

State of Arizona  
Senate  
Fifty-first Legislature  
First Regular Session  
2013

# SENATE BILL 1463

AN ACT

AMENDING TITLE 11, CHAPTER 2, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 11-251.16; AMENDING SECTIONS 11-1602 AND 11-1608, ARIZONA REVISED STATUTES; AMENDING TITLE 48, CHAPTER 21, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 48-3609.02; AMENDING SECTIONS 48-3642 AND 48-3648, ARIZONA REVISED STATUTES; RELATING TO COUNTIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 11, chapter 2, article 4, Arizona Revised Statutes,  
3 is amended by adding section 11-251.16, to read:

4 11-251.16. Adoption of rules; procedures; exemptions;  
5 definitions

6 A. THE BOARD OF SUPERVISORS SHALL ADOPT PROCEDURES FOR THE ADOPTION,  
7 AMENDMENT, REPEAL AND ENFORCEMENT OF RULES.

8 B. THE PROCEDURES SHALL CONTAIN AT LEAST THE FOLLOWING PROVISIONS FOR  
9 THE COUNTY DEPARTMENT THAT IS PROPOSING THE CHANGE:

10 1. THE DEPARTMENT SHALL PROVIDE AT LEAST TWO WEEKS' NOTICE OF A  
11 DEPARTMENT MEETING AT WHICH THE DEPARTMENT ANNOUNCES THAT THE COUNTY WILL  
12 BEGIN THE PROCESS TO ADOPT, AMEND OR REPEAL A RULE. THE DEPARTMENT MAY  
13 ACCEPT PUBLIC COMMENT BEFORE, DURING AND AFTER THIS ANNOUNCEMENT MEETING.

14 2. THE DEPARTMENT SHALL PROVIDE AT LEAST TWO WEEKS' NOTICE OF A  
15 MEETING AT WHICH THE PUBLIC IS ABLE TO PROVIDE COMMENTS ON THE DRAFT LANGUAGE  
16 OF THE PROPOSED RULE. THE NOTICE SHALL INCLUDE THE ENTIRE TEXT OF THE DRAFT  
17 PROPOSED RULE AND IT SHALL BE MADE AVAILABLE TO THE PUBLIC. THE DEPARTMENT  
18 SHALL ACCEPT WRITTEN OR VERBAL COMMENTS ON THE DRAFT LANGUAGE.

19 3. THE DEPARTMENT SHALL PROVIDE AT LEAST TWO WEEKS' NOTICE OF A  
20 MEETING AT WHICH THE FINAL TEXT OF THE PROPOSED RULE IS CONSIDERED BY THE  
21 BOARD OF SUPERVISORS. THE NOTICE SHALL INCLUDE THE ENTIRE TEXT OF THE FINAL  
22 VERSION OF THE PROPOSED RULE AND IT SHALL BE MADE AVAILABLE TO THE PUBLIC.  
23 AT LEAST ONE WEEK BEFORE THE MEETING, THE DEPARTMENT SHALL PROVIDE THE PUBLIC  
24 WITH THE DEPARTMENT'S WRITTEN RESPONSES TO WRITTEN PUBLIC COMMENTS AND MAY  
25 PROVIDE WRITTEN RESPONSES TO VERBAL COMMENTS.

26 4. THE DEPARTMENT SHALL PROVIDE THE BOARD OF SUPERVISORS WITH COPIES  
27 OF THE PUBLIC COMMENTS AND THE DEPARTMENT'S WRITTEN RESPONSES TO THE PUBLIC  
28 COMMENTS. IF AS A RESULT OF PUBLIC COMMENTS OR INTERNAL REVIEW, THE BOARD OF  
29 SUPERVISORS DETERMINES THAT THE TEXT OF A PROPOSED RULE REQUIRES SUBSTANTIAL  
30 CHANGE, THE BOARD OF SUPERVISORS SHALL ISSUE A SUPPLEMENTAL NOTICE CONTAINING  
31 THE CHANGES TO THE PROPOSED RULE AND SHALL PROVIDE FOR ADDITIONAL PUBLIC  
32 COMMENT BEFORE ADOPTION.

33 C. NOTWITHSTANDING THIS SECTION, THE BOARD OF SUPERVISORS MAY PROVIDE  
34 ALTERNATIVE PROCEDURES FOR THE ADOPTION OF A RULE IF THE BOARD MAKES A  
35 FINDING THAT AN EMERGENCY EXISTS AND ADOPTION OF THE RULE IS NECESSARY TO  
36 PROTECT THE PUBLIC HEALTH, SAFETY OR WELFARE, TO AVOID AN IMMINENT BUDGET  
37 REDUCTION OR TO AVOID SERIOUS PREJUDICE TO THE PUBLIC INTEREST. WITHIN A  
38 REASONABLE TIME AFTER ADOPTING AN EMERGENCY RULE, THE BOARD OF SUPERVISORS  
39 SHALL REVIEW THE EMERGENCY RULE TO DETERMINE WHETHER THE RULE SHOULD CONTINUE  
40 IN EFFECT OR BE TERMINATED.

41 D. NOTWITHSTANDING THIS SECTION, THE BOARD OF SUPERVISORS MAY PROVIDE  
42 ALTERNATIVE PROCEDURES FOR THE ADOPTION OF A RULE IF THE RULE IS REQUIRED BY  
43 STATE OR FEDERAL LAW OR REGULATION, AND THE BASIS FOR THE REQUIREMENT TO  
44 ADOPT THE RULE IS NOT THE RESULT OF DELAY OR INACTION BY THE BOARD OF  
45 SUPERVISORS.

1 E. A RULE CANNOT BE ENFORCED WITHOUT SUBSTANTIAL COMPLIANCE WITH THIS  
2 SECTION, EXCEPT THOSE RULES THAT WERE APPROVED BY THE BOARD OF SUPERVISORS  
3 BEFORE THE EFFECTIVE DATE OF THIS SECTION.

4 F. THE DEPARTMENT MAY PROVIDE THE NOTICES REQUIRED BY THIS SECTION ON  
5 THE DEPARTMENT'S WEBSITE.

6 G. THE DEPARTMENT MAY MEET INFORMALLY WITH ANY INTERESTED PARTY FOR  
7 THE PURPOSE OF DISCUSSING ANY PROPOSED RULE.

8 H. THIS SECTION DOES NOT APPLY TO:

9 1. ORDINANCES ADOPTED OR AMENDED BY THE BOARD OF SUPERVISORS PURSUANT  
10 TO SECTION 11-251.05, TITLE 11, CHAPTER 6, ARTICLE 2, TITLE 42 OR TITLE 43.

11 2. SUBSTANTIVE POLICY STATEMENTS.

12 3. PROCEDURAL DOCUMENTS THAT ONLY AFFECT THE INTERNAL PROCEDURES OF  
13 THE COUNTY AND THAT DO NOT IMPOSE ADDITIONAL REQUIREMENTS, CONDITIONS OR  
14 PENALTIES ON REGULATED PARTIES.

15 4. USE OR ADOPTION OF ANY FORM WHOSE CONTENTS OR SUBSTANTIVE  
16 REQUIREMENTS ARE CONSISTENT WITH AN ORDINANCE OR STATUTE, AND ANY PROCEDURES  
17 FOR THE EXECUTION OR USE OF THE FORM.

18 5. A COUNTY FUNCTION, POWER OR DUTY THAT IS ESTABLISHED PURSUANT TO  
19 TITLE 49, CHAPTER 3, ARTICLE 3.

20 I. FOR THE PURPOSES OF THIS SECTION:

21 1. "DEPARTMENT" MEANS ANY COUNTY DEPARTMENT OR AGENCY OR ANY OTHER  
22 UNIT OF COUNTY GOVERNMENT.

23 2. "RULE" MEANS A COUNTY STATEMENT OF GENERAL APPLICABILITY THAT  
24 IMPLEMENTS, INTERPRETS OR PRESCRIBES LAW OR POLICY, OR DESCRIBES THE  
25 PROCEDURE OR PRACTICE REQUIREMENTS OF A COUNTY. RULE INCLUDES PRESCRIBING  
26 FEES OR THE AMENDMENT OR REPEAL OF AN EXISTING RULE BUT DOES NOT INCLUDE  
27 INTRA-AGENCY MEMORANDA THAT ARE NOT DELEGATION AGREEMENTS.

28 Sec. 2. Section 11-1602, Arizona Revised Statutes, is amended to read:  
29 11-1602. Regulatory bill of rights

30 To ensure fair and open regulation by counties, a person:

31 1. Is eligible for reimbursement of fees and other expenses if the  
32 person prevails by adjudication on the merits against a county in a court  
33 proceeding regarding a county decision as provided in section 12-348.

34 2. Is entitled to receive information and notice regarding inspections  
35 as provided in section 11-1603.

36 3. Is entitled to have a county not base a licensing decision in whole  
37 or in part on licensing conditions or requirements that are not specifically  
38 authorized as provided in section 11-1604.

39 4. May have a county approve or deny the person's license application  
40 within a predetermined period of time as provided in section 11-1605.

41 5. Is entitled to receive written or electronic notice from a county  
42 on denial of a license application:

43 (a) That justifies the denial with references to the statute,  
44 ordinance, regulation, delegation agreement or authorized substantive policy  
45 statements on which the denial is based as provided in section 11-1605.

1 (b) That explains the applicant's right to appeal the denial as  
2 provided in section 11-1605.

3 6. Is entitled to receive information regarding the license  
4 application process at the time the person obtains an application for a  
5 license as provided in section 11-1606.

6 7. May inspect all ordinances, **RULES**, regulations and substantive  
7 policy statements of a county, including a directory of documents, at the  
8 office of the county or on the county's website as provided in section  
9 11-1607.

10 8. Unless specifically authorized, may expect counties to avoid  
11 duplication of other laws that do not enhance regulatory clarity and to avoid  
12 dual permitting to the maximum extent practicable as provided in section  
13 11-1604.

14 9. May file a complaint with the board of supervisors concerning an  
15 ordinance, **RULE**, regulation or substantive policy statement that fails to  
16 comply with this section.

17 **10. MAY PARTICIPATE IN THE RULE DEVELOPMENT PROCESS AS PROVIDED IN**  
18 **SECTION 11-251.16, INCLUDING PROVIDING WRITTEN OR VERBAL COMMENTS ON PROPOSED**  
19 **RULES TO A COUNTY DEPARTMENT OR AGENCY AND HAVING THE AGENCY OR DEPARTMENT**  
20 **ADDRESS COMMENTS AS PROVIDED IN SECTION 11-251.16.**

21 Sec. 3. Section 11-1608, Arizona Revised Statutes, is amended to read:  
22 **11-1608. Complaints; board of supervisors review**

23 **A. The board of supervisors shall ~~receive~~ ESTABLISH A PROCEDURE FOR**  
24 **RECEIVING complaints FROM AN ADVERSELY AFFECTED PERSON concerning ordinances,**  
25 **RULES, regulations, substantive policy statements or county practices alleged**  
26 **to violate this article OR SECTION 11-251.16. ~~The board of supervisors may~~**  
27 **~~review any ordinance, regulation, substantive policy statement or county~~**  
28 **~~practice alleged to violate this article and may hold hearings regarding the~~**  
29 **~~allegations. The board of supervisors may recommend actions to alleviate the~~**  
30 **~~aspects of the ordinances, regulations, substantive policy statements or~~**  
31 **~~county practices alleged to violate this article.~~**

32 **B. THE BOARD OF SUPERVISORS MAY REQUIRE THE COMPLAINT TO BE MADE IN**  
33 **WRITING AND TO INCLUDE THE FOLLOWING INFORMATION:**

34 **1. THE NAME AND ADDRESS OF THE ADVERSELY AFFECTED PERSON MAKING THE**  
35 **COMPLAINT.**

36 **2. THE ORDINANCE, RULE, REGULATION, SUBSTANTIVE POLICY STATEMENT OR**  
37 **COUNTY PRACTICE ALLEGED TO VIOLATE THIS ARTICLE OR SECTION 11-251.16.**

38 **3. ANY FACTS RELEVANT TO, AND THE LEGAL BASIS FOR, THE COMPLAINT.**

39 **C. PROCEDURES ADOPTED BY THE BOARD OF SUPERVISORS PURSUANT TO THIS**  
40 **SECTION SHALL INCLUDE REASONABLE TIMEFRAMES TO ADDRESS COMPLAINTS AND SHALL**  
41 **PROVIDE A PROCESS FOR APPEAL.**



1 E. A RULE CANNOT BE ENFORCED WITHOUT SUBSTANTIAL COMPLIANCE WITH THIS  
2 SECTION, EXCEPT THOSE RULES THAT WERE APPROVED BY THE BOARD OF DIRECTORS  
3 BEFORE THE EFFECTIVE DATE OF THIS SECTION.

4 F. THE DISTRICT MAY PROVIDE THE NOTICES REQUIRED BY THIS SECTION ON  
5 THE DISTRICT'S WEBSITE.

6 G. THE DISTRICT MAY MEET INFORMALLY WITH ANY INTERESTED PARTY FOR THE  
7 PURPOSE OF DISCUSSING ANY PROPOSED RULE.

8 H. THIS SECTION DOES NOT APPLY TO:

9 1. SUBSTANTIVE POLICY STATEMENTS.

10 2. PROCEDURAL DOCUMENTS THAT ONLY AFFECT THE INTERNAL PROCEDURES OF  
11 THE DISTRICT AND DO NOT IMPOSE ADDITIONAL REQUIREMENTS, CONDITIONS OR  
12 PENALTIES ON REGULATED PARTIES.

13 3. USE OR ADOPTION OF ANY FORM WHOSE CONTENTS OR SUBSTANTIVE  
14 REQUIREMENTS ARE CONSISTENT WITH AN ORDINANCE OR STATUTE, AND ANY PROCEDURES  
15 FOR THE EXECUTION OR USE OF THE FORM.

16 I. FOR THE PURPOSES OF THIS SECTION, "RULE" MEANS A DISTRICT STATEMENT  
17 OF GENERAL APPLICABILITY THAT IMPLEMENTS, INTERPRETS OR PRESCRIBES LAW OR  
18 POLICY, OR DESCRIBES THE PROCEDURE OR PRACTICE REQUIREMENTS OF A DISTRICT.  
19 RULE INCLUDES PRESCRIBING FEES OR THE AMENDMENT OR REPEAL OF AN EXISTING RULE  
20 BUT DOES NOT INCLUDE INTRA-AGENCY MEMORANDA THAT ARE NOT DELEGATION  
21 AGREEMENTS.

22 Sec. 5. Section 48-3642, Arizona Revised Statutes, is amended to read:  
23 48-3642. Regulatory bill of rights

24 To ensure fair and open regulation by districts, a person:

25 1. Is eligible for reimbursement of fees and other expenses if the  
26 person prevails by adjudication on the merits against a district in a court  
27 proceeding regarding a district decision as provided in section 12-348.

28 2. Is entitled to receive information and notice regarding inspections  
29 as provided in section 48-3643.

30 3. Is entitled to have a district not base a licensing decision in  
31 whole or in part on licensing conditions or requirements that are not  
32 specifically authorized as provided in section 48-3644.

33 4. May have a district approve or deny the person's license  
34 application within a predetermined period of time as provided in section  
35 48-3645.

36 5. Is entitled to receive written or electronic notice from a district  
37 on denial of a license application:

38 (a) That justifies the denial with references to the statute,  
39 ordinance, regulation, executive order, delegation agreement or authorized  
40 substantive policy statement on which the denial is based as provided in  
41 section 48-3645.

42 (b) That explains the applicant's right to appeal the denial as  
43 provided in section 48-3645.

1 6. Is entitled to receive information regarding the license  
2 application process at the time the person obtains an application for a  
3 license as provided in section 48-3646.

4 7. May inspect all ordinances, **RULES**, regulations and substantive  
5 policy statements of a district, including a directory of documents, at the  
6 office of the district or a district website as provided in section 48-3647.

7 8. Unless specifically authorized, may expect districts to avoid  
8 duplication of other laws that do not enhance regulatory clarity and to avoid  
9 dual permitting to the maximum extent practicable as provided in section  
10 48-3644.

11 9. May file a complaint with the board of ~~review~~ **DIRECTORS** concerning  
12 an ordinance, **RULE**, regulation or substantive policy statement that fails to  
13 comply with this section.

14 **10. MAY PARTICIPATE IN THE RULE DEVELOPMENT PROCESS AS PROVIDED IN**  
15 **SECTION 48-3609.02, INCLUDING PROVIDING WRITTEN OR VERBAL COMMENTS ON**  
16 **PROPOSED RULES TO THE DISTRICT AND HAVING THE DISTRICT ADDRESS COMMENTS AS**  
17 **PROVIDED IN SECTION 48-3609.02.**

18 Sec. 6. Section 48-3648, Arizona Revised Statutes, is amended to read:  
19 **48-3648. Complaints; board of directors review**

20 **A. The board of ~~review~~ DIRECTORS shall ~~receive~~ ESTABLISH A PROCEDURE**  
21 **TO RECEIVE complaints FROM AN ADVERSELY AFFECTED PERSON concerning**  
22 **ordinances, RULES, substantive policy statements or district practices**  
23 **alleged to violate this article CHAPTER. ~~The board of review may review any~~**  
24 **~~ordinance, regulation, substantive policy statement or district practice~~**  
25 **~~alleged to violate this article and may hold hearings regarding the~~**  
26 **~~allegations. The board of review may recommend actions to alleviate the~~**  
27 **~~aspects of the ordinances, regulations, substantive policy statements or~~**  
28 **~~district practices alleged to violate this article.~~**

29 **B. THE BOARD OF DIRECTORS MAY REQUIRE THE COMPLAINT TO BE MADE IN**  
30 **WRITING AND TO INCLUDE THE FOLLOWING INFORMATION:**

31 **1. THE NAME AND ADDRESS OF THE ADVERSELY AFFECTED PERSON MAKING THE**  
32 **COMPLAINT.**

33 **2. THE ORDINANCE, RULE, REGULATION, SUBSTANTIVE POLICY STATEMENT OR**  
34 **DISTRICT PRACTICE ALLEGED TO VIOLATE THIS ARTICLE OR SECTION 48-3609.02.**

35 **3. ANY FACTS RELEVANT TO, AND THE LEGAL BASIS FOR, THE COMPLAINT.**

36 **C. PROCEDURES ADOPTED BY THE BOARD OF DIRECTORS PURSUANT TO THIS**  
37 **SECTION SHALL INCLUDE REASONABLE TIME FRAMES TO ADDRESS COMPLAINTS AND SHALL**  
38 **PROVIDE A PROCESS FOR APPEAL.**

39 **Sec. 7. Effective date; county population**

40 This act is effective:

41 **1. For a county with a population of three hundred seventy-five**  
42 **thousand persons or more, from and after December 31, 2013.**

43 **2. For a county with a population of less than three hundred**  
44 **seventy-five thousand persons, from and after December 31, 2014.**