

State of Arizona  
House of Representatives  
Fifty-first Legislature  
Second Regular Session  
2014

# HOUSE BILL 2239

## AN ACT

AMENDING SECTIONS 32-3605, 32-3611, 32-3614.01, 32-3614.02, 32-3619, 32-3620, 32-3631, 32-3632, 32-3635, 32-3667, 32-3668, 32-3669 AND 32-3672, ARIZONA REVISED STATUTES; AMENDING SECTION 41-619.51, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2013, CHAPTER 128, SECTION 11; REPEALING SECTION 41-619.51, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2013, CHAPTER 129, SECTION 24; AMENDING SECTION 41-1007, ARIZONA REVISED STATUTES; AMENDING SECTION 41-1758, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2013, CHAPTER 128, SECTION 12 AND CHAPTER 174, SECTION 2; REPEALING SECTION 41-1758, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2013, CHAPTER 129, SECTION 25; AMENDING SECTION 41-1758.01, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2013, CHAPTER 128, SECTION 13 AND CHAPTER 174, SECTION 3; REPEALING SECTION 41-1758.01, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2013, CHAPTER 129, SECTION 26; RELATING TO THE BOARD OF APPRAISAL.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 32-3605, Arizona Revised Statutes, is amended to  
3 read:

4 32-3605. State board of appraisal; duties; powers; immunity

5 A. The board shall adopt rules in aid or in furtherance of this  
6 chapter.

7 B. The state board of appraisal shall:

8 1. In prescribing standards of professional appraisal practice, adopt  
9 standards that at a minimum are equal to the standards prescribed by the  
10 appraisal standards board.

11 2. In prescribing criteria for certification, adopt criteria that at a  
12 minimum are equal to the minimum criteria for certification adopted by the  
13 appraiser qualifications board.

14 3. In prescribing criteria for licensing and registration, adopt  
15 criteria that at a minimum are equal to the minimum criteria for licensing  
16 and registration adopted by the appraiser qualifications board.

17 4. Further define by rule with respect to state licensed or state  
18 certified appraisers appropriate and reasonable educational experience,  
19 appraisal experience and equivalent experience that meets the statutory  
20 requirement of this chapter.

21 5. Adopt the national examination as approved by the appraiser  
22 qualifications board for state certified appraisers.

23 6. Adopt the national examination as approved by the appraiser  
24 qualifications board for state licensed appraisers.

25 7. Establish administrative procedures for approving or disapproving  
26 applications for registration, licensure and certification and issuing  
27 licenses and certificates, including registration certificates.

28 8. Define by rule, with respect to state licensed and certified  
29 appraisers, the continuing education requirements for the renewal of licenses  
30 or certificates that satisfy the statutory requirements provided in this  
31 chapter.

32 9. Periodically review the requirements for the development and  
33 communication of appraisals provided in this chapter and adopt rules  
34 explaining and interpreting the requirements.

35 10. Define and explain by rule each stage and step associated with the  
36 administrative procedures for the disciplinary process pursuant to this  
37 chapter, including:

38 (a) Prescribing minimum criteria for accepting a complaint against a  
39 registered trainee appraiser or a licensed or certified appraiser. **THE BOARD  
40 MAY NOT CONSIDER A COMPLAINT FOR ADMINISTRATIVE ACTION IF THE COMPLAINT  
41 EITHER:**

42 (i) **RELATES TO AN APPRAISAL THAT WAS COMPLETED MORE THAN FIVE YEARS  
43 BEFORE THE COMPLAINT WAS SUBMITTED TO THE BOARD OR MORE THAN TWO YEARS AFTER  
44 FINAL DISPOSITION OF ANY JUDICIAL PROCEEDING IN WHICH THE APPRAISAL WAS AN  
45 ISSUE, WHICHEVER PERIOD OF TIME IS GREATER.**

1 (ii) IS FILED AGAINST A PERSON WHO IS A MEMBER OR STAFF PERSON OF THE  
2 BOARD OR A BOARD-APPOINTED COMMITTEE AND THE PERSON IS A LICENSED OR  
3 CERTIFIED APPRAISER AND THE COMPLAINT IS AGAINST THE PERSON'S LICENSE OR  
4 CERTIFICATE AND RELATES TO THE PERSON'S PERFORMANCE OF BOARD OR COMMITTEE  
5 DUTIES. THIS ITEM DOES NOT APPLY TO A CONTRACT INVESTIGATOR WHO IS UNDER  
6 CONTRACT WITH THE BOARD FOR THE PERFORMANCE OF AN APPRAISAL REVIEW AS DEFINED  
7 BY THE UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE. THIS ITEM DOES  
8 NOT REMOVE THE REQUIREMENT THAT THE BOARD MEMBER IS SUBJECT TO THE ETHICS  
9 RULES SECTION OF THE UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE.

10 (b) Defining the process and procedures used in investigating the  
11 allegations of the complaint. THE BOARD SHALL CONSOLIDATE COMPLAINTS THAT  
12 ARE FILED WITHIN A SIX-MONTH PERIOD OF TIME IF THE COMPLAINTS ARE AGAINST THE  
13 SAME APPRAISER, RELATE TO THE SAME APPRAISAL AND PROPERTY AND ARE FILED BY AN  
14 ENTITY THAT IS SUBJECT TO THE MANDATORY REPORTING PROVISIONS OF THE  
15 DODD-FRANK WALL STREET REFORM AND CONSUMER PROTECTION ACT OF 2010  
16 (P.L. 111-203; 124 STAT. 1386). COMPLAINTS THAT ARE CONSOLIDATED PURSUANT TO  
17 THIS SUBDIVISION MUST BE CONSIDERED AND ADJUDICATED AS ONE COMPLAINT.

18 (c) Defining the process and procedures used in hearings on the  
19 complaint, including a description of the rights of the board and any person  
20 who is alleged to have committed the violation.

21 (d) Establishing criteria to be used in determining the appropriate  
22 actions for violations.

23 11. Communicate information that is useful to the public and appraisers  
24 relating to actions for violations.

25 12. ISSUE DECREES OF censure, FIX PERIODS AND TERMS OF PROBATION AND  
26 suspend and revoke licenses and certificates pursuant to the disciplinary  
27 proceedings provided for in section 32-3631.

28 13. At least monthly transmit to the appraisal subcommittee a roster  
29 listing individuals who have received a state certificate or license in  
30 accordance with this chapter.

31 14. Report on the disposition of any matter referred by the appraisal  
32 subcommittee or any other federal agency or instrumentality or federally  
33 recognized entity reporting any action of a state licensed or state certified  
34 appraiser that is contrary to this chapter.

35 15. Make a determination and finding if there exists a scarcity of  
36 state certified or state licensed appraisers to perform appraisals in  
37 connection with federally related transactions in this state and issue  
38 resident temporary licenses and certificates pursuant to section 32-3626.

39 16. Transmit the national registry fee collected pursuant to section  
40 32-3607 to the appraisal subcommittee.

41 17. Establish the fees in accordance with ~~the limits established in~~  
42 section 32-3607.

43 18. Perform such other functions and duties as may be necessary to  
44 carry out this chapter.

1 C. Subject to title 41, chapter 4, article 4, the board may employ an  
2 executive director and other personnel and designate their duties. The  
3 executive director shall serve at the pleasure of the board.

4 D. The executive director shall not change or amend actions of the  
5 board.

6 E. The board may accept and spend federal monies and grants, gifts,  
7 contributions and devises from any public or private source to assist in  
8 carrying out the purposes of this chapter. These monies do not revert to the  
9 state general fund at the end of the fiscal year.

10 F. THE BOARD MAY IMPOSE A CIVIL PENALTY PURSUANT TO SECTION 32-3632.

11 Sec. 2. Section 32-3611, Arizona Revised Statutes, is amended to read:  
12 32-3611. Registration, licensure and certification process

13 A. Applications for original registration, licensure or certification,  
14 renewals and examinations shall be made in writing to the executive director  
15 on forms approved by the board.

16 B. Appropriate fees, as fixed by the board pursuant to section  
17 32-3607, shall accompany all applications for original registration,  
18 licensure or certification, renewal and examination.

19 C. At the time of filing an application for registration, licensure or  
20 certification, each applicant shall sign a pledge to comply with the  
21 standards set forth in this chapter and shall state that the applicant  
22 understands the types of misconduct for which disciplinary proceedings may be  
23 initiated against a registered trainee appraiser or a state licensed or state  
24 certified appraiser, as set forth in this chapter.

25 D. Except as otherwise provided in this chapter, the executive  
26 director shall require such other proof and request such documents, through  
27 the application or otherwise, as the board deems necessary for the interests  
28 of the public and to verify the honesty, truthfulness, reputation and  
29 competency of the applicant and shall require that the applicant for  
30 registration, licensure or certification:

31 1. Be at least eighteen years of age and a citizen of the United  
32 States or a qualified alien as defined in 8 United States Code section 1641.

33 2. Not have had a license or certificate denied pursuant to this  
34 chapter within one year immediately preceding the application.

35 3. Not have had a license or certificate revoked pursuant to this  
36 chapter within ~~two~~ FIVE years immediately preceding the application.

37 4. State whether or not the applicant has ever been convicted in a  
38 court of competent jurisdiction in this or any other state of a felony or of  
39 forgery, theft, extortion or conspiracy to defraud or any other crime  
40 involving dishonesty or moral turpitude.

41 E. Applications for registration, licensure or certification by  
42 persons who are charged or under indictment for fraud involving appraisal of  
43 real property may be denied pending final disposition of the charge or  
44 indictment. On final disposition, the board shall review the proceedings and  
45 act on the application.



1 B. The board may accept a renewal application after the expiration  
2 date and within ninety days of the date of expiration but shall assess a  
3 delinquent renewal fee in addition to the renewal fee.

4 C. An appraiser or registered trainee appraiser who fails to seek  
5 renewal within the time period specified in subsection A or B of this section  
6 must reapply for licensure or certification and meet all of the requirements  
7 of this chapter.

8 D. An appraiser or registered trainee appraiser shall not engage in,  
9 advertise or purport to engage in real estate appraisal activity in this  
10 state after a license or certificate has expired and before the renewal of  
11 the expired license or certificate EXCEPT AS PROVIDED IN SECTION 41-1092.11.

12 ~~E. Notwithstanding section 41-1092.11, a license or certificate~~  
13 ~~expires on its expiration date.~~

14 Sec. 6. Section 32-3620, Arizona Revised Statutes, is amended to read:  
15 32-3620. Basis for denial of a license or certificate

16 A. The board may deny the INITIAL issuance OR RENEWAL of a license or  
17 certificate as a registered trainee appraiser, a supervisory appraiser or a  
18 state licensed or state certified appraiser to an applicant who has been  
19 convicted of a felony or on any of the grounds prescribed in this chapter.

20 B. To assist in determining whether grounds exist to deny the INITIAL  
21 issuance OR RENEWAL of a license or certificate to an applicant, the board  
22 may SHALL require ~~a criminal background check including the fingerprinting of~~  
23 ~~every applicant for an original license and certificate. The criminal~~  
24 ~~background check may be conducted pursuant to section 41-1750 or in any other~~  
25 ~~manner deemed suitable by the board. The board may charge the cost of each~~  
26 ~~criminal background check to the applicant~~ THE APPLICANT TO OBTAIN A VALID  
27 FINGERPRINT CLEARANCE CARD ISSUED PURSUANT TO SECTION 41-1758.03.

28 C. A person who is denied the issuance of a license or certificate may  
29 request, and if requested shall receive, a hearing in accordance with title  
30 41, chapter 6, article 10.

31 Sec. 7. Section 32-3631, Arizona Revised Statutes, is amended to read:  
32 32-3631. Disciplinary proceedings

33 A. The rights of an applicant or holder under a license or certificate  
34 as a registered trainee appraiser or a state licensed or state certified  
35 appraiser may be revoked or suspended, or the holder of the license or  
36 certificate may otherwise be disciplined, INCLUDING BEING PLACED ON PROBATION  
37 AS PRESCRIBED BY RULE, in accordance with this chapter on any of the grounds  
38 set forth in this section. The board may investigate the actions of a  
39 registered trainee appraiser or a state licensed or state certified appraiser  
40 IN THIS STATE OR IN ANY OTHER STATE and may revoke or suspend the rights of a  
41 license or certificate holder or otherwise discipline a registered trainee  
42 appraiser or a state licensed or state certified appraiser for any of the  
43 following acts or omissions:

44 1. Procuring or attempting to procure a license or certificate  
45 pursuant to this chapter by knowingly making a false statement, submitting

1 false information, refusing to provide complete information in response to a  
2 question in an application for a license or certificate or committing any  
3 form of fraud or misrepresentation.

4 2. Failing to meet the minimum qualifications established by this  
5 chapter.

6 3. Paying or offering to pay money or other considerations other than  
7 as provided by this chapter to any member or employee of the board to procure  
8 a license or certificate under this chapter.

9 4. A conviction, including a conviction based on a plea of guilty, of  
10 a crime that is substantially related to the qualifications, functions and  
11 duties of a person developing appraisals and communicating appraisals to  
12 others, or a conviction for any felony or any crime involving moral  
13 turpitude.

14 5. An act or omission involving dishonesty, fraud or misrepresentation  
15 with the intent to substantially benefit the license or certificate holder or  
16 another person or with the intent to substantially injure another person.

17 6. Violation of any of the standards of the development or  
18 communication of appraisals as provided in this chapter.

19 7. Negligence or incompetence by the state licensed or state certified  
20 appraiser in developing an appraisal, in preparing an appraisal report or in  
21 communicating an appraisal.

22 8. Wilfully disregarding or violating any of the provisions of this  
23 chapter [OR A BOARD ORDER](#) or the rules of the board for the administration and  
24 enforcement of this chapter.

25 9. Accepting an appraisal assignment if the employment itself is  
26 contingent on the appraiser reporting a predetermined estimate, analysis or  
27 opinion or if the fee to be paid is contingent on the opinion, conclusion or  
28 value reached or on the consequences resulting from the appraisal assignment.

29 10. Violating the confidential nature of any records to which the  
30 registered trainee appraiser or the state licensed or state certified  
31 appraiser gains access through employment or engagement as a registered  
32 trainee appraiser or an appraiser.

33 11. Entry of a final civil judgment against the person on grounds of  
34 fraud, misrepresentation or deceit in the making of any appraisal.

35 B. In a disciplinary proceeding based on a civil judgment, a  
36 registered trainee appraiser or state licensed or state certified appraiser  
37 shall be afforded an opportunity to present matters in mitigation and  
38 extenuation.

39 C. The board may issue subpoenas for the attendance of witnesses and  
40 the production of books, records, documents and other evidence necessary and  
41 relevant to an investigation or hearing.

42 D. The lapsing or suspension of a license or certificate by operation  
43 of law or by order or decision of the board or a court of law, or the  
44 voluntary surrender of a license or certificate by a license or certificate  
45 holder, shall not deprive the board of jurisdiction to do any of the

1 following within twenty-four months after the expiration of the license or  
2 certificate pursuant to section 32-3616:

3 1. Proceed with any investigation of or action or disciplinary  
4 proceeding against the license or certificate holder.

5 2. Render a decision suspending or revoking the license or certificate  
6 or denying the renewal or right of renewal of the license or certificate.

7 Sec. 8. Section 32-3632, Arizona Revised Statutes, is amended to read:

8 32-3632. Hearing and judicial review; civil penalties; costs  
9 and fees

10 A. The hearing on the charges shall be at a time and place prescribed  
11 by the board and shall be in accordance with title 41, chapter 6, article 10.

12 B. If the board determines that a state licensed or state certified  
13 appraiser is ~~guilty of a~~ IN violation of this chapter, it shall prepare a  
14 finding of fact and take disciplinary or remedial action **AND MAY IMPOSE A**  
15 **CIVIL PENALTY NOT TO EXCEED THREE THOUSAND DOLLARS PER COMPLAINT FILED WITH**  
16 **THE BOARD PURSUANT TO THIS CHAPTER. ALL CIVIL PENALTIES COLLECTED PURSUANT**  
17 **TO THIS SUBSECTION SHALL BE DEPOSITED, PURSUANT TO SECTIONS 35-146 AND**  
18 **35-147, IN THE STATE GENERAL FUND.**

19 C. **IF A CASE PROCEEDS TO A FORMAL HEARING BEFORE EITHER THE BOARD OR**  
20 **THE OFFICE OF ADMINISTRATIVE HEARINGS BOTH OF THE FOLLOWING APPLY:**

21 1. **IF THE BOARD SUSTAINS ITS BURDEN OF PROOF AND PREVAILS ON THE**  
22 **MERITS OF THE CASE, THE BOARD MAY COLLECT FROM THE RESPONDENT APPLICANT,**  
23 **REGISTERED TRAINEE APPRAISER, APPRAISER OR PROPERTY TAX AGENT THE BOARD'S**  
24 **COSTS AND EXPENSES ASSOCIATED WITH THE FORMAL HEARING, INCLUDING REASONABLE**  
25 **ATTORNEY FEES, EXPERT TESTIMONY AND PREPARATION FEES, INVESTIGATIVE COSTS AND**  
26 **EXPENSES AND COSTS INCURRED RELATING TO THE OFFICE OF ADMINISTRATIVE HEARINGS**  
27 **AND COURT REPORTERS. ALL MONIES COLLECTED PURSUANT TO THIS PARAGRAPH SHALL**  
28 **BE DEPOSITED, PURSUANT TO SECTIONS 35-146 AND 35-147, IN THE BOARD OF**  
29 **APPRAISAL FUND ESTABLISHED BY SECTION 32-3608. NOTWITHSTANDING SECTION 35-**  
30 **143.01, THESE MONIES MAY BE SPENT WITHOUT LEGISLATIVE APPROPRIATION.**

31 2. **IF THE BOARD DOES NOT SUSTAIN ITS BURDEN OF PROOF AND THE**  
32 **RESPONDENT APPLICANT, REGISTERED TRAINEE APPRAISER, APPRAISER OR PROPERTY TAX**  
33 **AGENT PREVAILS ON THE MERITS OF THE CASE, THE RESPONDENT APPLICANT,**  
34 **REGISTERED TRAINEE APPRAISER, APPRAISER OR PROPERTY TAX AGENT MAY COLLECT**  
35 **FROM THE BOARD FEES AND OTHER COSTS ASSOCIATED WITH THE FORMAL HEARING.**

36 ~~C.~~ D. Except as provided in section 41-1092.08, subsection H, any  
37 final decision or order of the board may be appealed to the superior court  
38 pursuant to title 12, chapter 7, article 6.

39 Sec. 9. Section 32-3635, Arizona Revised Statutes, is amended to read:

40 32-3635. Standards of practice; unprofessional conduct

41 A. A registered trainee appraiser or a state licensed or state  
42 certified appraiser shall comply with the standards of professional appraisal  
43 practice adopted by the board.

1 B. An appraisal or appraisal report shall not be issued by a real  
2 estate appraiser unless it meets the appraisal standards established by this  
3 chapter and rules adopted pursuant to this chapter.

4 C. An appraisal review report shall clearly indicate the nature of the  
5 review process undertaken and shall separate the review function from any  
6 other functions.

7 D. All federally related appraisals shall be in writing.

8 E. FAILURE TO PAY BOARD-IMPOSED FEES AND EXPENSES AUTHORIZED BY  
9 SECTION 32-3632, SUBSECTION C IS UNPROFESSIONAL CONDUCT AS DEFINED BY UNIFORM  
10 STANDARDS OF APPRAISAL PRACTICE.

11 Sec. 10. Section 32-3667, Arizona Revised Statutes, is amended to  
12 read:

13 32-3667. Fee; bond

14 A. The board shall establish the fee for appraisal management company  
15 registration by rule.

16 B. The appraisal management company is required to show proof of a  
17 surety bond of ~~twenty~~ AT LEAST TWENTY thousand dollars BUT NOT MORE THAN  
18 FIFTY THOUSAND DOLLARS.

19 Sec. 11. Section 32-3668, Arizona Revised Statutes, is amended to  
20 read:

21 32-3668. Owner requirements

22 A. An appraisal management company applying for registration may not  
23 be owned by a person or have any principal of the company who has had any  
24 financial, real estate or mortgage lending industry license or certificate  
25 refused, denied, canceled, revoked or voluntarily surrendered in this state  
26 or in any other state. This requirement may be waived by appeal and at the  
27 discretion of the board.

28 B. Each person that owns, is an officer of or has a financial interest  
29 in an appraisal management company in this state shall:

30 1. Be of good moral character.

31 2. ~~Submit to a criminal background check conducted pursuant to section~~  
32 ~~41-1750. The board may charge the cost of a criminal background check to the~~  
33 ~~applicant.~~ OBTAIN A VALID FINGERPRINT CLEARANCE CARD ISSUED PURSUANT TO  
34 SECTION 41-1758.03.

35 3. Certify to the board that the person has never had any financial,  
36 real estate or mortgage lending industry license or certificate refused,  
37 denied, canceled, revoked or voluntarily surrendered in this state or in any  
38 other state. This requirement may be waived by appeal and at the discretion  
39 of the board.

40 Sec. 12. Section 32-3669, Arizona Revised Statutes, is amended to  
41 read:

42 32-3669. Controlling person

43 A. Each appraisal management company applying to the board for  
44 registration in this state shall designate one controlling person that will

1 be the main contact for all communication between the board and the appraisal  
2 management company.

3 B. To serve as a controlling person of an appraisal management  
4 company, a person shall:

5 1. Certify to the board that the person has never had any financial,  
6 real estate or mortgage lending industry license or certificate issued by  
7 this state, or any other state, refused, denied, canceled, revoked or  
8 voluntarily surrendered. This requirement may be waived by appeal and at the  
9 discretion of the board.

10 2. Be of good moral character.

11 3. ~~Submit to a criminal background check conducted pursuant to section~~  
12 ~~41-1750. The board may charge the cost of a criminal background check to the~~  
13 ~~applicant.~~ **OBTAIN A VALID FINGERPRINT CLEARANCE CARD ISSUED PURSUANT TO**  
14 **SECTION 41-1758.03.**

15 Sec. 13. Section 32-3672, Arizona Revised Statutes, is amended to  
16 read:

17 **32-3672. Certification on renewal**

18 A. Each appraisal management company seeking to be registered in this  
19 state shall certify to the board on ~~an annual basis~~ **RENEWAL** on a form  
20 prescribed by the board that the appraisal management company has a system  
21 and process in place to verify that a person being added to the appraiser  
22 panel of the appraisal management company holds a license or certificate in  
23 good standing in this state pursuant to the board.

24 B. Each appraisal management company seeking to be registered in this  
25 state shall certify to the board on ~~an annual basis~~ **RENEWAL** that it has a  
26 system in place to review the quality of appraisals of all independent  
27 appraisers that are performing real property appraisal services for the  
28 appraisal management company on a periodic basis to confirm that the real  
29 property appraisal services are being conducted in accordance with uniform  
30 standards of professional appraisal practice.

31 C. Each appraisal management company seeking to be registered shall  
32 certify to the board on ~~an annual basis~~ **RENEWAL** that it maintains a detailed  
33 record of each service request that it receives and the name of the  
34 independent appraiser that performs the real property appraisal services for  
35 the appraisal management company. An appraisal management company shall  
36 maintain a detailed record for the same time period that an appraiser is  
37 required to maintain an appraisal record for the same real property appraisal  
38 activity.

39 D. Each appraisal management company seeking to be registered shall  
40 certify to the board on ~~an annual basis~~ **RENEWAL** that it has a system in place  
41 to train those who select individual appraisers for real property **APPRAISAL**  
42 services in this state, to ensure that the selectors have appropriate  
43 training in placing appraisal assignments.

1           Sec. 14. Section 41-619.51, Arizona Revised Statutes, as amended by  
2 Laws 2013, chapter 128, section 11, is amended to read:

3           41-619.51. Definitions

4           In this article, unless the context otherwise requires:

5           1. "Agency" means the supreme court, the department of economic  
6 security, the department of education, the department of health services, the  
7 department of juvenile corrections, the department of emergency and military  
8 affairs, the department of transportation, the state real estate department,  
9 **THE STATE BOARD OF APPRAISAL** or the board of examiners of nursing care  
10 institution administrators and assisted living facility managers.

11           2. "Board" means the board of fingerprinting.

12           3. "Central registry exception" means notification to the department  
13 of economic security or the department of health services, as appropriate,  
14 pursuant to section 41-619.57 that the person is not disqualified because of  
15 a central registry check conducted pursuant to section 8-804.

16           4. "Expedited review" means an examination, in accordance with board  
17 rule, of the documents an applicant submits by the board or its hearing  
18 officer without the applicant being present.

19           5. "Good cause exception" means the issuance of a fingerprint  
20 clearance card to an employee pursuant to section 41-619.55.

21           6. "Person" means a person who is required to be fingerprinted  
22 pursuant to this article or who is subject to a central registry check and  
23 any of the following:

- 24           (a) Section 8-105.
- 25           (b) Section 8-322.
- 26           (c) Section 8-509.
- 27           (d) Section 8-802.
- 28           (e) Section 8-804.
- 29           (f) Section 8-804.01.
- 30           (g) Section 15-183.
- 31           (h) Section 15-534.
- 32           (i) Section 15-782.02.
- 33           (j) Section 15-1330.
- 34           (k) Section 15-1881.
- 35           (l) Section 17-215.
- 36           (m) Section 26-103.
- 37           (n) **SECTION 28-3413.**
- 38           ~~(n)~~ (o) Section 32-2108.01.
- 39           ~~(o)~~ (p) Section 32-2123.
- 40           ~~(p)~~ (q) Section 32-2371.
- 41           ~~(q)~~ (r) Section 32-2372.
- 42           (s) **SECTION 32-3620.**
- 43           (t) **SECTION 32-3668.**
- 44           (u) **SECTION 32-3669.**
- 45           ~~(r)~~ (v) Section 36-207.

- 1       ~~(s)~~ (w) Section 36-411.
- 2       ~~(t)~~ (x) Section 36-425.03.
- 3       ~~(u)~~ (y) Section 36-446.04.
- 4       ~~(v)~~ (z) Section 36-594.01.
- 5       ~~(w)~~ (aa) Section 36-594.02.
- 6       ~~(x)~~ (bb) Section 36-882.
- 7       ~~(y)~~ (cc) Section 36-883.02.
- 8       ~~(z)~~ (dd) Section 36-897.01.
- 9       ~~(aa)~~ (ee) Section 36-897.03.
- 10       ~~(bb)~~ (ff) Section 36-3008.
- 11       ~~(cc)~~ (gg) Section 41-619.53.
- 12       ~~(dd)~~ (hh) Section 41-1964.
- 13       ~~(ee)~~ (ii) Section 41-1967.01.
- 14       ~~(ff)~~ (jj) Section 41-1968.
- 15       ~~(gg)~~ (kk) Section 41-1969.
- 16       ~~(hh)~~ (ll) Section 41-2814.
- 17       ~~(ii)~~ (mm) Section 46-141, subsection A.
- 18       ~~(jj)~~ (nn) Section 46-321.

19       Sec. 15. Repeal

20       Section 41-619.51, Arizona Revised Statutes, as amended by Laws 2013,  
21 chapter 129, section 24, is repealed.

22       Sec. 16. Section 41-1007, Arizona Revised Statutes, is amended to  
23 read:

24       41-1007. Award of costs and fees against a department in  
25       administrative hearings; exceptions; definitions

26       A. Except as provided in SECTION 32-3632 AND section 42-2064,  
27 subsection G, a hearing officer or administrative law judge shall award fees  
28 and other costs to any prevailing party in a contested case or an appealable  
29 agency action brought pursuant to any state administrative hearing  
30 authority. For purposes of this subsection, a person is considered to be a  
31 prevailing party only if both:

- 32       1. The agency's position was not substantially justified.
- 33       2. The person prevails as to the most significant issue or set of  
34 issues unless the reason that the person prevailed is due to an intervening  
35 change in the law.

36       B. Reimbursement under this section may be denied if during the course  
37 of the proceeding the party unduly and unreasonably protracted the final  
38 resolution of the matter.

39       C. A party that seeks an award of fees or other costs shall apply to  
40 the hearing officer or administrative law judge, within thirty days after the  
41 final decision or order, providing:

- 42       1. Evidence of the party's eligibility for the award.
- 43       2. The amount sought.
- 44       3. An itemized statement from the attorneys and experts stating:
  - 45       (a) The actual time spent representing the party.

1 (b) The rate at which the fees were computed.

2 D. The award of reasonable attorney fees pursuant to subsection A of  
3 this section need not equal or relate to the attorney fees actually paid or  
4 contracted, but an award may not exceed the amount paid or agreed to be paid.

5 E. A decision of a hearing officer or administrative law judge under  
6 this section is subject to judicial review. If fees and other costs were  
7 denied by the hearing officer or administrative law judge because the party  
8 was not the prevailing party but the party prevails on appeal, the court may  
9 award fees and other costs for the proceedings before the hearing officer or  
10 administrative law judge if the court finds that fees and other costs should  
11 have been awarded under subsection A of this section.

12 F. The department shall pay the fees and costs awarded pursuant to  
13 this section from any monies appropriated to the department and available for  
14 that purpose, or from other operating costs of the department. If the  
15 department fails or refuses to pay the award within thirty days after the  
16 demand, and if no further review or appeals of the award are pending, the  
17 person may file a claim for the award with the department of administration  
18 which shall pay the claim within thirty days in the same manner as an  
19 uninsured property loss under chapter 3.1, article 1 of this title, except  
20 that the department shall be responsible for the total amount awarded and  
21 shall pay it from operating monies. If the department had appropriated  
22 monies available for paying the award at the time it failed or refused to  
23 pay, the legislature shall reduce the department's operating appropriation  
24 for the following fiscal year by the amount of the award and appropriate that  
25 amount to the department of administration as reimbursement for the loss.

26 G. This section does not apply to:

27 1. Any grievance and appeal procedure pursuant to title 36, chapter  
28 29.

29 2. Any appeal procedure pursuant to chapter 4, article 6 of this  
30 title.

31 3. Any administrative appeal filed by an inmate in an Arizona state  
32 prison.

33 H. ~~As used in~~ FOR THE PURPOSES OF this section:

34 1. "Department" includes a state agency, department, board or  
35 commission, and the universities.

36 2. "Party" includes an individual, partnership, corporation,  
37 association and public or private organization.

38 Sec. 17. Section 41-1758, Arizona Revised Statutes, as amended by Laws  
39 2013, chapter 128, section 12 and chapter 174, section 2, is amended to read:

40 41-1758. Definitions

41 In this article, unless the context otherwise requires:

42 1. "Agency" means the supreme court, the department of economic  
43 security, the department of education, the department of health services, the  
44 department of juvenile corrections, the department of emergency and military  
45 affairs, the department of transportation, the state real estate department,

1 THE STATE BOARD OF APPRAISAL, the board of fingerprinting or the board of  
2 examiners of nursing care institution administrators and assisted living  
3 facility managers.

4 2. "Division" means the fingerprinting division in the department of  
5 public safety.

6 3. "Electronic or internet-based fingerprinting services" means a  
7 secure system for digitizing applicant fingerprints and transmitting the  
8 applicant data and fingerprints of a person or entity submitting fingerprints  
9 to the department of public safety for any authorized purpose under this  
10 title. For the purposes of this paragraph, "secure system" means a system  
11 that complies with the information technology security policy approved by the  
12 department of public safety.

13 4. "Good cause exception" means the issuance of a fingerprint  
14 clearance card to an employee pursuant to section 41-619.55.

15 5. "Person" means a person who is required to be fingerprinted  
16 pursuant to any of the following:

- 17 (a) Section 8-105.
- 18 (b) Section 8-322.
- 19 (c) Section 8-509.
- 20 (d) Section 8-802.
- 21 (e) Section 15-183.
- 22 (f) Section 15-503.
- 23 (g) Section 15-512.
- 24 (h) Section 15-534.
- 25 (i) Section 15-782.02.
- 26 (j) Section 15-1330.
- 27 (k) Section 15-1881.
- 28 (l) Section 17-215.
- 29 (m) Section 26-103.
- 30 (n) SECTION 28-3413.
- 31 ~~(n)~~ (o) Section 32-2108.01.
- 32 ~~(o)~~ (p) Section 32-2123.
- 33 ~~(p)~~ (q) Section 32-2371.
- 34 ~~(q)~~ (r) Section 32-2372.
- 35 (s) SECTION 32-3620.
- 36 (t) SECTION 32-3668.
- 37 (u) SECTION 32-3669.
- 38 ~~(r)~~ (v) Section 36-207.
- 39 ~~(s)~~ (w) Section 36-411.
- 40 ~~(t)~~ (x) Section 36-425.03.
- 41 ~~(u)~~ (y) Section 36-446.04.
- 42 ~~(v)~~ (z) Section 36-594.01.
- 43 ~~(w)~~ (aa) Section 36-594.02.
- 44 ~~(x)~~ (bb) Section 36-882.
- 45 ~~(y)~~ (cc) Section 36-883.02.

- 1       ~~(z)~~ (dd) Section 36-897.01.
- 2       ~~(aa)~~ (ee) Section 36-897.03.
- 3       ~~(bb)~~ (ff) Section 36-3008.
- 4       ~~(cc)~~ (gg) Section 41-619.52.
- 5       ~~(dd)~~ (hh) Section 41-619.53.
- 6       ~~(ee)~~ (ii) Section 41-1964.
- 7       ~~(ff)~~ (jj) Section 41-1967.01.
- 8       ~~(gg)~~ (kk) Section 41-1968.
- 9       ~~(hh)~~ (ll) Section 41-1969.
- 10      ~~(ii)~~ (mm) Section 41-2814.
- 11      ~~(jj)~~ (nn) Section 46-141, subsection A.
- 12      ~~(kk)~~ (oo) Section 46-321.

13      6. "Vulnerable adult" has the same meaning prescribed in section  
14 13-3623.

15      Sec. 18. Repeal

16      Section 41-1758, Arizona Revised Statutes, as amended by Laws 2013,  
17 chapter 129, section 25, is repealed.

18      Sec. 19. Section 41-1758.01, Arizona Revised Statutes, as amended by  
19 Laws 2013, chapter 128, section 13 and chapter 174, section 3, is amended to  
20 read:

21      41-1758.01. Fingerprinting division; powers and duties

22      A. The fingerprinting division is established in the department of  
23 public safety and shall:

24      1. Conduct fingerprint background checks for persons and applicants  
25 who are seeking licenses from state agencies, employment with licensees,  
26 contract providers and state agencies or employment or educational  
27 opportunities with agencies that require fingerprint background checks  
28 pursuant to sections 8-105, 8-322, 8-509, 8-802, 15-183, 15-503, 15-512,  
29 15-534, 15-782.02, 15-1330, 15-1881, 17-215, 26-103, 28-3413, 32-2108.01,  
30 32-2123, 32-2371, 32-2372, 32-3620, 32-3668, 32-3669, 36-207, 36-411,  
31 36-425.03, 36-446.04, 36-594.01, 36-594.02, 36-882, 36-883.02, 36-897.01,  
32 36-897.03, 36-3008, 41-619.52, 41-619.53, 41-1964, 41-1967.01, 41-1968,  
33 41-1969 and 41-2814, section 46-141, subsection A and section 46-321.

34      2. Issue fingerprint clearance cards. On issuance, a fingerprint  
35 clearance card becomes the personal property of the cardholder and the  
36 cardholder shall retain possession of the fingerprint clearance card.

37      3. On submission of an application for a fingerprint clearance card,  
38 collect the fees established by the board of fingerprinting pursuant to  
39 section 41-619.53 and deposit, pursuant to sections 35-146 and 35-147, the  
40 monies collected in the board of fingerprinting fund.

41      4. Inform in writing each person who submits fingerprints for a  
42 fingerprint background check of the person's right to petition the board of  
43 fingerprinting for a good cause exception pursuant to sections 41-1758.03 and  
44 41-1758.07.

45      5. Administer and enforce this article.

1           B. The fingerprinting division may contract for electronic or  
2 internet-based fingerprinting services through an entity or entities for the  
3 acquisition and transmission of applicant fingerprint and data submissions to  
4 the department, including identity verified fingerprints pursuant to section  
5 15-106. The entity or entities contracted by the department of public safety  
6 may charge the applicant a fee for services provided pursuant to this  
7 article. The entity or entities contracted by the department of public  
8 safety shall comply with:

9           1. All information privacy and security measures and submission  
10 standards established by the department of public safety.

11           2. The information technology security policy approved by the  
12 department of public safety.

13           Sec. 20. Repeal

14           Section 41-1758.01, Arizona Revised Statutes, as amended by Laws 2013,  
15 chapter 129, section 26, is repealed.