summary on the
25 department's web site. The landlord shall provide the summary at no cost to
26 the tenants.

27 Sec. 6. Section 33-1476.01, Arizona Revised Statutes, is amended to
28 read:

29 33-1476.01. Change in use; notices; compensation for moving
30 expenses; payments by the landlord

31 A. The landlord shall notify the director and all tenants in writing
32 of a change in use at least one hundred eighty days before the change in use.
33 The landlord may not increase rent within ninety days before giving notice of
34 a change in use.

35 B. The landlord shall inform all tenants in writing about the mobile
36 home relocation fund established in section 33-1476.02.

37 C. If a tenant is required to move due to a change in use or
38 redevelopment of the mobile home park, the tenant may do either of the
39 following:

1 1. Collect payment from the mobile home relocation fund for the lesser
2 of the actual moving expenses of relocating the mobile home to a new location
3 that is within a fifty mile radius of the vacated mobile home park or five
4 thousand dollars for a single section mobile home or ten thousand dollars for
5 a multisection mobile home. Moving expenses include the cost of taking down,
6 moving and setting up the mobile home in the new location.

7 2. Abandon the mobile home in the mobile home park and collect an
8 amount equal to one-fourth of the maximum allowable moving expense for that
9 mobile home from the mobile home relocation fund. To qualify for abandonment
10 payment pursuant to this paragraph, the tenant shall deliver to the landlord
11 the current title to the mobile home with the notarized endorsement of the
12 owner of record together with complete releases of all liens that are shown
13 on the title. The tenant shall provide a copy of these documents to the
14 department of FIRE, building and fire LIFE safety in support of the tenant's
15 application for payment. If the tenant chooses to abandon the mobile home
16 pursuant to this paragraph, the landlord is exempt from making the payments
17 to the fund prescribed in subsection D of this section.

18 D. Except as provided in subsection C, paragraph 2 and subsection F of
19 this section, if there is a change in use the landlord shall pay five hundred
20 dollars for each single section mobile home and eight hundred dollars for
21 each multisection mobile home relocated to the fund for each tenant filing
22 for relocation assistance with the director.

23 E. If a change in use occurs before the time stated in the statements
24 of policy and the landlord does not comply with subsection A of this section
25 and with section 33-1436 and section 33-1476, subsection H, the landlord
26 shall pay to the fund in addition to the monies prescribed in subsection D of
27 this section:

28 1. Five hundred dollars for each mobile home space occupied by a
29 single section mobile home.

30 2. Eight hundred dollars for each mobile home space occupied by a
31 multisection mobile home.

32 F. The landlord is not required to make the payments prescribed in
33 subsections D and E of this section for moving mobile homes owned by the
34 landlord or for moving a mobile home under a contract with the tenant if the
35 tenant does not file for relocation assistance with the director.

36 G. If a change in use occurs within two hundred seventy days of
37 relocations under section 33-1476.04, the landlord shall pay to the fund in
38 addition to the monies prescribed in subsection D of this section:

39 1. Five hundred dollars for each mobile home space occupied by a
40 single section mobile home.

41 2. Eight hundred dollars for each mobile home space occupied by a
42 multisection mobile home.

43 H. The tenant shall submit a contract for relocation of a mobile home
44 for approval to the director within sixty days after the relocation to be
45 eligible for payment of relocation expenses. The director must approve or
46 disapprove the contract within fifteen days after receipt of the contract, or

1 the contract is deemed to be approved. The payment of expenses shall be made
2 as provided in the rules adopted by the director. If the contract is not
3 approved, the tenant may appeal to the hearing officer.

4 I. If this state or a political subdivision of this state exercises
5 eminent domain and the mobile home park is sold or a sale is made to this
6 state or a political subdivision of this state that intends to exercise
7 eminent domain, the state or political subdivision is responsible for the
8 relocation costs of the tenants.

9 J. If a tenant is vacating the premises and has informed the landlord
10 or manager before the change in use notice has been given, the tenant is not
11 eligible for compensation under this section.

12 K. A person who purchases a mobile home already situated in a park or
13 moves a mobile home into a park in which a change in use notice has been
14 given is not eligible for compensation under this section.

15 L. This section does not apply to a change in use if the landlord
16 moves a tenant to another space in the mobile home park at the landlord's
17 expense.

18 Sec. 7. Section 33-1476.02, Arizona Revised Statutes, is amended to
19 read:

20 33-1476.02. Mobile home relocation fund; investment of monies

21 A. The mobile home relocation fund is established consisting of monies
22 collected pursuant to section 33-1476.03. The ~~department~~ DIRECTOR shall
23 administer the fund.

24 B. Fund monies shall be used as prescribed in sections 33-1476.04 and
25 41-2157 and to pay premiums and other costs of purchasing, from a private
26 insurer who is licensed to transact insurance business in this state,
27 insurance coverage for tenant relocation costs due to a change in use as
28 prescribed in section 33-1476.01. Any insurance rebates shall be deposited
29 in the fund. If such insurance is not available, or if the insurance costs
30 exceed the amount available from the fund, the fund shall be used to make
31 direct payments for tenant relocation costs. Monies in the fund in excess of
32 the amount required for these purposes shall be used, as necessary, to
33 support the ~~department's~~ DEPARTMENT OF FIRE, BUILDING AND LIFE SAFETY'S
34 administration of the hearing function under title 41, chapter 16, article 5.

35 C. On notice from the ~~department~~ DIRECTOR, the state treasurer shall
36 invest and divest monies in the fund as provided by section 35-313, and
37 monies earned from investment shall be credited to the fund. Any unexpended
38 and unencumbered monies remaining in the fund at the end of the fiscal year
39 do not revert to the state general fund but remain in the fund, separately
40 accounted for, as a contingency reserve.

41 D. The director may adopt, amend or repeal rules pursuant to title 41,
42 chapter 6 for the administration of the fund. Fund monies shall be paid to
43 the department of FIRE, building and ~~fire~~ LIFE safety to offset the costs of
44 administering the fund, including the direct and indirect costs of processing
45 applications for reimbursement submitted under section 41-2157. The attorney
46 general shall review the costs charged to the fund.

1 Sec. 8. Section 33-1485.01, Arizona Revised Statutes, is amended to
2 read:

3 33-1485.01. Removal of mobile home from mobile home park:
4 violation; joint and several liability

5 A. A tenant or a tenant's successor in interest shall provide the
6 landlord with a written notification of intent to remove a mobile home from a
7 mobile home space. The notification shall include the date the mobile home
8 will be removed from the mobile home park, ~~and~~ the name, address and
9 telephone number of the person or entity that will be removing the mobile
10 home from the mobile home park and the name, address and telephone number of
11 the person or entity that will be the responsible party for restoring the
12 mobile home space in accordance with the rental agreement and the mobile home
13 park rules and regulations. If the responsible party is not licensed by the
14 department of FIRE, building and fire LIFE safety or the registrar of
15 contractors, the landlord may require a security deposit or surety bond of
16 not more than one thousand dollars minus the amount of any security deposit
17 that was collected at the beginning of the tenant's tenancy. The security
18 deposit or surety bond shall be paid or provided before work begins on
19 restoring the mobile home space and shall secure the cost of restoration if
20 the responsible party fails to completely restore the mobile home space. The
21 landlord shall provide an accounting of any security deposit as prescribed in
22 section 33-1431, subsection C.

23 B. A mobile home shall not be removed from a mobile home park by any
24 tenant, any mobile home owner or any other person or entity unless the person
25 or entity that is removing the mobile home has received from the landlord a
26 written clearance for removal. The landlord shall not interfere with the
27 removal of a mobile home for any reason other than nonpayment of monies due
28 as of the date of removal even if the term of the rental agreement has not
29 expired. The written clearance shall contain both of the following:

30 1. A statement that all monies due for space rent as of the date of
31 removal have been paid or that the landlord and that person or entity have
32 otherwise agreed to the removal.

33 2. The requirements for a mobile home space restoration as prescribed
34 by the rental agreement and by the mobile home park rules and regulations and
35 that shall be performed by the responsible party listed in the removal
36 notification that is required by subsection A of this section.

37 C. A person or entity who violates subsection B of this section shall
38 be liable for two times the amount of any rents due.

39 D. The responsible party identified in the removal notification that
40 is removing a mobile home from a mobile home space shall also remove all
41 accessory structures unless the landlord has agreed in writing to allow those
42 structures to remain. The responsible party identified in the removal
43 notification that is removing the mobile home shall also remove all
44 construction debris, trash and personal property on the rental space from the
45 mobile home park and shall be responsible for restoring the space in
46 accordance with the rental agreement and the mobile home park rules and

1 regulations. The rules and regulations may contain conditions regarding the
2 removal of a mobile home from the mobile home park and the restoration of a
3 mobile home space by a tenant or a tenant's successor in interest after
4 removal of the mobile home. The conditions shall not include any provisions
5 regarding environmental liability or environmental remediation, and any
6 environmental liability or environmental remediation requirements shall be
7 governed as otherwise provided by law. If a rental space does not satisfy
8 the requirements of this section following removal of a mobile home, the
9 landlord may provide the last tenant, the tenant's successor in interest or
10 the mobile home owner and the responsible party identified in the removal
11 notification with written notice that specifies what must be done to bring
12 the space into compliance and that requests that the parties remedy the
13 condition within ten days. If the work is not completed within ten days, the
14 landlord may cause the work to be done and shall prepare an itemized bill for
15 the actual and reasonable cost or the fair and reasonable value of the work
16 and submit it to the last tenant, the tenant's successor in interest or the
17 mobile home owner and the responsible party identified in the removal
18 notification. All of those persons shall be jointly and severally liable for
19 the expenses.

20 Sec. 9. Section 34-461, Arizona Revised Statutes, is amended to read:
21 34-461. Applicability of local codes; exception; definition

22 A. Public buildings shall be constructed in compliance with the state
23 fire code unless a fire code has been adopted by the city, town, county or
24 fire district in which the building is located. Public buildings shall be
25 constructed in compliance with applicable building, plumbing, electrical,
26 fire prevention and mechanical codes adopted by the city, town, county or
27 fire district in which the building is located. The owner of the public
28 building is subject to the same fees required of other persons. Public
29 buildings are subject to inspection during construction pursuant to these
30 codes to determine compliance.

31 B. If a public building is built in an area that has not adopted local
32 codes, the building shall be designed or constructed according to the state
33 fire code adopted by the state fire marshal and the building, plumbing,
34 electrical, fire prevention and mechanical codes that apply in the largest
35 city in the county in which the building is located.

36 C. Public buildings are subject to those codes that apply and are in
37 effect when the building is designed or constructed and to the currently
38 adopted codes when a building is found to be structurally unsafe, without
39 adequate egress, ~~or~~ or a fire hazard or ~~are~~ IS otherwise dangerous to human
40 life.

41 D. Subsections A and B do not apply to state owned buildings except
42 for the application of the fire code in effect where a state owned building
43 is located. State department of corrections facilities are exempt from the
44 application of the local fire code in the absence of an intergovernmental
45 agreement between the state department of corrections and the governmental
46 entity responsible for enforcing any local fire code.

1 E. NOTWITHSTANDING SUBSECTION A, CITIES PRESCRIBED IN SECTION 41-2163,
2 SUBSECTION A, PARAGRAPH 2 DO NOT HAVE AUTHORITY THAT SUPERSEDES AND ARE NOT
3 EXEMPT FROM THE STATE FIRE SAFETY COMMITTEE'S ESTABLISHED FIRE CODE IN STATE
4 OR COUNTY OWNED BUILDINGS AND PUBLIC SCHOOLS WHEREVER LOCATED THROUGHOUT THE
5 STATE.

6 ~~E.~~ F. ~~IN~~ FOR THE PURPOSES OF this section, "public building" means a
7 building or appurtenance to a building that is built in whole or in part with
8 public monies.

9 Sec. 10. Section 35-192, Arizona Revised Statutes, is amended to read:

10 35-192. Authorization for declaration of disaster;
11 authorization for liabilities and expenses;
12 priorities and limitations; review and report of
13 expenditures

14 A. The governor may declare an emergency arising from such major
15 disasters as provided in this section and incur liabilities therefor,
16 regardless of whether or not the legislature is in session.

17 B. When the governor, or the director of the division of emergency
18 management in the department of emergency and military affairs pursuant to
19 section 26-303, subsection H, determines that a contingency or disaster so
20 justifies, and declares an emergency, specific liabilities and expenses
21 provided for in this section are authorized to be incurred against and to be
22 paid as claims against the state from unrestricted monies from the general
23 fund to mitigate and meet contingencies and emergencies arising from:

- 24 1. Invasions, hostile attacks, riots or insurrections.
- 25 2. Epidemics of disease or plagues of insects.
- 26 3. Floods or floodwaters.
- 27 4. Acts of God or any major disaster.
- 28 5. ~~Wild-land~~ WILDLAND fires, but only after all necessary
29 authorizations under section ~~37-623.02~~ 41-2199.04 are exhausted.

30 C. When authorized by the governor, specific liabilities and expenses
31 provided for in this section may be incurred against and may be paid as
32 claims against the state from unrestricted monies from the general fund to
33 meet contingencies and emergencies arising from incidents relating to
34 hazardous materials as defined in section 26-301 and search or rescue
35 operations conducted pursuant to section 11-251.02, section 11-441,
36 subsection C or section 26-306 subject to the limitations provided in section
37 35-192.01.

38 D. Liabilities and expenses authorized under the provisions of
39 subsection B of this section may be incurred for any of the emergencies or
40 contingencies prescribed in subsection B of this section in the following
41 order of priority:

42 1. Reimbursement for expenses incurred to combat a menace to the
43 health, lives or property of any considerable number of persons of the state,
44 or to property of the state or its political subdivisions.

45 2. Reimbursement for expenses incurred to repair damage to any
46 property of the state.

1 3. Reimbursement for expenses incurred to repair damage to any
2 property of the political subdivisions of the state.

3 4. Reimbursement for expenses incurred in search or rescue operations.

4 5. Reimbursement for expenses incurred in emergency or disaster
5 recovery activities or in matching federal disaster recovery programs.

6 6. Reimbursement for expenses for property loss mitigation measures or
7 to match federal property loss mitigation programs.

8 E. The auditor of the department of emergency and military affairs
9 shall review liabilities incurred and expenditures made under this section
10 and report to the state emergency council at ninety day intervals during the
11 emergency and conduct a final review of each emergency within ninety days
12 after the termination of the emergency. The state emergency council shall
13 make a written report not later than August 1 of each year to the legislature
14 of the actions of the state emergency council during the preceding fiscal
15 year including an itemized statement of expenditures for each emergency
16 during the year.

17 F. All liabilities incurred under the provisions of this section shall
18 be subject to the following limitations:

19 1. No liability shall be incurred against the monies authorized
20 without the approval of the governor, or the adjutant general pursuant to
21 section 26-303, subsection H, for each contingency or emergency.

22 2. Incurring of liabilities in excess of two hundred thousand dollars
23 in any single disaster or emergency shall not be made without consent of a
24 majority of the members of the state emergency council.

25 3. The aggregate amount of all liabilities incurred under the
26 provisions of this section shall not exceed four million dollars for
27 any fiscal year beginning July 1 through June 30. Monies authorized for
28 disasters and emergencies in prior fiscal years may be used in subsequent
29 fiscal years only for the disaster or emergency for which they were
30 authorized. Monies authorized for disasters and emergencies in prior fiscal
31 years, and expended in subsequent fiscal years for the disaster or emergency
32 for which they were authorized, apply toward the four million dollar
33 liability limit for the fiscal year in which they were authorized.

34 4. An obligation of monies under the provisions of this section may be
35 made only when one or more of the following conditions exist:

36 (a) No appropriation or other authorization is available to meet the
37 contingency or emergency.

38 (b) An appropriation is insufficient to meet the contingency or
39 emergency.

40 (c) Federal monies available for such contingency or emergency require
41 the use of state or other public monies.

42 G. The director of the division of emergency management in the
43 department of emergency and military affairs shall develop rules for
44 administering the monies authorized for liabilities under this section,
45 subject to approval by the governor.

1 register of historic places. Entry on the register requires nomination by
2 the state historic preservation officer and owner notification in accordance
3 with rules which the board adopts.

4 10. Accept, on behalf of the state historic preservation officer,
5 applications for classification as historic property received from the county
6 assessor.

7 11. Adopt rules with regard to classification of historic property
8 including:

9 (a) Minimum maintenance standards for the property.

10 (b) Requirements for documentation.

11 12. Monitor the performance of state agencies in the management of
12 historic properties as provided in chapter 4.2 of this title.

13 13. Advise the governor on historic preservation matters.

14 14. Plan and administer a statewide parks and recreation program,
15 including the programs established pursuant to the land and water
16 conservation fund act of 1965 (P.L. 88-578; 78 Stat. 897).

17 15. Prepare, maintain and update a comprehensive plan for the
18 development of the outdoor recreation resources of this state.

19 16. Initiate and carry out studies to determine the recreational needs
20 of this state and the counties, cities and towns.

21 17. Coordinate recreational plans and developments of federal, state,
22 county, city, town and private agencies.

23 18. Receive applications for projects to be funded through the land and
24 water conservation fund, the state lake improvement fund and the law
25 enforcement and boating safety fund on behalf of the Arizona outdoor
26 recreation coordinating commission.

27 19. Provide staff support to the Arizona outdoor recreation
28 coordinating commission.

29 20. Maintain a statewide off-highway vehicle recreational plan which
30 shall be updated at least once every six years and shall be used by all
31 participating agencies to guide distribution and expenditure of monies under
32 section 28-1176.

33 21. Collaborate with the state forester in presentations to legislative
34 committees on issues associated with forest management and wildfire
35 prevention and suppression as provided by section ~~37-622~~ 41-2199.01,
36 subsection B.

37 B. Notwithstanding section 41-511.11, the board may annually collect
38 and expend monies to plan and administer the land and water conservation fund
39 program, in conjunction with other administrative tasks and recreation plans,
40 as a surcharge to subgrantees in a proportionate amount, not to exceed ten
41 per cent, of the cost of each project. The surcharge monies shall be set
42 aside to fund staff support for the land and water conservation fund program.

43 C. A partnership fund is established consisting of monies received
44 pursuant to subsection B of this section, monies received from
45 intergovernmental agreements pursuant to title 11, chapter 7, article 3 and
46 monies received pursuant to section 35-148. The board shall administer the

1 fund monies as a continuing appropriation for the purposes provided in these
2 sections.

3 D. The state historic preservation officer shall:

4 1. In cooperation with federal and state agencies, political
5 subdivisions of this state and other persons, direct and conduct a
6 comprehensive statewide survey of historic properties and maintain
7 inventories of historic properties.

8 2. Identify and nominate eligible properties to the national register
9 of historic places and the Arizona register of historic places and otherwise
10 administer applications for listing historic properties on the national and
11 state registers.

12 3. Administer grants-in-aid for historic preservation projects within
13 this state.

14 4. Advise, assist and monitor, as appropriate, federal and state
15 agencies and political subdivisions of this state in carrying out their
16 historic preservation responsibilities and cooperate with federal and state
17 agencies, political subdivisions of this state and other persons to ensure
18 that historic properties are taken into consideration at all levels of
19 planning and development.

20 5. Develop and make available information concerning professional
21 methods and techniques for the preservation of historic properties.

22 6. Make recommendations on the certification, classification and
23 eligibility of historic properties for property tax and investment tax
24 incentives.

25 Sec. 13. Section 41-1713, Arizona Revised Statutes, is amended to
26 read:

27 41-1713. Powers and duties of director; authentication of
28 records

29 A. The director of the department shall:

30 1. Be the administrative head of the department.

31 2. Subject to the merit system rules, appoint, suspend, demote,
32 promote or dismiss all other classified employees of the department upon the
33 recommendation of their respective division superintendent. The director
34 shall determine and furnish the law enforcement merit system council
35 established by section 41-1830.11 with a table of organization. The
36 superintendent of each division shall serve at the concurrent pleasure of the
37 director and the governor.

38 3. Make rules necessary for the operation of the department.

39 4. Annually submit a report of the work of the department to the
40 governor and the legislature, or more often if requested by the governor or
41 the legislature.

42 5. Appoint a deputy director with the approval of the governor.

43 6. Adopt an official seal which shall contain the words "department of
44 public safety" encircling the seal of this state as part of its design.

45 7. Investigate, on receipt, credible evidence that a licensee or
46 registrant has been arrested for, charged with or convicted of an offense

1 that would preclude the person from holding a license or registration
2 certificate issued pursuant to title 32, chapter 26.

3 8. Cooperate with the Arizona-Mexico commission in the governor's
4 office and with researchers at universities in this state to collect data and
5 conduct projects in the United States and Mexico on issues that are within
6 the scope of the department's duties and that relate to quality of life,
7 trade and economic development in this state in a manner that will help the
8 Arizona-Mexico commission to assess and enhance the economic competitiveness
9 of this state and of the Arizona-Mexico region.

10 9. Adopt and administer the breath, blood or other bodily substances
11 test rules pursuant to title 28, chapter 4.

12 10. Develop procedures to exchange information with the department of
13 transportation for any purpose related to sections 28-1324, 28-1325, 28-1326,
14 28-1462 and 28-3318.

15 11. Collaborate with the state forester in presentations to legislative
16 committees on issues associated with wildfire prevention, suppression and
17 emergency management as provided by section ~~37-622~~ 41-2199.01, subsection B.

18 B. The director may:

19 1. Issue commissions to officers of the department.

20 2. Request the cooperation of the utilities, communication media and
21 public and private agencies and any sheriff or other peace officer in any
22 county or municipality, within the limits of their respective jurisdictions
23 when necessary, to aid and assist in the performance of any duty imposed by
24 this chapter.

25 3. Cooperate with any public or private agency or person to receive or
26 give necessary assistance and may contract for such assistance subject to
27 legislative appropriation controls.

28 4. Utilize the advice of the board and cooperate with sheriffs, local
29 police and peace officers within the state for the prevention and discovery
30 of crimes, the apprehension of criminals and the promotion of public safety.

31 5. Acquire in the name of the state, either in fee or lesser estate or
32 interest, any real or personal property which the director considers
33 necessary for the department's use, by purchase, donation, dedication,
34 exchange or other lawful means. All acquisitions of personal property
35 pursuant to this paragraph shall be made as prescribed in chapter 23 of this
36 title unless otherwise provided by law.

37 6. Dispose of any property, real or personal, or any right, title or
38 interest therein, when the director determines that such property is no
39 longer needed or necessary for the department's use. Disposition of personal
40 property shall be as prescribed in chapter 23 of this title. The real
41 property shall be sold by public auction or competitive bidding after notice
42 published in a daily newspaper of general circulation, not less than three
43 times, two weeks prior to the sale and subject to the approval of the
44 director of the department of administration. When real property is sold, it
45 shall not be sold for less than the appraised value as established by a
46 competent real estate appraiser. Any ~~funds~~ MONIES derived from the disposal

1 of real or personal property shall be deposited, PURSUANT TO SECTIONS 35-146
2 AND 35-147, in the Arizona highway patrol fund as authorized by section
3 41-1752, subsection B, paragraph 6.

4 7. Sell, lend or lease personal property directly to any state, county
5 or local law enforcement agency. Such personal property may be sold or
6 leased at a predetermined price without competitive bidding. Any state,
7 county or local law enforcement agency receiving such property may not resell
8 or lease such property to any person or organization except for educational
9 purposes.

10 8. Dispose of surplus property by transferring such property to the
11 department of administration for disposition to another state budget unit or
12 political subdivision if such state budget unit or political subdivision is
13 not a law enforcement agency.

14 9. Lease or rent personal property directly to any state law
15 enforcement officer for the purpose of traffic safety, traffic control or
16 other law enforcement related activity.

17 10. Sell for one dollar, without public bidding, the department issued
18 handgun or shotgun to a department officer on duty related retirement
19 pursuant to title 38, chapter 5, article 4. Any ~~funds~~ MONIES derived from
20 the sale of the handgun or shotgun to the retiring department officer shall
21 be deposited, pursuant to sections 35-146 and 35-147, in the Arizona highway
22 patrol fund as authorized by section 41-1752, subsection B, paragraph 6.

23 11. Conduct state criminal history records checks for the purpose of
24 updating and verifying the status of current licensees or registrants who
25 have a license or certificate issued pursuant to title 32, chapter 26. The
26 director shall investigate, upon receipt, credible evidence that a licensee
27 or registrant has been arrested for, charged with or convicted of an offense
28 that would preclude the person from holding a registration certificate issued
29 pursuant to title 32, chapter 26.

30 12. Grant a maximum of two thousand eighty hours of industrial injury
31 leave to any sworn department employee who is injured in the course of the
32 employee's duty and whose work-related injury prevents the employee from
33 performing the normal duties of that employee's classification. This
34 industrial injury leave is in addition to any vacation or sick leave earned
35 or granted to the employee and does not affect the employee's eligibility for
36 any other benefits, including workers' compensation. On retirement or
37 separation from the department or on reclassification to civilian status, the
38 employee forfeits any unused industrial injury leave and is not eligible for
39 payment pursuant to section 38-615. Subject to approval by the law
40 enforcement merit system council, the director shall adopt rules and
41 procedures regarding industrial injury leave hours granted pursuant to this
42 paragraph.

43 C. The director and any employees of the department which the director
44 designates in writing may use the seal adopted pursuant to subsection A,
45 paragraph 6 of this section to fully authenticate any department records and
46 copies of these records. These authenticated records or authenticated copies

1 of records shall be judicially noticed and shall be received in evidence by
2 the courts of this state without any further proof of their authenticity.

3 Sec. 14. Heading change

4 The chapter heading of title 41, chapter 16, Arizona Revised Statutes,
5 is changed from "DEPARTMENT OF BUILDING AND FIRE SAFETY" to "DEPARTMENT OF
6 FIRE, BUILDING AND LIFE SAFETY".

7 Sec. 15. Section 41-2141, Arizona Revised Statutes, is amended to
8 read:

9 41-2141. Department of fire, building and life safety;
10 establishment; purposes; components

11 A. The department of FIRE, building and ~~fire~~ LIFE safety is
12 established to further the public interest of safety and welfare by
13 maintaining and enforcing standards of quality and safety for manufactured
14 homes, mobile homes and factory-built buildings and by reducing hazards to
15 life and property through the maintenance and enforcement of the state fire
16 code BY PROVIDING FIRE TRAINING, FIRE INVESTIGATIONS AND PUBLIC LIFE SAFETY
17 EDUCATION AS PROVIDED FOR IN THIS CHAPTER. It is also the purpose of the
18 department to establish a procedure to protect the consumer of such products
19 and services.

20 B. The department of FIRE, building and ~~fire~~ LIFE safety consists of
21 the board of manufactured housing, the installation standards committee, the
22 state fire safety committee and the director of the department. The
23 director's office consists of the DEPUTY DIRECTOR, THE office of manufactured
24 housing, the office of state fire marshal, THE OFFICE OF STATE FORESTER and
25 the office of administration.

26 C. The attorney general shall act for the department in all legal
27 actions or proceedings and shall advise the department on all questions of
28 law arising out of the administration of this chapter.

29 Sec. 16. Section 41-2142, Arizona Revised Statutes, is amended to
30 read:

31 41-2142. Definitions

32 In this chapter, unless the context otherwise requires:

33 1. "Accessory structure" means the installation, assembly, connection
34 or construction of any one-story habitable room, storage room, patio, porch,
35 garage, carport, awning, skirting, retaining wall, evaporative cooler,
36 refrigeration air conditioning system, solar system or wood decking attached
37 to a new or used manufactured home, mobile home or residential single family
38 factory-built building.

39 2. "Act" means the national manufactured home construction and safety
40 standards act of 1974 and title VI of the housing and community development
41 act of 1974 (P.L. 93-383, as amended by P.L. 95-128, 95-557, 96-153 and
42 96-339).

43 3. "Alteration of units" means the replacement, addition, modification
44 or removal of any equipment or installation after the sale by a manufacturer
45 to a dealer or distributor but prior to the sale by a dealer to a purchaser,
46 which may affect compliance with the standards, construction, fire safety,

1 occupancy, plumbing or heat-producing or electrical system. Alteration does
2 not mean the repair or replacement of a component or appliance requiring
3 plug-in to an electrical receptacle if the replaced item is of the same
4 configuration and rating as the component or appliance being repaired or
5 replaced. Alteration also does not mean the addition of an appliance
6 requiring plug-in to an electrical receptacle if such appliance is not
7 provided with the unit by the manufacturer and the rating of the appliance
8 does not exceed the rating of the receptacle to which such appliance is
9 connected.

10 4. "Board" means the board of manufactured housing.

11 5. "Broker" means any person who, on behalf of another, sells,
12 exchanges, buys, offers or attempts to negotiate or acts as an agent for the
13 sale or exchange of a used manufactured home or mobile home except as
14 exempted in section 41-2178.

15 6. "Component" means any part, material or appliance which is built-in
16 as an integral part of the unit during the manufacturing process.

17 7. "Consumer" means either a purchaser or seller of a unit regulated
18 by this chapter who utilizes the services of a person licensed by the
19 department.

20 8. "Consummation of sale" means that a purchaser has received all
21 goods and services that the dealer or broker agreed to provide at the time
22 the contract was entered into or the transfer of title. Consummation of sale
23 does not include warranties.

24 9. "Dealer" means any person who sells, exchanges, buys, offers or
25 attempts to negotiate or acts as an agent for the sale or exchange of
26 factory-built buildings, subassemblies, manufactured homes or mobile homes
27 except as exempted in section 41-2178. A lease or rental agreement by which
28 the user acquired ownership of the unit with or without additional
29 remuneration is considered a sale under ~~the provisions of~~ this chapter.

30 10. "Defect" means any defect in the performance, construction,
31 components or material of a unit that renders the unit or any part of the
32 unit unfit for the ordinary use for which it was intended.

33 11. "Department" means the department of FIRE, building and ~~fire~~ LIFE
34 safety.

35 12. "Director" means the director of the department.

36 13. "Earnest monies" means all monies given by a purchaser or a
37 financial institution to a dealer or broker before consummation of the sale.

38 14. "Factory-built building" means a residential or nonresidential
39 building including a dwelling unit or habitable room thereof which is either
40 wholly or in substantial part manufactured at an off-site location to be
41 assembled on-site, except that it does not include a manufactured home,
42 recreational vehicle or mobile home as defined in this section.

43 15. "HUD" means the United States department of housing and urban
44 development.

45 16. "Imminent safety hazard" means an imminent and unreasonable risk of
46 death or severe personal injury.

1 17. "Insignia of approval" means a numbered or serialized label or seal
2 issued by the assistant director of the office of administration as
3 certification of compliance with ~~the provisions of~~ this chapter.

4 18. "Installation" means:

5 (a) Connecting new or used mobile homes, manufactured homes or
6 factory-built buildings to on-site utility terminals or repairing these
7 utility connections.

8 (b) Placing new or used mobile homes, manufactured homes, accessory
9 structures or factory-built buildings on foundation systems or repairing
10 these foundation systems.

11 (c) Providing ground anchoring for new or used mobile homes or
12 manufactured homes or repairing the ground anchoring.

13 19. "Installation supervision" means that the installer may act as an
14 installer of accessory structures for manufactured homes, mobile homes or
15 residential single family factory-built buildings and may also contract with
16 the purchaser or owner of a unit, or a dealer licensed under this chapter, to
17 arrange for, control and supervise all aspects of the installation of a unit
18 and accessory structures, including retaining and supervising persons whose
19 activities are licensed under this chapter. A licensed installer may not
20 contract with the purchaser or owner of a unit or with a dealer licensed
21 under this chapter, to arrange for, retain and supervise a person who is
22 licensed or regulated by an agency other than the office of manufactured
23 housing, unless the licensed installer is also licensed by the same agency
24 which licenses or regulates the person whom the installer retains and
25 supervises. Installation supervision also includes the installer's right, if
26 authorized by the purchaser, owner or dealer, to seek and obtain recourse,
27 remedies or relief against all persons whose activities are supervised. If
28 requested by a licensed installer or an applicant for an installer's license,
29 and approved by the assistant director pursuant to sections 41-2175 and
30 41-2176, an installer may obtain a license that includes installation
31 supervision.

32 20. "Installer" means any person who engages in the business of
33 performing installations of manufactured homes, mobile homes or residential
34 single family factory-built buildings.

35 21. "Installer of accessory structures" means any person who engages in
36 the business of installing accessory structures.

37 22. "Listing agreement" means a document which contains the name and
38 address of the seller, a description of the unit to be listed and the terms
39 which include the period of time that the agreement is in force, the price
40 the seller is requesting for the unit, the commission to be paid to the
41 licensee and the signatures of the sellers and the licensee who obtains the
42 listing.

43 23. "Local enforcement agency" means a zoning or building department of
44 a city, town or county or its agents.

45 24. "Manufactured home" means a structure built in accordance with the
46 act.

1 25. "Manufacturer" means any person engaged in manufacturing,
2 assembling or reconstructing any unit regulated by this chapter.

3 26. "Mobile home" means a structure built prior to June 15, 1976, on a
4 permanent chassis, capable of being transported in one or more sections and
5 designed to be used with or without a permanent foundation as a dwelling when
6 connected to on-site utilities except recreational vehicles and factory-built
7 buildings.

8 27. "Purchaser" means a person purchasing a unit in good faith from a
9 licensed dealer or broker for purposes other than resale.

10 28. "Qualifying party" means a person who is an owner, employee,
11 corporate officer or partner of the licensed business and who has active and
12 direct supervision of and responsibility for all operations of that licensed
13 business.

14 29. "Reconstruction of a unit" means construction work performed for
15 the purpose of restoration or modification of a unit by changing or adding
16 structural components or electrical, plumbing or heat or air producing
17 systems.

18 30. "Recreational vehicle" means a vehicular type unit which is:

19 (a) A portable camping trailer mounted on wheels and constructed with
20 collapsible partial sidewalls which fold for towing by another vehicle and
21 unfold for camping.

22 (b) A motor home designed to provide temporary living quarters for
23 recreational, camping or travel use and built on or permanently attached to a
24 self-propelled motor vehicle chassis or on a chassis cab or van that is an
25 integral part of the completed vehicle.

26 (c) A park trailer built on a single chassis, mounted on wheels and
27 designed to be connected to utilities necessary for operation of installed
28 fixtures and appliances and has a gross trailer area of not less than three
29 hundred twenty square feet and not more than four hundred square feet when it
30 is set up, except that it does not include fifth wheel trailers.

31 (d) A travel trailer mounted on wheels, designed to provide temporary
32 living quarters for recreational, camping or travel use, of a size or weight
33 that may or may not require special highway movement permits when towed by a
34 motorized vehicle and has a trailer area of less than three hundred twenty
35 square feet. This subdivision includes fifth wheel trailers. If a unit
36 requires a size or weight permit, it shall be manufactured to the standards
37 for park trailers in A 119.5 of the American national standards institute
38 code.

39 (e) A portable truck camper constructed to provide temporary living
40 quarters for recreational, travel or camping use and consisting of a roof,
41 floor and sides designed to be loaded onto and unloaded from the bed of a
42 pickup truck.

43 31. "Salesperson" means any person who, for a salary, commission or
44 compensation of any kind, is employed by or acts on behalf of any dealer or
45 broker of manufactured homes, mobile homes or factory-built buildings to
46 sell, exchange, buy, offer or attempt to negotiate or act as an agent for the

1 sale or exchange of an interest in a manufactured home, mobile home or
2 factory-built building.

3 32. "Seller" means a natural person who enters into a listing agreement
4 with a licensed dealer or broker for the purpose of resale.

5 33. "Site development" means the development of an area for the
6 installation of the unit's or units' locations, parking, surface drainage,
7 driveways, on-site utility terminals and property lines at a proposed
8 construction site or area.

9 34. "Statutory agent" means an adult person who has been a bona fide
10 resident of this state for at least three years and has agreed to act as
11 agent for a licensee.

12 35. "Subassembly" means a prefabricated wall, floor, ceiling, roof or
13 similar combination of components.

14 36. "Title transfer" means a true copy of the application for title
15 transfer which is stamped or validated by the appropriate government agency.

16 37. "Unit" means a manufactured home, mobile home, factory-built
17 building, subassembly or accessory structures.

18 38. "Unit safety" means the performance of a unit in such a manner that
19 the public is protected against any unreasonable risk of the occurrence of
20 accidents due to the design or construction of such unit, or any unreasonable
21 risk of death or injury to the user or to the public if such accidents occur.

22 39. "Used unit" means any unit which is regulated by this chapter and
23 which has been sold, bargained, exchanged or given away from a purchaser who
24 first acquired the unit which was titled in the name of such purchaser.

25 40. "Workmanship" means a minimum standard of construction or
26 installation reflecting a journeyman quality of the work of the various
27 trades.

28 Sec. 17. Section 41-2146, Arizona Revised Statutes, is amended to
29 read:

30 41-2146. State fire safety committee; members; terms; powers
31 and duties; compensation

32 A. A state fire safety committee is established consisting of seven
33 members WHO ARE appointed for three year terms by the governor pursuant to
34 section 38-211. The governor may remove any member from the committee for
35 incompetency, improper conduct, disability or neglect of duty. Membership on
36 the committee is as follows:

37 1. Two members, not from the same municipality, ~~who~~ EACH OF WHOM shall
38 be a fire chief or fire marshal of a paid municipal fire department of a city
39 with a population of one hundred thousand persons or more.

1 2. One member shall be a fire chief of a paid municipal fire
2 department of a town with a population of less than one hundred thousand
3 persons.

4 3. One member shall be a member of the Arizona fire chiefs'
5 association.

6 4. One member shall be a registered architect.

7 5. One member shall be a chief building official of a city, town or
8 county.

9 6. One member shall be a member of the public.

10 B. The state fire safety committee shall annually select from its
11 membership a chairman for the committee. The committee shall meet on the
12 call of the chairman or on the request of at least four members.

13 C. The state fire safety committee shall adopt by rule a state fire
14 code establishing minimum standards for:

15 1. Safeguarding life and property from fire and fire hazards.

16 2. Prevention of fires and alleviation of fire hazards.

17 3. Storage, sale, distribution and use of dangerous chemicals,
18 combustibles, flammable liquids, explosives and radioactive materials.

19 4. Installation, maintenance and use of fire escapes, fire protection
20 equipment, fire alarm systems, smoke detectors and fire extinguishing
21 equipment.

22 5. The means and adequacy of fire protection and exit in case of fire
23 in places in which numbers of persons work, live or congregate, excluding
24 family dwellings which have fewer than five residential dwelling units.

25 6. Other matters relating to fire prevention and control which are
26 considered necessary by the committee.

27 D. The state fire safety committee ~~may~~ **SHALL** adopt rules and a
28 schedule of fees ~~which shall not exceed ninety dollars~~ for a permit, ~~twenty~~
29 ~~dollars~~ for a plan submission, ~~forty dollars an hour~~ for plan review and
30 ~~thirty dollars an hour~~ for reinspections ~~which~~ **THAT** are payable by persons
31 regulated under article 3 of this chapter. **THE DEPARTMENT SHALL DEPOSIT**
32 **THESE FEES IN THE FIRE, BUILDING AND LIFE SAFETY FUND ESTABLISHED BY SECTION**
33 **41-2149.**

34 E. The state fire safety committee shall adopt rules for the
35 allocation of monies from the arson detection reward fund established in
36 section 41-2167. The rules shall be consistent with the purposes set forth
37 in section 41-2167 and shall promote the effective and efficient use of the
38 fund monies.

39 F. Members of the committee are not eligible to receive compensation
40 for service on the committee but are eligible for reimbursement of expenses
41 pursuant to title 38, chapter 4, article 2.

42 Sec. 18. Section 41-2147, Arizona Revised Statutes, is amended to
43 read:

44 41-2147. Director; qualifications; appointment; salary;
45 assistants; powers and duties

1 A. The governor shall appoint a director of the department pursuant to
2 section 38-211. The director shall serve at the pleasure of the governor.

3 B. The director shall be experienced in administration and the
4 technical knowledge necessary to administer this chapter.

5 C. The compensation of the director shall be as determined pursuant to
6 section 38-611.

7 D. The director with the approval of the governor shall appoint A
8 DEPUTY DIRECTOR, an assistant director of the office of manufactured housing,
9 the state fire marshal of the office of fire marshal, THE STATE FIRE TRAINING
10 OFFICER, THE FIRE RESOURCE COORDINATOR and an assistant director of the
11 office of administration, all of whom serve at the pleasure of the director
12 and are exempt from ~~the provisions of~~ chapter 4, article 5 of this title.
13 Compensation for the assistant directors and the fire marshal shall be as
14 determined pursuant to section 38-611.

15 E. The director shall establish and have authority over the functions
16 of the office of manufactured housing, the office of state fire marshal, THE
17 OFFICE OF STATE FORESTER and the office of administration and shall appoint
18 employees necessary to perform the duties of articles 2, 3 ~~and~~, 4 AND 6 of
19 this chapter.

20 F. The director shall employ any deputies, investigators and
21 assistants and shall procure all equipment and records that are necessary to
22 enforce this chapter. With respect to the enforcement of section 41-2194,
23 the director or ~~his~~ THE DIRECTOR'S designees are vested with the authority to
24 issue a citation in accordance with section 13-3903 or to issue a cease and
25 desist order to any violators of this chapter. When the director or ~~his~~ THE
26 DIRECTOR'S designees conduct investigations they may receive criminal history
27 record information from the department of public safety and other law
28 enforcement entities.

29 G. In order to protect public health, safety and welfare, the director
30 may revoke or suspend a license.

31 H. The director may issue citations to licensees for alleged
32 violations of any of the provisions of this chapter or rules adopted pursuant
33 to this chapter.

34 I. The director, on ~~his~~ THE DIRECTOR'S motion or on the written
35 request of the licensee, may reduce, at ~~his~~ THE DIRECTOR'S discretion, the
36 amount of any administrative penalty imposed.

37 Sec. 19. Title 41, chapter 16, article 1, Arizona Revised Statutes, is
38 amended by adding section 41-2149, to read:

39 41-2149. Fire, building and life safety fund; purpose;
40 exemption

41 A. THE FIRE, BUILDING AND LIFE SAFETY FUND IS ESTABLISHED. THE
42 DIRECTOR SHALL ADMINISTER THE FUND.

43 B. THE FUND CONSISTS OF:

44 1. MONIES COLLECTED PURSUANT TO SECTION 41-2146, SUBSECTION D.

45 2. MONIES RECEIVED FROM INDIVIDUALS, CORPORATIONS, CITIES, TOWNS,
46 COUNTIES AND OTHER POLITICAL SUBDIVISIONS OF THIS STATE, OTHER STATE

1 AGENCIES, FEDERAL AGENCIES AND ANY OTHER SOURCES FOR THE PURPOSE OF MANAGING
2 THE FIRE TRAINING ACTIVITIES ESTABLISHED UNDER ARTICLE 3 OF THIS CHAPTER.

3 3. MONIES APPROPRIATED TO THE FUND.

4 C. THE DEPARTMENT SHALL ADOPT RULES FOR THE COLLECTION OF MONIES FOR
5 FIRE TRAINING ACTIVITIES AND THE ALLOCATION OF MONIES TO THE OFFICES OF THE
6 DEPARTMENT. THE DEPARTMENT SHALL ADOPT RULES THAT ARE CONSISTENT WITH THE
7 PURPOSES PRESCRIBED IN THIS CHAPTER AND THAT PROMOTE THE EFFECTIVE AND
8 EFFICIENT USE OF THE MONIES IN THE FUND.

9 D. MONIES IN THE FUND ARE CONTINUOUSLY APPROPRIATED FOR THE PURPOSE OF
10 CONDUCTING THE ACTIVITIES OF THE STATE FIRE MARSHAL AND FIRE TRAINING
11 ACTIVITIES.

12 E. MONIES IN THE FUND ARE EXEMPT FROM THE PROVISIONS OF SECTION 35-190
13 RELATING TO LAPSING OF APPROPRIATIONS.

14 Sec. 20. Section 41-2161, Arizona Revised Statutes, is amended to
15 read:

16 41-2161. Office of state fire marshal; purpose; qualifications

17 To promote public health and safety and to reduce hazards to life, limb
18 and property, the office of state fire marshal is established within the
19 department. **THE OFFICE SHALL PERFORM ITS DUTIES BY PERFORMING INSPECTIONS
20 AND FIRE INVESTIGATIONS, BY PROVIDING PUBLIC EDUCATION AND BY ADOPTING FIRE
21 PROTECTION CODES.** The person appointed as state fire marshal shall have
22 extensive experience in the field of fire prevention and fire protection
23 including administrative experience in such capacity.

24 Sec. 21. Section 41-2163, Arizona Revised Statutes, is amended to
25 read:

26 41-2163. Powers and duties; arson investigators

27 A. The state fire marshal shall, under the authority and direction of
28 the director:

29 1. Assist in the enforcement of state laws and ordinances of cities
30 and counties relating to fire prevention and fire protection.

31 2. Enforce compliance with the fire code ~~promulgated~~ **ADOPTED** by the
32 state fire safety committee throughout the state except in any city having a
33 population of one hundred thousand persons or more which has in effect a
34 nationally recognized fire code, whether modified or unmodified, and which
35 has enacted an ordinance to assume such jurisdiction from the state fire
36 safety committee. Such cities ~~shall DO~~ not have authority ~~superceding or be
37 exempted~~ **THAT SUPERSEDES AND ARE NOT EXEMPT** from the state fire safety
38 committee's established fire ~~prevention standards~~ **CODE** in state or county
39 owned buildings and public schools wherever located throughout the state.

40 3. Cooperate and coordinate with other state agencies in the
41 administration of the state fire code.

42 4. Establish a regularly scheduled fire safety inspection program for
43 all state and county owned public buildings and all public and private school
44 buildings wherever located throughout the state, except for private school
45 buildings in cities with a population of one hundred thousand or more persons
46 according to the last decennial census.

1 5. Inspect as necessary all other occupancies located throughout this
2 state, except family dwellings having fewer than five residential dwelling
3 units and occupancies located in cities with a population of one hundred
4 thousand or more persons according to the last decennial census.

5 6. At the written request of county or municipal authorities, make and
6 provide to them a written report of the examination made by the state fire
7 marshal of any fire within their jurisdiction.

8 7. Compile, update as necessary and make available to the public a
9 fully indexed and cross-referenced list of all rules adopted by state
10 agencies and departments and agencies and departments of political
11 subdivisions of this state relating to the control of all hazardous materials
12 as defined in section 28-5201 and all federal regulations relating to the
13 control of hazardous materials as defined in section 28-5201 for which there
14 is no state regulation.

15 8. Establish and maintain a library of all rules and regulations
16 identified in the index required by paragraph 7 of this subsection and
17 support the regulated industry's request for information through research or
18 referral to the agency adopting the specific rule for technical information
19 or other assistance as circumstances dictate.

20 9. Administer the arson detection reward fund established by section
21 41-2167.

22 B. The state fire marshal and this state are not liable for damages
23 caused by information which is omitted from the rules and federal regulations
24 compiled pursuant to subsection A, paragraph 7 of this section.

25 C. All plans and specifications for new construction, remodeling,
26 alterations and additions for state, county and public school buildings and
27 grounds shall be submitted to the director for review and approval by the
28 state fire marshal prior to construction. The plans and specifications shall
29 be reviewed and approved or disapproved within sixty days of submission. No
30 construction shall commence until the plans have been approved and a permit
31 has been issued.

32 D. The state fire marshal may, under the authority and direction of
33 the director:

34 1. Conduct or participate in investigations of causes, origins and
35 circumstances of fires, including cases of possible arson.

36 2. Prescribe a uniform system of reporting fires and their causes and
37 effects.

38 3. Provide and coordinate training in fire fighting and fire
39 prevention and cooperate with educational institutions to provide and further
40 such training.

41 4. Impound necessary evidence in conjunction with investigations of
42 causes, origins and circumstances of fires, in the event that such evidence
43 might be lost, destroyed or otherwise altered if not so impounded.

44 5. Employ specialized testing services to evaluate evidence and
45 conditions involved in fire investigations.

1 6. Designate certain members of the state fire marshal's staff as
2 arson investigators.

3 E. The primary duty of investigators designated pursuant to subsection
4 D, paragraph 6 of this section is the investigation, detection, ~~and~~ and
5 apprehension of persons who have violated or are suspected of violating any
6 provision of title 13, chapter 17. A person designated as an arson
7 investigator, while engaged in arson investigation in this state, possesses
8 and may exercise law enforcement powers of peace officers of this state. This
9 subsection does not grant any powers of peace officers of this state to arson
10 investigators other than those necessary for the investigation, detection and
11 apprehension authority granted by ~~the provisions of~~ this subsection. Any
12 individual designated as an arson investigator shall have law enforcement
13 training under ~~the provisions of~~ section 41-1822.

14 Sec. 22. Title 41, chapter 16, article 3, Arizona Revised Statutes, is
15 amended by adding section 41-2169.01, to read:

16 41-2169.01. Safety standards in fire training

17 ALL TRAINING PROVIDED BY THE DEPARTMENT SHALL COMPLY WITH THE SAFETY
18 STANDARDS PRESCRIBED BY THE NATIONAL FIRE PROTECTION ASSOCIATION AND THE
19 OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION REGULATIONS OF THIS STATE.

20 Sec. 23. Section 41-2171, Arizona Revised Statutes, is amended to
21 read:

22 41-2171. Office of administration; purpose

23 The purpose of the office of administration within the department of
24 FIRE, building and fire LIFE safety is to provide the administrative services
25 necessary to facilitate the operation of the office of manufactured housing,
26 THE OFFICE OF STATE FORESTER and the office of state fire marshal, including
27 procedures to ensure compliance with laws and rules relating to ~~such~~ THESE
28 offices.

29 Sec. 24. Repeal

30 Title 37, chapter 2.1, Arizona Revised Statutes, is repealed.

31 Sec. 25. Title 41, chapter 16, Arizona Revised Statutes, is amended by
32 adding article 6, to read:

33 ARTICLE 6. OFFICE OF STATE FORESTER

34 41-2199. Office of state forester; state forester;
35 qualifications

36 A. THE OFFICE OF STATE FORESTER IS ESTABLISHED. THE GOVERNOR SHALL
37 APPOINT THE STATE FORESTER PURSUANT TO SECTION 38-211. THE STATE FORESTER
38 SERVES AT THE PLEASURE OF THE GOVERNOR.

39 B. THE QUALIFICATIONS OF THE STATE FORESTER SHALL BE EITHER OF THE
40 FOLLOWING:

41 1. GRADUATION FROM A FULL FOUR-YEAR COLLEGE COURSE WITH A BACHELOR'S
42 DEGREE, WITH A MAJOR IN FORESTRY INCLUDING FIVE YEARS OF TECHNICAL EXPERIENCE
43 IN THE FORESTRY-LAND MANAGEMENT FIELD.

44 2. TEN YEARS OF SUCCESSFUL AND PROGRESSIVE TECHNICAL EXPERIENCE IN
45 FORESTRY AND LAND MANAGEMENT ACTIVITIES OF SUCH A NATURE AS TO ENABLE THE

1 APPLICANT TO PERFORM THE STATE FORESTER'S DUTIES SUCCESSFULLY AT THE
2 PROFESSIONAL LEVEL.

3 41-2199.01. Duties of state forester; acceptance of federal law

4 A. THE STATE FORESTER IS DESIGNATED AS THE AGENT OF THE STATE OF
5 ARIZONA AND SHALL ADMINISTER THIS CHAPTER. IN ADDITION, THE STATE FORESTER
6 SHALL:

7 1. PERFORM ALL MANAGEMENT AND ADMINISTRATIVE FUNCTIONS ASSIGNED OR
8 DELEGATED TO THIS STATE BY THE UNITED STATES RELATING TO FORESTRY AND
9 FINANCIAL ASSISTANCE AND GRANTS RELATING TO FORESTRY AND ANY COOPERATIVE
10 AGREEMENTS WITH PUBLIC AND PRIVATE PARTIES RELATING TO FORESTRY.

11 2. TAKE NECESSARY ACTION TO MAXIMIZE STATE FIRE ASSISTANCE GRANTS,
12 INCLUDING ESTABLISHING TIMELINES FOR USING GRANT MONIES AND REALLOCATING
13 LAPSED GRANT MONIES TO OTHER PROJECTS.

14 3. MONITOR FORESTRY PROJECTS AND WILDFIRE ACTIVITIES.

15 B. DURING THE FIRST REGULAR SESSION OF EACH LEGISLATURE, THE STATE
16 FORESTER SHALL PRESENT INFORMATION TO THE LEGISLATIVE COMMITTEES WITH
17 JURISDICTION OVER FORESTRY ISSUES. THE STATE FORESTER SHALL COLLABORATE
18 WITH, AND INVITE THE PARTICIPATION OF, RELEVANT STATE, FEDERAL AND LOCAL
19 GOVERNMENTAL OFFICERS AND AGENCIES. A WRITTEN REPORT IS NOT REQUIRED, BUT
20 THE PRESENTATION SHALL INCLUDE INFORMATION CONCERNING:

21 1. FORESTRY MANAGEMENT, INCLUDING THE CURRENT CONDITIONS OF THE
22 FORESTS IN THIS STATE ON FEDERAL, STATE AND PRIVATE PROPERTY AS AFFECTED BY
23 FEDERAL, STATE AND LOCAL PUBLIC POLICIES, CLIMATIC CONDITIONS, WILDFIRE
24 HAZARDS, PEST INFESTATIONS, OVERGROWTH AND OVERGROWTH CONTROL POLICIES AND
25 METHODS AND THE EFFECTS OF CURRENT FEDERAL POLICY ON FOREST MANAGEMENT AND
26 IMPACTS ON FOREST LAND MANAGEMENT.

27 2. THE WILDLAND-URBAN INTERFACE, INCLUDING THE EFFECTS OF COUNTY AND
28 MUNICIPAL ZONING POLICIES AND WILDFIRE HAZARDS ON PUBLIC AND PRIVATE
29 PROPERTY.

30 3. WILDFIRE EMERGENCY MANAGEMENT ISSUES, INCLUDING:

31 (a) INTERGOVERNMENTAL AND INTERAGENCY PRIMACY, COOPERATION,
32 COORDINATION, ROLES AND TRAINING OF FEDERAL, STATE AND LOCAL FORESTRY,
33 FIREFIGHTING AND LAW ENFORCEMENT AGENCIES.

34 (b) CHANNELS AND METHODS OF COMMUNICATING EMERGENCY INFORMATION TO THE
35 PUBLIC.

36 (c) THE ROLES OF GOVERNMENTAL AND NONGOVERNMENTAL DISASTER RELIEF
37 AGENCIES AND ORGANIZATIONS.

38 (d) THE LEVEL OF FEDERAL, STATE AND LOCAL EMERGENCY FUNDING.

39 C. THE STATE FORESTER MAY:

40 1. FURNISH TECHNICAL ADVICE TO THE PEOPLE OF THE STATE ON FORESTRY
41 MATTERS.

42 2. DO ALL OTHER ACTS NECESSARY TO TAKE ADVANTAGE OF AND CARRY OUT THE
43 PROVISIONS OF THE ACT OF CONGRESS DESCRIBED IN SUBSECTION D.

44 D. THIS STATE ACCEPTS THE PROVISIONS OF THE COOPERATIVE FORESTRY
45 ASSISTANCE ACT OF 1978 (P.L. 95-313; 92 STAT. 365; 16 UNITED STATES CODE
46 CHAPTER 41) PROVIDING FOR FEDERAL FORESTRY ASSISTANCE PROGRAMS TO STATES.

1 41-2199.02. Suppression of wildfires: powers and duties of
2 state forester: entry on private lands

3 A. THE STATE FORESTER HAS THE AUTHORITY TO PREVENT AND SUPPRESS ANY
4 WILDFIRES ON STATE AND PRIVATE LANDS LOCATED OUTSIDE INCORPORATED
5 MUNICIPALITIES AND, IF SUBJECT TO COOPERATIVE AGREEMENTS, ON OTHER LANDS
6 LOCATED IN THIS STATE OR IN OTHER STATES, MEXICO OR CANADA. IF THERE IS NO
7 COOPERATIVE AGREEMENT, THE STATE FORESTER MAY FURNISH WILDFIRE SUPPRESSION
8 SERVICES ON ANY LANDS IN THIS STATE IF THE STATE FORESTER DETERMINES THAT
9 SUPPRESSION SERVICES ARE IN THE BEST INTERESTS OF THIS STATE AND ARE
10 IMMEDIATELY NECESSARY TO PROTECT STATE LANDS.

11 B. IN EXERCISING THE AUTHORITY TO PREVENT WILDFIRES, IF THE STATE
12 FORESTER DECLARES A PROHIBITION ON FIRE CAUSING ACTIVITIES AND FIREWORKS, THE
13 STATE FORESTER SHALL POST A NOTICE OF THE ACTION IN THE OFFICE OF THE
14 SECRETARY OF STATE AND SHALL NOTIFY THE NEWS MEDIA. THE NOTICE SHALL CLEARLY
15 STATE WHICH TYPES OF ACTIVITIES ARE PROHIBITED, WHERE THEY ARE PROHIBITED AND
16 WHETHER PERMITS THAT ARE ISSUED BY OTHER GOVERNMENTAL ENTITIES ARE AFFECTED
17 BY THE ACTION.

18 C. THE STATE FORESTER HAS THE RESPONSIBILITY TO PREVENT AND SUPPRESS
19 WILDFIRES ONLY ON LANDS COVERED BY COOPERATIVE FIRE AGREEMENTS.

20 D. THE STATE FORESTER MAY REQUEST THE GOVERNOR TO DECLARE A WILDLAND
21 FIRE EMERGENCY PURSUANT TO SECTION 35-192. IF LIABILITIES ARE AUTHORIZED
22 UNDER BOTH SECTIONS 35-192 AND 41-2199.04, THE AUTHORIZATION UNDER SECTION
23 41-2199.04 MUST BE EXHAUSTED BEFORE ANY LIABILITIES MAY BE INCURRED UNDER
24 SECTION 35-192.

25 E. THE STATE FORESTER SHALL COOPERATE AND COORDINATE WITH THE STATE
26 FIRE MARSHAL IN THE ADMINISTRATION OF THE STATE FIRE CODE IN THE PREVENTION
27 OF FIRES ON RURAL LANDS AND WILDLANDS.

28 F. THE STATE FORESTER MAY ENTER INTO COOPERATIVE AGREEMENTS WITH OTHER
29 STATE AND FEDERAL AGENCIES, DEPARTMENTS AND POLITICAL SUBDIVISIONS AND ANY
30 PERSON FOR:

- 31 1. PREVENTION AND SUPPRESSION OF WILDFIRES.
32 2. ASSISTANCE WITH FIRE AND NONFIRE NATIONAL AND STATE EMERGENCIES AND
33 MULTIAGENCY LOGISTICAL SUPPORT IN THIS STATE AND OTHER STATES.
34 3. ACTIVITIES PURSUANT TO THE WILDFIRE SUPPRESSION ASSISTANCE ACT
35 (P.L. 101-11; 103 STAT. 15; 42 UNITED STATES CODE SECTIONS 1856m THROUGH
36 1856o) IN MEXICO AND CANADA.

37 G. THE STATE FORESTER MAY ENTER PRIVATE LANDS IN PERFORMING THE DUTIES
38 UNDER THIS SECTION.

39 H. THE STATE FORESTER MAY ENTER INTO AGREEMENTS TO UTILIZE PRIVATE
40 LANDOWNERS' EQUIPMENT AND PERSONNEL IF THE FIRE IS ON OR ADJACENT TO SUCH
41 PRIVATE LANDOWNERS' PROPERTY.

42 41-2199.03. Forestry administrative districts; equipment and
43 personnel

44 A. THE STATE FORESTER MAY ESTABLISH STATE FORESTRY ADMINISTRATIVE
45 DISTRICTS IN ALL ELIGIBLE AREAS OF THIS STATE.

1 B. THE STATE FORESTER SHALL ESTABLISH AN EQUIPMENT PROGRAM IN ORDER TO
2 SUPPLY THE FORESTRY ADMINISTRATIVE DISTRICTS. EQUIPMENT SHALL BE SUPPLIED
3 THROUGH BOTH THE FEDERAL EXCESS PROPERTY PROGRAM AND PURCHASES OF NEW
4 EQUIPMENT WHEN WARRANTED.

5 C. WITH THE APPROVAL OF THE DIRECTOR THE STATE FORESTER MAY HIRE BOTH
6 PERMANENT AND PART-TIME PERSONNEL IN EACH SUCH DISTRICT OR OTHER MOST
7 PRACTICAL AREA BASED ON NEED AND WORKLOAD.

8 D. THE STATE FORESTER MAY:

9 1. HIRE PERSONNEL AND RENT EQUIPMENT ON A TEMPORARY BASIS IN ORDER TO
10 MONITOR AND SUPPRESS WILDLAND FIRES OCCURRING ON STATE AND PRIVATE LANDS
11 WITHIN ANY OF THE FORESTRY ADMINISTRATIVE DISTRICTS.

12 2. COOPERATE WITH OTHER FEDERAL, STATE AND LOCAL GOVERNMENT AGENCIES
13 AND ANY PERSON TO ESTABLISH A RESERVE OF PERSONNEL AND EQUIPMENT THAT MAY BE
14 USED WHEN NEEDED TO SUPPRESS WILDLAND FIRES.

15 3. ADOPT RULES NECESSARY TO CARRY OUT THIS SUBSECTION THAT SHALL BE
16 EXEMPT FROM EXISTING ADVERTISING AND CERTIFICATION PROCEDURES.

17 41-2199.04. Emergencies; prohibiting fireworks; liabilities and
18 expenses; fire suppression revolving fund

19 A. ON REQUEST OF THE STATE FORESTER, THE GOVERNOR MAY AUTHORIZE THE
20 STATE FORESTER TO INCUR LIABILITIES FOR SUPPRESSING WILDLAND FIRES AND
21 RESPONDING TO OTHER UNPLANNED ALL RISK ACTIVITIES FROM UNRESTRICTED MONIES IN
22 THE STATE GENERAL FUND WHETHER OR NOT THE LEGISLATURE IS IN SESSION.

23 B. THE STATE FORESTER HAS THE AUTHORITY TO PROHIBIT THE USE OF
24 FIREWORKS DURING TIMES OF HIGH FIRE POTENTIAL IN ANY AREAS OF THE STATE.

25 C. THE STATE FORESTER OR THE STATE FORESTER'S DESIGNEE SHALL REVIEW
26 ALL LIABILITIES INCURRED AND EXPENDITURES MADE UNDER THIS SECTION AND SHALL
27 REPORT THE EXPENDITURES TO THE DEPARTMENT OF ADMINISTRATION FOR AUDIT
28 ACCORDING TO DEPARTMENT OF ADMINISTRATION RULES. THE STATE FORESTER SHALL
29 TRANSMIT A COPY OF THE REPORT TO THE STATE EMERGENCY COUNCIL.

30 D. LIABILITIES INCURRED UNDER THIS SECTION ARE SUBJECT TO THE
31 FOLLOWING LIMITATIONS:

32 1. WILDLAND FIRE SUPPRESSION OR OTHER UNPLANNED ALL RISK EMERGENCY
33 LIABILITIES SHALL NOT EXCEED TWO MILLION DOLLARS OF STATE GENERAL FUND MONIES
34 PURSUANT TO SUBSECTION A OF THIS SECTION IN A FISCAL YEAR FOR COSTS
35 ASSOCIATED WITH SUPPRESSING WILDLAND FIRES AND SUPPORTING OTHER UNPLANNED ALL
36 RISK ACTIVITIES SUCH AS FIRE, FLOOD, EARTHQUAKE, WIND AND HAZARDOUS MATERIAL
37 RESPONSES. THE STATE FORESTER SHALL NOT INCUR NONREIMBURSABLE LIABILITIES
38 FOR SUPPORT OF NONFIRE ALL RISK ACTIVITIES.

39 2. THE GOVERNOR MAY AUTHORIZE THE STATE FORESTER TO SPEND AN
40 ADDITIONAL ONE MILLION DOLLARS OF STATE GENERAL FUND MONIES PURSUANT TO
41 SUBSECTION A OF THIS SECTION TO PREPARE FOR PERIODS OF EXTREME FIRE DANGER
42 AND PRE-POSITION EQUIPMENT AND OTHER FIRE SUPPRESSION RESOURCES TO PROVIDE
43 FOR ENHANCED INITIAL ATTACK ON WILDLAND FIRES. THE GOVERNOR SHALL DETERMINE
44 WHEN PERIODS OF EXTREME FIRE DANGER EXIST AND MUST APPROVE ANY EXPENDITURE
45 FOR PRE-POSITIONING ACTIVITIES.

1 3. IF THE FUNDING AUTHORIZATIONS IN PARAGRAPH 1 OR 2 ARE EXHAUSTED, OR
2 IF THE NONREIMBURSABLE LIABILITIES INCURRED EXCEED THE CASH BALANCE OF THE
3 FIRE SUPPRESSION REVOLVING FUND, THE STATE FORESTER SHALL NOT INCUR
4 ADDITIONAL LIABILITIES WITHOUT THE CONSENT OF A MAJORITY OF THE STATE
5 EMERGENCY COUNCIL AS AUTHORIZED BY SECTION 35-192.

6 E. NO LATER THAN DECEMBER 31 OF EACH YEAR THE STATE FORESTER SHALL
7 SUBMIT A REPORT TO THE JOINT LEGISLATIVE BUDGET COMMITTEE AND THE GOVERNOR
8 DETAILING THE SPECIFIC USES OF ALL MONIES AUTHORIZED TO BE EXPENDED FROM THE
9 FIRE SUPPRESSION REVOLVING FUND AND ANY ADDITIONAL MONIES AUTHORIZED BY THE
10 GOVERNOR TO PREPARE FOR PERIODS OF EXTREME FIRE DANGER AND PRE-POSITION
11 EQUIPMENT AND OTHER FIRE SUPPRESSION RESOURCES TO PROVIDE FOR ENHANCED
12 INITIAL ATTACK ON WILDLAND FIRES.

13 F. MONIES RECEIVED FOR SUPPRESSING WILDLAND FIRES, PRE-POSITIONING
14 EQUIPMENT AND FIREFIGHTING RESOURCES AND OTHER UNPLANNED ALL RISK ACTIVITIES
15 MAY BE USED FOR THE PURPOSES OF SECTION 41-2199.02 AND THIS SECTION.

16 G. THE STATE FORESTER SHALL ADOPT RULES FOR ADMINISTERING THE WILDLAND
17 FIRE SUPPRESSION MONIES AUTHORIZED UNDER THIS SECTION, SUBJECT TO APPROVAL OF
18 THE GOVERNOR.

19 H. THE STATE FORESTER MAY REQUIRE REIMBURSEMENT FROM CITIES AND OTHER
20 POLITICAL SUBDIVISIONS OF THIS STATE AND STATE AND FEDERAL AGENCIES FOR COSTS
21 INCURRED IN THE SUPPRESSION OF WILDLAND FIRES, PRE-SUPPRESSION OR UNPLANNED
22 ALL RISK ACTIVITIES. REIMBURSEMENT SHALL BE BASED ON THE TERMS AND
23 CONDITIONS IN COOPERATIVE AGREEMENTS, LAND OWNERSHIP OR NEGLIGENCE. THE
24 STATE FORESTER MAY REQUIRE REIMBURSEMENT FROM INDIVIDUALS OR BUSINESSES ONLY
25 FOR COSTS INCURRED IN THE SUPPRESSION OF WILDLAND FIRES OR UNPLANNED ALL RISK
26 ACTIVITIES CAUSED BY THEIR NEGLIGENCE OR CRIMINAL ACTS.

27 I. A FIRE SUPPRESSION REVOLVING FUND IS ESTABLISHED FOR DEPOSIT OF
28 MONIES RECEIVED BY THE STATE FORESTER FOR WILDLAND FIRE SUPPRESSION AND
29 PRE-POSITIONING EQUIPMENT AND RESOURCES AND FOR PAYMENT FOR ACTIVITIES
30 RELATED TO COMBATING WILDLAND FIRES AND SUPPORTING OTHER UNPLANNED ALL RISK
31 ACTIVITIES SUCH AS FIRE, FLOOD, EARTHQUAKE, WIND AND HAZARDOUS MATERIAL
32 RESPONSES. THE STATE FORESTER SHALL NOT INCUR NONREIMBURSABLE LIABILITIES
33 FOR SUPPORT OF NONFIRE ALL RISK ACTIVITIES. THE STATE FORESTER SHALL
34 ADMINISTER THE FUND, AND ALL MONIES RECEIVED FOR THESE ACTIVITIES SHALL BE
35 DEPOSITED, PURSUANT TO SECTIONS 35-146 AND 35-147, IN THE FUND, EXCEPT FOR
36 REIMBURSEMENTS FOR STATE SUPPLIES AND EQUIPMENT. REIMBURSEMENTS RECEIVED FOR
37 STATE SUPPLIES AND EQUIPMENT SHALL BE DEPOSITED IN THE COOPERATIVE FORESTRY
38 FUND ESTABLISHED BY SECTION 41-2199.05 FOR THE PURPOSES OF MAINTAINING AND
39 OPERATING STATE RESOURCES PURSUANT TO SECTIONS 41-2199.02, 41-2199.03 AND
40 41-2199.04. MONIES IN THE FIRE SUPPRESSION REVOLVING FUND ARE CONTINUOUSLY
41 APPROPRIATED TO THE STATE FORESTER, EXCEPT THAT IF THE UNOBLIGATED BALANCE OF
42 THE FUND EXCEEDS SIX HUNDRED THOUSAND DOLLARS AT THE END OF ANY CALENDAR
43 YEAR, THE EXCESS SHALL BE TRANSFERRED TO THE STATE GENERAL FUND. MONIES IN
44 THE FIRE SUPPRESSION REVOLVING FUND ARE OTHERWISE EXEMPT FROM THE PROVISIONS
45 OF SECTION 35-190 RELATING TO LAPSING OF APPROPRIATIONS.

1 11. One member, ~~WHO IS~~ appointed by the director, ~~to represent~~ AND WHO
2 REPRESENTS investor owned water systems.

3 C. The determination of the number and appointment of representatives
4 for the departments ~~designed~~ DESIGNATED in subsection B, paragraphs 1, 4 and
5 5, ~~shall~~ be made by the director of the respective departments. The
6 determination of the number and appointment of representatives of the state
7 real estate department shall be made by the real estate commission. The
8 determination of the number and appointment of representatives of the office
9 of state fire marshal shall be made by the state fire marshal. The
10 appointment of representatives under subsection B, paragraphs 7 and 8, ~~shall~~
11 be made by the director of the department of health ~~services~~ SERVICES.

12 D. Additional members may be appointed at the discretion of the
13 council. A representative from the department of environmental quality,
14 selected by the director, shall serve as chairman of the council. The
15 council shall meet at least quarterly and may meet more often to conduct its
16 business.

17 E. The council shall:

18 1. Develop public education and information programs for owners,
19 operators and customers of water systems.

20 2. Identify programs to advise and assist owners and operators of
21 water systems in management, accounting, engineering and other technical
22 areas.

23 3. Integrate and coordinate information ~~data-bases~~ DATABASES among
24 member agencies.

25 4. Evaluate the statutory and regulatory authority of governmental
26 entities regarding water systems and recommend appropriate changes.

27 5. Develop any other programs and recommendations which would benefit
28 the owners, operators and customers of water systems and the statutory and
29 regulatory practices of government agencies.

30 6. Identify sources of funding to accomplish the purposes of this
31 section.

32 7. Investigate mechanisms to ensure the financial viability of new
33 water systems before they begin operation.

34 Sec. 28. Effective date

35 This act is effective from and after June 30, 2006.