

State of Arizona
House of Representatives
Fifty-second Legislature
Second Regular Session
2016

HOUSE BILL 2221

AN ACT

AMENDING TITLE 12, CHAPTER 1, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING
SECTION 12-119.06; RELATING TO THE SUPREME COURT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 12, chapter 1, article 1, Arizona Revised Statutes,
3 is amended by adding section 12-119.06, to read:

4 12-119.06. Regulation of attorneys: mandatory assessments:
5 voluntary membership dues: uses: records:
6 definition

7 A. TO THE EXTENT PROVIDED BY THE ARIZONA CONSTITUTION, ALL REGULATORY
8 FUNCTIONS RELATING TO THE PRACTICE OF LAW, INCLUDING THE REGULATION OF
9 ATTORNEYS IN THIS STATE, ARE WITHIN THE AUTHORITY OF THE SUPREME COURT.

10 B. THE SUPREME COURT MAY COLLECT A MANDATORY ASSESSMENT FROM EACH
11 ATTORNEY, AS A CONDITION OF PRACTICING LAW IN THIS STATE, TO SUPPORT THE
12 COURT'S REGULATORY FUNCTIONS. THE SUPREME COURT MAY USE MANDATORY ASSESSMENT
13 MONIES ONLY FOR THE FOLLOWING REGULATORY FUNCTIONS FOR ATTORNEYS WHO ARE
14 UNDER THE ACTIVE SUPERVISION OF THE SUPREME COURT:

- 15 1. ADMITTING AN ATTORNEY TO THE PRACTICE OF LAW.
- 16 2. MAINTAINING ATTORNEY RECORDS.
- 17 3. ENFORCING THE ETHICAL RULES THAT GOVERN ATTORNEYS.
- 18 4. REGULATING ANY CONTINUING LEGAL EDUCATION MANDATES FOR ATTORNEYS.
- 19 5. MAINTAINING ATTORNEY TRUST ACCOUNT RECORDS.
- 20 6. PREVENTING THE UNAUTHORIZED PRACTICE OF LAW.

21 C. THE STATE BAR OF ARIZONA MAY ESTABLISH, COLLECT AND USE VOLUNTARY
22 MEMBERSHIP DUES FROM AN ATTORNEY FOR ANY LAWFUL ACTIVITY THAT IS NOT INCLUDED
23 IN SUBSECTION B OF THIS SECTION.

24 D. THE COLLECTION OF MANDATORY ASSESSMENTS MUST BE SEPARATE FROM THE
25 COLLECTION OF ANY VOLUNTARY MEMBERSHIP DUES. THE SUPREME COURT SHALL
26 INCORPORATE ANY MANDATORY ASSESSMENT MONIES COLLECTED INTO ITS BUDGET. ANY
27 OTHER ENTITY IN THIS STATE MAY NOT COLLECT A MANDATORY ASSESSMENT FROM AN
28 ATTORNEY.

29 E. IF THE STATE BAR OF ARIZONA ACCEPTS ANY MANDATORY ASSESSMENT MONIES
30 COLLECTED BY THE SUPREME COURT TO CARRY OUT A REGULATORY FUNCTION LISTED IN
31 SUBSECTION B OF THIS SECTION, THE STATE BAR OF ARIZONA, ON OR BEFORE
32 DECEMBER 31 OF EACH YEAR THAT MANDATORY ASSESSMENT MONIES ARE ACCEPTED, SHALL
33 MAKE AVAILABLE TO THE PUBLIC A LIST OF ALL OF THE EXPENDITURES THAT WERE MADE
34 WITH THE MANDATORY ASSESSMENT MONIES AND PROVIDE FOR AN INDEPENDENT AUDIT OF
35 THE EXPENDITURES TO ENSURE THAT ALL EXPENDITURES WERE IN FURTHERANCE OF THE
36 REGULATORY FUNCTIONS LISTED IN SUBSECTION B OF THIS SECTION. ANY PERSON MAY
37 REQUEST TO EXAMINE OR BE FURNISHED COPIES, PRINTOUTS OR PHOTOGRAPHS OF ANY
38 RECORD DURING REGULAR OFFICE HOURS OR MAY REQUEST THAT THE STATE BAR OF
39 ARIZONA MAIL TO THE PERSON A COPY OF ANY RECORD NOT OTHERWISE AVAILABLE ON
40 THE STATE BAR'S WEBSITE. THE STATE BAR OF ARIZONA MAY REQUIRE ANY PERSON
41 REQUESTING A COPY OF ANY RECORD TO PAY IN ADVANCE FOR ANY COPYING AND POSTAGE
42 CHARGES. THE STATE BAR OF ARIZONA SHALL PROMPTLY FURNISH, AND MAY CHARGE A
43 FEE FOR, THE COPIES, PRINTOUTS OR PHOTOGRAPHS. IF REQUESTED, THE STATE BAR
44 OF ARIZONA SHALL FURNISH AN INDEX OF RECORDS OR CATEGORIES OF RECORDS THAT
45 HAVE BEEN WITHHELD AND THE REASONS THE RECORDS OR CATEGORIES OF RECORDS HAVE

1 BEEN WITHHELD FROM THE REQUESTING PERSON. THE STATE BAR OF ARIZONA MAY NOT
2 INCLUDE IN THE INDEX INFORMATION THAT IS EXPRESSLY PRIVILEGED OR CONFIDENTIAL
3 BY LAW. ANY PERSON WHO HAS REQUESTED TO EXAMINE OR COPY RECORDS PURSUANT TO
4 THIS SUBSECTION AND WHO HAS BEEN DENIED ACCESS TO OR THE RIGHT TO EXAMINE OR
5 COPY SUCH RECORDS MAY APPEAL THE DENIAL THROUGH A SPECIAL ACTION IN THE
6 SUPERIOR COURT, PURSUANT TO THE RULES OF PROCEDURE FOR SPECIAL ACTIONS
7 AGAINST A PUBLIC BODY. THE COURT MAY AWARD ATTORNEY FEES AND OTHER LEGAL
8 COSTS THAT ARE REASONABLY INCURRED IN ANY ACTION UNDER THIS SUBSECTION IF THE
9 PERSON SEEKING RECORDS SUBSTANTIALLY PREVAILS. THIS SUBSECTION DOES NOT
10 LIMIT THE RIGHTS OF ANY PARTY TO RECOVER ATTORNEY FEES, EXPENSES AND DOUBLE
11 DAMAGES PURSUANT TO SECTION 12-349. ANY PERSON WHO IS WRONGFULLY DENIED
12 ACCESS TO RECORDS PURSUANT TO THIS SUBSECTION HAS A CAUSE OF ACTION AGAINST
13 THE STATE BAR OF ARIZONA FOR ANY DAMAGES RESULTING FROM THE DENIAL.

14 F. FOR THE PURPOSES OF THIS SECTION, "RECORD" MEANS ANY RECORD OR
15 OTHER MATTER IN THE CUSTODY OF THE STATE BAR OF ARIZONA RELATED TO MANDATORY
16 ASSESSMENT MONIES THAT ARE COLLECTED BY THE SUPREME COURT AND THAT ARE
17 ACCEPTED BY THE STATE BAR OF ARIZONA PURSUANT TO SUBSECTION E OF THIS
18 SECTION.