

State of Arizona
Senate
Fifty-second Legislature
First Regular Session
2015

SENATE BILL 1338

AN ACT

AMENDING SECTIONS 6-126, 6-401, 6-402, 6-412, 6-423 AND 6-465, ARIZONA
REVISED STATUTES; RELATING TO FINANCIAL INSTITUTIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 6-126, Arizona Revised Statutes, is amended to
3 read:

4 6-126. Application fees for financial institutions and
5 enterprises

6 A. The following nonrefundable fees are payable to the department with
7 the filing of the following applications:

8 1. To apply for a banking permit, ten thousand dollars.

9 2. To apply for an amendment to a banking or savings and loan
10 association permit, one thousand dollars.

11 3. To establish each banking branch office, one thousand five hundred
12 dollars.

13 4. To move a banking office to other than an established office of a
14 bank, one thousand dollars.

15 5. To apply for a savings and loan association permit, ~~ten~~ FIVE
16 thousand dollars.

17 6. To establish each savings and loan association branch office, one
18 thousand five hundred dollars.

19 7. To move an office of a savings and loan association to other than
20 an established office, one thousand dollars.

21 8. To organize and establish a credit union, one hundred dollars.

22 9. To establish each credit union branch or to move a credit union
23 office to other than an established office of a credit union, two hundred
24 fifty dollars.

25 10. To organize and establish any other financial institutions for
26 which an application or investigation fee is not otherwise provided by law,
27 two thousand five hundred dollars.

28 11. To acquire control of a financial institution, other than a
29 consumer lender, five thousand dollars.

30 12. To apply for a trust company license, five thousand dollars.

31 13. To apply for a commercial mortgage banker, mortgage banker, escrow
32 agent or consumer lender license, one thousand five hundred dollars.

33 14. To apply for a mortgage broker, commercial mortgage broker, sales
34 finance company or debt management company license, eight hundred dollars.

35 15. To apply for a collection agency license, one thousand five hundred
36 dollars.

37 16. To apply for a deferred presentment company license, one thousand
38 dollars.

39 17. To apply for a motor vehicle dealer license, three hundred dollars.

40 18. To apply for a branch office of an escrow agent, consumer lender,
41 commercial mortgage banker, mortgage banker, trust company, money
42 transmitter, collection agency or deferred presentment company, five hundred
43 dollars.

- 1 19. To apply for a branch office of a mortgage broker, commercial
2 mortgage broker, debt management company or sales finance company, two
3 hundred fifty dollars.
- 4 20. To apply for approval of the articles of incorporation of a
5 business development corporation, five hundred dollars.
- 6 21. To apply for approval for the merger or consolidation of two or
7 more financial institutions, five thousand dollars per institution.
- 8 22. To apply for approval to convert from a national bank or federal
9 savings and loan charter to a state chartered institution, five thousand
10 dollars.
- 11 23. To apply for approval to convert from a federal credit union to a
12 state chartered credit union, one thousand dollars.
- 13 24. To apply for approval to merge or consolidate two or more credit
14 unions, five hundred dollars per credit union.
- 15 25. To move an established office of an enterprise to other than an
16 established office, fifty dollars.
- 17 26. To issue a duplicate or replace a lost enterprise's license, one
18 hundred dollars.
- 19 27. To change a responsible person on a mortgage broker's, commercial
20 mortgage broker's, commercial mortgage banker's or a mortgage banker's
21 license, two hundred fifty dollars.
- 22 28. To change an active manager on a collection agency license or a
23 manager of a money transmitter branch office license, two hundred fifty
24 dollars.
- 25 29. To change the licensee name on a financial institution or
26 enterprise license, not more than two hundred fifty dollars.
- 27 30. To apply for a money transmitter license, one thousand five hundred
28 dollars plus twenty-five dollars for each branch office and authorized
29 delegate to a maximum of four thousand five hundred dollars.
- 30 31. To acquire control of any money transmitter or controlling person
31 pursuant to chapter 12 of this title, two thousand five hundred dollars.
- 32 32. To receive the following publications:
- 33 (a) Quarterly bank and savings and loan statement of condition, not
34 more than ten dollars per copy.
- 35 (b) Monthly summary of actions report, not more than five dollars per
36 copy.
- 37 (c) A list of licensees, a monthly pending actions report and all
38 other in-house prepared reports or listings made available to the public, not
39 more than one dollar per page.
- 40 33. To apply for a loan originator license, an amount to be determined
41 by the superintendent.
- 42 34. To apply for a loan originator license transfer, an amount to be
43 determined by the superintendent.

1 35. To apply for a conversion from a mortgage banker license to a
2 mortgage broker license, an amount to be determined by the superintendent.

3 B. On issuance of a license or permit for a financial institution or
4 enterprise, the superintendent shall collect the first year's annual
5 assessment or renewal fee for the financial institution or enterprise
6 prorated according to the number of quarters remaining until the date of the
7 next annual assessment or renewal.

8 C. The following annual renewal fees shall be paid each year:

9 1. For an escrow agent, or trust company, one thousand dollars plus
10 two hundred fifty dollars for each branch office.

11 2. For a debt management company or sales finance company, five
12 hundred dollars plus two hundred dollars for each branch office.

13 3. For a collection agency, six hundred dollars plus two hundred
14 dollars for each branch office.

15 4. For a motor vehicle dealer, one hundred fifty dollars.

16 5. For an inactive mortgage broker or commercial mortgage broker, two
17 hundred fifty dollars.

18 6. For a mortgage banker that negotiates or closes in the aggregate
19 one hundred loans or less in the immediately preceding calendar year, seven
20 hundred fifty dollars, and for a mortgage banker that negotiates or closes in
21 the aggregate over one hundred loans in the immediately preceding calendar
22 year, one thousand two hundred fifty dollars. In addition, a mortgage banker
23 shall pay two hundred fifty dollars for each branch office.

24 7. For a commercial mortgage banker, one thousand two hundred fifty
25 dollars. In addition, a commercial mortgage banker shall pay two hundred
26 fifty dollars for each branch office.

27 8. For a mortgage broker or commercial mortgage broker that negotiates
28 or closes in the aggregate fifty loans or less in the immediately preceding
29 calendar year, two hundred fifty dollars and for a mortgage broker or
30 commercial mortgage broker that negotiates or closes in the aggregate more
31 than fifty loans in the immediately preceding calendar year, five hundred
32 dollars. In addition, a mortgage broker or commercial mortgage broker shall
33 pay two hundred dollars for each branch office.

34 9. For a consumer lender, one thousand dollars plus two hundred
35 dollars for each branch office.

36 10. For a money transmitter, five hundred dollars plus twenty-five
37 dollars for each branch office and each authorized delegate to a maximum of
38 two thousand five hundred dollars.

39 11. For a deferred presentment company, four hundred dollars. In
40 addition, a deferred presentment company shall pay two hundred dollars for
41 each branch office.

42 12. For a loan originator, an amount to be determined by the
43 superintendent.

44 13. For an inactive status loan originator, an amount to be determined
45 by the superintendent.

1 D. The license, renewal or branch office permit fee for a premium
2 finance company for each calendar year or part thereof shall not be less than
3 one hundred dollars or more than three hundred dollars as set by the
4 superintendent. If the license is issued or the branch office is opened
5 after June 30 in any year, the fees shall not be less than fifty dollars or
6 more than one hundred fifty dollars for that year.

7 Sec. 2. Section 6-401, Arizona Revised Statutes, is amended to read:

8 6-401. Definitions

9 In this chapter, unless the context otherwise requires:

10 1. "Account" means withdrawable capital deposited with or invested in
11 an association in accordance with any plan authorized by the provisions of
12 this chapter unless such term is otherwise designated or qualified.

13 2. "Aggregate withdrawal value" means the sum of all payments made on
14 all accounts of the association, all dividends and bonuses credited or
15 allocated to such accounts and all dividends credited to "divided profits"
16 for subsequent crediting to accounts upon maturity, less all withdrawals,
17 retirements and other proper deductions from accounts and all unpaid charges
18 on the accounts.

19 3. "Association" means every association to which this chapter applies
20 as defined in the section concerning scope of chapter.

21 4. "Community" means a city, incorporated town, unincorporated town,
22 community or village.

23 5. "Continuing association" means the association which continues to
24 exist after a merger of associations has been effected.

25 6. "Federal association" means a savings and loan association or
26 savings association operating under the laws and regulations of the United
27 States.

28 7. "Impaired" or "impairment", with respect to capital, means a
29 condition in which the value of the association's assets is less than the
30 aggregate amount of the association's liabilities to creditors, the aggregate
31 value of its accounts and the aggregate par value of its guaranty capital.

32 8. "Improved real estate" means real estate which is, or which from
33 the proceeds of the loan will become, a home, combination of home and
34 business property or other improved real estate.

35 9. "Insurance corporation" means the federal deposit insurance
36 corporation or such other instrumentality of, or corporation chartered by,
37 the United States as may be established for the purpose of insuring the
38 accounts of savings and loan associations **OR ANY OTHER EQUIVALENT DEPOSIT**
39 **INSURER APPROVED BY THE SUPERINTENDENT.**

40 10. "Insured association" means an association, the accounts of which
41 are insured wholly or in part by an insurance corporation.

42 11. "Investment" means to put funds to use in order to secure profits.

43 12. "Mail" or "mailed" means, with respect to a writing or notice,
44 deposit in a United States post-office mailing facility in this state with
45 postage prepaid and correctly addressed to the proper person at his address

1 stated on the association's records or otherwise agreed upon or if no address
2 has been so established then to the last known address.

3 13. "Merger" includes consolidation.

4 14. "Merging association" means an association which plans or effects a
5 merger with one or more other associations in accordance with the provisions
6 of this chapter concerning merger.

7 15. "Other improved real estate" means real estate other than a home or
8 combination home and business property which, because of its state of
9 improvement, or improvement from the proceeds of the loan, will produce
10 sufficient income to maintain the property and retire the loan in accordance
11 with the terms of the loan.

12 16. "Participating interests" means the purchase or acquisition of an
13 interest in an existing permanent mortgage loan.

14 17. "Prior act" means any statute of this state which, ~~prior to the~~
15 ~~effective date of this chapter~~ BEFORE JUNE 25, 1960, has governed the
16 formation or operation of associations of the type described in the section
17 of this chapter concerning scope of the chapter.

18 18. "Profits" means, as determined by the application of proper
19 accounting principles, gross income less the aggregate of operating and other
20 expenses, losses actually sustained and not charged to reserves under the
21 provisions of this chapter and interest paid or accrued on borrowings and
22 non-recurring charges.

23 19. "Publication", "publish" or "published" means printed in the
24 English language in a newspaper of general circulation published in the
25 community in which the association's business office is located or if no such
26 newspaper exists in said community then in the county in which such business
27 office is located. Unless otherwise specified in this chapter publication
28 shall be made once each week for two successive weeks.

29 20. "Total assets" means the total value of all loan contracts without
30 deduction for the withdrawal value of any accounts of the association held as
31 collateral for loans and the total value of all other assets of the
32 association as determined by the application of proper accounting principles.

33 21. "Withdrawal value" of an account means the sum of all payments made
34 by the holder on the account and all dividends and bonuses credited or
35 allocated to such account less all withdrawals, retirements and other proper
36 deductions from the account and all unpaid charges on the account.

37 Sec. 3. Section 6-402, Arizona Revised Statutes, is amended to read:

38 6-402. Scope of chapter; application to federal associations
39 and federal savings banks

40 A. This chapter applies to all existing savings and loan associations,
41 and other similar associations and savings banks by whatever name called,
42 organized under this or any prior act.

43 B. Every federal savings and loan association and federal savings bank
44 shall have all the rights, powers and privileges and shall be entitled to the
45 same exemptions and immunities as savings and loan associations organized

1 under the laws of this state unless prohibited by federal law. In addition to
2 all other rights, powers and privileges, savings and loan associations
3 organized under the laws of the state, whose accounts are insured by an
4 ~~instrumentality of the United States~~ INSURANCE CORPORATION, shall have all
5 the rights, powers and privileges and shall be entitled to the same
6 exemptions and immunities as federal savings and loan associations doing
7 business in this state unless prohibited by this chapter.

8 Sec. 4. Section 6-412, Arizona Revised Statutes, is amended to read:

9 6-412. Completion of organization

10 A. When the board of directors has organized as provided in this
11 chapter and the report of such organization has been filed with the
12 superintendent, he shall make a thorough examination into the affairs of the
13 proposed association, and if he approves the articles of incorporation and is
14 satisfied that all the requirements of this chapter have been complied with,
15 and that no intervening circumstance has occurred to change the
16 superintendent's findings made pursuant to this chapter, upon payment into
17 the superintendent's office of the fees for such examination, he shall issue
18 a certificate authorizing the filing of the articles of incorporation with
19 the corporation commission and the taking of the other steps required by
20 title 10, to complete the formation of a corporation. Upon the appointment of
21 a statutory agent and the issuance of a certificate of incorporation by the
22 corporation commission and the payment into escrow with a responsible
23 corporate escrow agent approved by the superintendent of the amount of the
24 initial capital required by this chapter, the superintendent shall issue a
25 permit conditioned upon the association securing within twelve months from
26 the date of such permit insurance of its insurable accounts by ~~the federal~~
27 ~~deposit insurance corporation, or any successor instrumentality, pursuant to~~
28 ~~the laws of the United States~~ AN INSURANCE CORPORATION and the rules and
29 regulations of such corporation.

30 B. Unless such insurance is secured within such period the permit
31 shall be deemed revoked unless the superintendent, upon good cause shown,
32 shall extend the time for securing such insurance for a single fixed period
33 which shall not exceed six months. The association shall not operate as a
34 savings and loan association under the laws of this state or transact any
35 other business than that necessary to secure such insurance until it has
36 secured such insurance. If such insurance is not secured within the time
37 provided by this chapter or as extended by the superintendent, all amounts
38 collected as subscriptions to the required capital shall be returned to the
39 subscribers without reduction.

40 ~~C. All existing associations doing business under this chapter shall,~~
41 ~~within one year from the effective date of this chapter, submit to the~~
42 ~~superintendent evidence of their having insurance of accounts with an~~
43 ~~instrumentality of the United States; provided, however, that if an existing~~
44 ~~association has filed a bona fide application for such insurance after the~~
45 ~~effective date of this chapter and diligently pursues its application, and~~

1 ~~additional time is required for the granting of such insurance, the~~
2 ~~superintendent may extend said one year period for not to exceed an~~
3 ~~additional six months.~~

4 Sec. 5. Section 6-423, Arizona Revised Statutes, is amended to read:

5 6-423. Accounts

6 A. An association may maintain all types of deposit accounts and
7 prescribe those terms and conditions relating to the accounts as are
8 permissible for the association to maintain the insurance of its deposits by
9 ~~the federal deposit~~ AN insurance corporation.

10 B. Accounts are:

11 1. Withdrawable and subject to enforced retirement as provided in this
12 article. This chapter does not prevent the withdrawal of funds from an
13 association by negotiable or nonnegotiable order.

14 2. Entitled to dividends as provided in this article.

15 3. Nonassessable for either debts or losses of the association.

16 4. Issued on such plan or plans of payment and in such series or
17 classes as the bylaws may provide, which plan or plans of payment may
18 include:

19 (a) Regular installment plan with agreed weekly or monthly payments,
20 with dividends credited to or in behalf of the account until the ultimate
21 value agreed upon in the subscription is reached.

22 (b) Full paid plan with one single payment of one hundred dollars per
23 unit and dividends payable in cash unless by agreement credited to the
24 account.

25 (c) Prepaid plan with one single payment in such amount per unit as is
26 set forth in the bylaws and dividends credited to such account until the
27 ultimate value of one hundred dollars per unit is reached.

28 (d) Optional plan with payments in such amount or amounts and at such
29 times as the holder may elect and dividends credited to such account unless
30 by agreement payable in cash.

31 (e) Any other plan of payment which the superintendent may approve as
32 conforming to sound savings and loan practice.

33 Sec. 6. Section 6-465, Arizona Revised Statutes, is amended to read:

34 6-465. Merger of associations or corporations

35 A. An association operating under this chapter may merge into or with
36 one or more associations, whether operating under this chapter or otherwise,
37 or into or with any other corporation, except a corporation or association
38 operating an insurance business, other than title insurance, pursuant to
39 title 20. The board of directors of each merging association or corporation,
40 by resolution adopted by a majority vote of all members of such board, must
41 approve the plan of merger, which shall set forth:

42 1. The name of each merging association or corporation, and the name
43 of the continuing association or corporation and the location of its
44 principal office.

1 2. The amount of capital, reserves, and undivided profits of the
2 continuing association or corporation, and the kinds of shares and other
3 types of capital to be issued thereby.

4 3. The articles of incorporation of the continuing association or
5 corporation.

6 4. A detailed pro forma financial statement of the assets and
7 liabilities of the continuing association or corporation.

8 5. The manner and basis of converting the capital of each merging
9 association or corporation into capital of the continuing association or
10 corporation.

11 6. The other terms and conditions of the merger and the method of
12 effectuating the same.

13 7. Such other provisions with respect to the merger as appear
14 necessary or desirable, or as the superintendent may reasonably require to
15 enable him to discharge his duties with respect to such merger.

16 B. The plan of merger adopted shall be submitted to the superintendent
17 for approval, together with a certified copy of the authorizing resolution of
18 each board of directors, showing approval by a majority of the entire board
19 of each merging association operating under this chapter and evidence of
20 proper action by the board of any other merging association or
21 corporation. The superintendent may make or cause to be made an examination
22 of the affairs of each of the merging associations or corporations. The
23 superintendent may approve the plan of merger if, after appropriate inquiry
24 into the affairs of each of the merging associations or corporations, he
25 finds that:

26 1. If the resulting association or corporation is an association
27 operating under this chapter, the continuing association meets the
28 requirements of this chapter as to the organization of a new association
29 ~~including insurance of accounts as required by section 6-412, subsection C.~~

30 2. The plan provides an adequate capital structure.

31 3. The plan is fair to all persons affected.

32 4. The plan meets the approval of the insurance corporation, if such
33 approval is required.

34 C. If the superintendent disapproves the plan of merger, he shall
35 state his objections in writing and give the merging associations or
36 corporations an opportunity to amend the plan of merger to eliminate such
37 objections.

38 D. Except as provided by subsection F of this section, after approval
39 by the superintendent, the plan of merger shall be submitted to a vote of the
40 members of each merging association operating under this chapter and to the
41 members or stockholders of any other merging association or corporation to
42 the extent required by the laws and rules applicable to the other merging
43 association or corporation. Each meeting of the members of an association
44 operating under this chapter shall be called and held in accordance with
45 section 6-415. The plan shall be approved by the members of an association

1 operating under this chapter if the plan receives, in the affirmative, a
2 majority of the total number of votes which all members of the association
3 are entitled to cast or such greater percentage of the votes as the articles
4 of incorporation of the association require. Each meeting of any other
5 association or corporation shall be called and held, and the required
6 majority must be obtained, in accordance with the law and regulations
7 applicable to such association or corporation.

8 E. A report of proceedings at the meeting of the members or
9 stockholders of each association or corporation, certified by the president
10 or a vice-president and attested by the secretary thereof, and setting forth
11 the notice given and time of mailing thereof, the vote on the plan of merger,
12 and the total number of votes which all members or stockholders of the
13 association or corporation were entitled to cast thereon, shall be filed in
14 duplicate with the superintendent, except that if no member or stockholder
15 vote is required by an association or corporation, the association or
16 corporation shall file a report to that effect, in duplicate, certified by
17 the president or vice-president and attested by the secretary of the
18 association or corporation. Any report filed under this subsection shall be
19 accompanied by the plan of merger, duly executed by each merging association
20 or corporation. The superintendent thereupon shall issue to the continuing
21 association or corporation a certificate of merger, setting forth the name of
22 each merging association or corporation and the name of the continuing
23 association or corporation, and the articles of incorporation of the
24 continuing association or corporation.

25 F. Unless required by its articles of incorporation, a vote of the
26 members of the continuing association or corporation is not necessary to
27 authorize a merger if either:

28 1. No shares of common stock are to be issued by the continuing
29 association or corporation and no shares, securities or obligations
30 convertible into such stock are to be issued or delivered under the plan of
31 merger.

32 2. The authorized but unissued shares or the treasury shares of common
33 stock of the continuing association or corporation to be issued or delivered
34 under the plan of merger plus those initially issuable on conversion of any
35 other shares, securities and obligations to be issued or delivered under the
36 plan do not exceed twenty per cent of the shares of common stock of the
37 association or corporation outstanding immediately before the effective date
38 of the merger. If a plan of merger is adopted pursuant to this subsection, a
39 statement that the plan has been so adopted and that, as of the date of the
40 statement, the outstanding shares of the continuing association or
41 corporation were such as to render this subsection applicable shall be
42 certified by the president or vice-president and attested by the secretary
43 and shall be attached to the plan of merger. The plan so approved and the
44 statement described in this subsection shall be filed in duplicate with the
45 superintendent.

1 G. The merger shall become effective upon the filing with the
2 corporation commission of the certificate of merger in the same manner as
3 articles of incorporation, and the recording of a copy thereof certified by
4 the corporation commission in each county in this state in which the business
5 office of any of the merging associations or corporations was located, and in
6 the county in which the business office of the continuing association or
7 corporation is located, if any.

8 H. The expenses of any examination made by or at the direction of the
9 superintendent in connection with a proposed merger shall be paid by the
10 merging association or corporation in accordance with the fees fixed for
11 special examination by section 6-125.

12 I. If the continuing association or corporation is to be governed by
13 the laws of any jurisdiction other than this state, it shall comply with the
14 applicable provisions of the laws under which it is organized and shall
15 comply with the laws of this state with respect to foreign corporations if it
16 is to transact business in this state.